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PRE-TRIAL CHAMBER I

Before: Judge Silvia Fernández de Gurmendi, Presiding Judge
Judge Ekaterina Trendafilova
Judge Christine Van den Wyngaert

**SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE
IN THE CASE OF
*THE PROSECUTOR V. CHARLES BLÉ GOUDÉ***

Public

Decision on the confirmation of charges against Charles Blé Goudé

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

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Pre-Trial Chamber I (the “Chamber”) of the International Criminal Court (the “Court”) hereby issues the decision pursuant to article 61(7) of the Rome Statute (the “Statute”) on the confirmation of charges against Charles Blé Goudé.

SECTION 1. INTRODUCTION

I. Procedural history

1. On 3 October 2011, Pre-Trial Chamber III authorised the commencement of an investigation in Côte d’Ivoire with respect to crimes within the jurisdiction of the Court committed since 28 November 2010.¹
2. On 21 December 2011, Pre-Trial Chamber III issued the “Warrant of Arrest for Charles Blé Goudé”.²
3. On 15 March 2012, the situation in Côte d’Ivoire was reassigned to the Chamber.³
4. On 22 March 2014, Charles Blé Goudé was surrendered to the Court. Charles Blé Goudé made his first appearance before the Chamber on 27 March 2014.⁴
5. On 11 June 2014, Judge Silvia Fernández de Gurmendi, acting as Single Judge,⁵ issued the “Decision on victims’ participation in the pre-trial

¹ [“Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Republic of Côte d’Ivoire”](#), ICC-02/11-14-Corr, para. 212. On 22 February 2012, Pre-Trial Chamber III expanded its authorisation for the investigation in Côte d’Ivoire to include crimes within the jurisdiction of the Court allegedly committed between 19 September 2002 and 28 November 2010, see [“Decision on the ‘Prosecution’s provision of further information regarding potentially relevant crimes committed between 2002 and 2010’”](#), ICC-02/11-36, para. 37.

² [ICC-02/11-02/11-1](#). See also Pre-Trial Chamber III, [“Decision on the Prosecutor’s Application Pursuant to Article 58 for a warrant of arrest against Charles Blé Goudé”](#), 6 January 2012, ICC-02/11-02/11-3.

³ [ICC-02/11-37](#).

⁴ Transcript of hearing, ICC-02/11-02/11-T-3-CONF-ENG. A public redacted version is also available, see [Transcript of hearing](#), ICC-02/11-02/11-T-3-Red-ENG.

proceedings and related issues”, wherein she, *inter alia*, admitted 199 victims to participate in the proceedings, appointed counsel from the Office of Public Counsel for victims as common legal representative and ruled on the set of procedural rights accorded to the participating victims in the present case.⁶ On 1 August 2014, the Single Judge admitted a further 272 victims to participate in the proceedings, represented by the same common legal representative, and terminated the status as victim participating in the case of one applicant.⁷

6. On 22 August 2014, the Prosecutor filed, *inter alia*, the document containing the charges (the “DCC”)⁸ and her list of evidence.⁹

7. The Defence filed its list of evidence on 12 September 2014.¹⁰

8. The confirmation of charges hearing was held between 29 September 2014 and 2 October 2014,¹¹ while the Defence also filed final written submissions on 15 October 2014.¹²

⁵ Pre-Trial Chamber I, “[Décision portant désignation d’un juge unique](#)”, 16 March 2012, ICC-02/11-02/11-9.

⁶ [ICC-02/11-02/11-83](#), pp. 19-22.

⁷ “[Second Decision on victims’ participation in the pre-trial proceedings and related issues](#)”, ICC-02/11-02/11-111, pp. 13-16.

⁸ ICC-02/11-02/11-124-Anx1-Corr; ICC-02/11-02/11-124-Conf-Anx2-Corr, see also ICC-02/11-02/11-124-Anx2-Corr-Red, ICC-02/11-02/11-124-Conf-Anx2-Corr-tENG.

⁹ ICC-02/11-02/11-124-Conf-Anx3-Corr. On 29 August 2014, the Single Judge authorised the Prosecutor to rely on an additional item of evidence, see “[Decision on the Prosecutor’s request to add an item to her list of evidence](#)”, ICC-02/11-02/11-138.

¹⁰ ICC-02/11-02/11-153-Conf-AnxA; ICC-02/11-02/11-153-Conf-AnxB; ICC-02/11-02/11-153-Conf-AnxB-Red. On 22 September 2014, the Single Judge authorised the Defence to rely on five additional items of evidence, see “[Decision on the ‘Defence request to add recently disclosed material to its list of evidence’](#)”, ICC-02/11-02/11-164.

¹¹ Transcript of hearing, 29 September 2014, ICC-02/11-02/11-T-5-CONF-ENG; Transcript of hearing, 30 September 2014, ICC-02/11-02/11-T-6-CONF-ENG; Transcript of hearing, 1 October 2014, ICC-02/11-02/11-T-7-CONF-ENG; Transcript of hearing, 2 October 2014, ICC-02/11-02/11-T-8-CONF-ENG. Public redacted versions are also available, see ICC-02/11-02/11-T-5-Red-ENG; ICC-02/11-02/11-T-6-Red-ENG; ICC-02/11-02/11-T-7-Red-ENG; ICC-02/11-02/11-T-8-Red-ENG.

9. On 12 November 2014, the Chamber issued the “Decision on the Defence challenge to the admissibility of the case against Charles Blé Goudé for insufficient gravity”, wherein it rejected a Defence challenge to the admissibility of the case before the Court.¹³

II. Preliminary remarks

10. The Prosecutor alleges that Charles Blé Goudé is criminally responsible, in the alternative, under articles 25(3)(a), (b), (c) and (d) of the Statute, for crimes against humanity of murder under article 7(1)(a) of the Statute (Count 1), rape under article 7(1)(g) of the Statute (Count 2), other inhumane acts under article 7(1)(k) of the Statute or alternatively attempted murder under articles 7(1)(a) and 25(3)(f) of the Statute (Count 3), and persecution under article 7(1)(h) of the Statute (Count 4) committed during the course of five particular incidents in Abidjan:

- (i) the attacks on 16-19 December 2010 related to the demonstrations at the RTI building;
- (ii) the attack in Yopougon on 25-28 February 2011;
- (iii) the attack on a women’s demonstration in Abobo on 3 March 2011;
- (iv) the shelling of Abobo market and the surrounding area on 17 March 2011; and
- (v) the attack in Yopougon on or around 12 April 2011.¹⁴

11. In accordance with article 19 of the Statute, the Chamber observes that the crimes with which Charles Blé Goudé is charged fall within the jurisdiction of the Court, as the Prosecutor alleges the commission of crimes against humanity under article 7 of the Statute (jurisdiction *ratione materiae*) on

¹² ICC-02/11-02/11-179-Corr. A public redacted version was also filed, see ICC-02/11-02/11-179-Corr-Red.

¹³ [ICC-02/11-02/11-185](#).

¹⁴ DCC, paras 322-334 and pp. 243-244.

the territory of Côte d'Ivoire (jurisdiction *ratione loci*) between 16 December 2010 and on or around 12 April 2011 (jurisdiction *ratione temporis*).¹⁵

12. In the present decision, the Chamber renders its determination under article 61(7) of the Statute on whether there is sufficient evidence to establish substantial grounds to believe that Charles Blé Goudé committed each of the crimes charged. According to the jurisprudence of the Court, in order to meet this evidentiary threshold, the Prosecutor must “offer concrete and tangible proof demonstrating a clear line of reasoning underpinning [her] specific allegations”.¹⁶

13. The Chamber’s determination is based on an assessment of the evidence relied upon by the Prosecutor and the Defence – and included for this purpose on their respective lists of evidence pursuant to rule 121(3) and (6) of the Rules of Procedure and Evidence – taking into account the oral and written submissions advanced by the parties as well as the legal representative of the victims admitted to participate at the confirmation of charges hearing.

¹⁵ Republic of Côte d'Ivoire, Declaration dated 18 April 2003, ICC-02/11-01/11-129-Anx16; Pre-Trial Chamber III, “[Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Republic of Côte d'Ivoire](#)”, 3 October 2011, ICC-02/11-14-Corr.

¹⁶ See Pre-Trial Chamber I, “[Decision on the confirmation of charges](#)”, 29 January 2007, ICC-01/04-01/06-803-tEN, para. 39; *id.*, “[Decision on the confirmation of charges](#)”, 30 September 2008, ICC-01/04-01/07-717, para. 65; Pre-Trial Chamber II, “[Decision Pursuant to Article 61\(7\)\(a\) and \(b\) of the Rome Statute on the Charges of the Prosecutor Against Jean-Pierre Bemba Gombo](#)”, 15 June 2009, ICC-01/05-01/08-424, para. 29; Pre-Trial Chamber I, “[Decision on the confirmation of charges](#)”, 16 December 2011, ICC-01/04-01/10-465-Red, para. 40; Pre-Trial Chamber II, “[Decision on the Confirmation of Charges Pursuant to Article 61\(7\)\(a\) and \(b\) of the Rome Statute](#)”, 23 January 2012, ICC-01/09-02/11-382-Red, para. 52; *id.*, “[Decision Pursuant to Article 61\(7\)\(a\) and \(b\) of the Rome Statute on the Charges of the Prosecutor Against Bosco Ntaganda](#)”, 9 June 2014, ICC-01/04-02/06-309, para. 9; Pre-Trial Chamber I, “[Decision on the confirmation of charges against Laurent Gbagbo](#)”, 12 June 2014, ICC-02/11-01/11-656-Red, para. 19; Pre-Trial Chamber II, “[Decision pursuant to Article 61\(7\)\(a\) and \(b\) of the Rome Statute](#)”, 11 November 2014, ICC-01/05-01/13-749, para. 25.

14. The Chamber has assessed the probative value of the relevant evidence, bearing in mind that due to the limited scope and purpose of the confirmation of charges proceedings, such assessment is limited and that, as recognised by the Appeals Chamber, the evaluation of the credibility of witnesses is “necessarily presumptive”.¹⁷ Indeed, the Chamber is mindful of the guidance of the Appeals Chamber that while a Pre-Trial Chamber may evaluate the credibility of witnesses, “it should take great care in finding that a witness is or is not credible”,¹⁸ as it considers that the credibility of witnesses can only be properly addressed at trial.

15. The conclusions of the Chamber are based on the totality of the available evidence, considered in a system as a whole, regardless of which party originally tendered the evidence in the record of the case. Consistent with the established practice of Pre-Trial Chambers,¹⁹ the items of evidence referred to in the present decision are included for the sole purpose of providing the reasoning that underpins its determination. This is without prejudice to the relevance of other items of evidence than those referred to, which the Chamber has in any case considered thoroughly. More specifically, a lack of explicit reference to an item of evidence may signify that the finding to which it relates is already sufficiently supported by other pieces of evidence, or, conversely, that a certain finding, satisfactorily established in light of the

¹⁷ Appeals Chamber, “[Judgment on the appeal of the Prosecutor against the decision of Pre-Trial Chamber I of 16 December 2011 entitled ‘Decision on the confirmation of charges’](#)”, 30 May 2012, ICC-01/04-01/10-514, para. 48.

¹⁸ *Id.*

¹⁹ Pre-Trial Chamber I, “[Decision on the confirmation of charges](#)”, 29 January 2007, ICC-01/04-01/06-803-tEN, para. 39; *id.*, “[Decision on the confirmation of charges](#)”, 30 September 2008, ICC-01/04-01/07-717, para. 69; *id.*, “[Decision on the Confirmation of Charges](#)”, 8 February 2010, ICC-02/05-02/09-243-Red, para. 45; *id.*, “[Corrigendum of the ‘Decision on the Confirmation of Charges’](#)”, 7 March 2011, ICC-02/05-03/09-121-Corr-Red, para. 39; *id.*, “[Decision on the confirmation of charges](#)”, 16 December 2011, ICC-01/04-01/10-465-Red, para. 48; Pre-Trial Chamber II, “[Decision on the Confirmation of Charges Pursuant to Article 61\(7\)\(a\) and \(b\) of the Rome Statute](#)”, 23 January 2012, ICC-01/09-02/11-382-Red, para. 60; Pre-Trial Chamber I, “[Decision on the confirmation of charges against Laurent Gbagbo](#)”, 12 June 2014, ICC-02/11-01/11-656-Red, para. 22.

evidence taken as a whole, is not negated by one or more other discrete items of evidence.

16. The same applies to the arguments advanced by the parties and participants in their submissions, each of which has been carefully considered as part of the Chamber's determination. This decision does not explicitly address each and every submission of the parties and participants, but only those that are necessary to provide sufficient reasoning for the Chamber's determination under article 61(7) of the Statute.

SECTION 2. ANALYSIS OF THE EVIDENCE

I. The five charged incidents

A. Attacks related to the demonstrations at the RTI building (16-19 December 2010)

17. The Prosecutor alleges that between 16 and 19 December 2010, in Abidjan, during and after a pro-Ouattara march on the building of the Ivorian Radio and Television (RTI), the pro-Gbagbo forces killed at least 45 persons, raped at least 16 women and girls, and wounded at least 54 persons.²⁰

18. The evidence shows that a demonstration leading to the RTI building in Cocody was planned for 16 December 2010 and announced in advance by leaders of the Rally of Houphouetists for Democracy and Peace (RHDP).²¹

19. The intention to hold the demonstration was known to the high commanders of the Defence and Security Forces (FDS),²² and a meeting took place in advance at which Laurent Gbagbo prohibited the demonstration,

²⁰ DCC, paras 327(a), 328(a), 329(a).

²¹ CIV-OTP-0019-0211 at 0216; CIV-OTP-0019-0306 at 0311; CIV-OTP-0020-0033 at 0037; CIV-OTP-0020-0064 at 0072; CIV-OTP-0020-0335 at 0377, 0379; CIV-OTP-0028-0550 at 0556; CIV-OTP-0032-0011 at 0021; CIV-OTP-0040-0372 at 0384; CIV-OTP-0042-0508 at 0547; CIV-OTP-0044-2614 at 2617; CIV-OTP-0044-2628 at 2638; CIV-OTP-0048-1675 at 1680; see also CIV-OTP-0002-0366 at 0367; CIV-OTP-0016-0390 at 0407; CIV-OTP-0051-2210 at 2210.

²² CIV-OTP-0051-0335 at 0352, 0353; CIV-OTP-0051-0871 at 0900.

instructing the high commanders of the FDS to take any necessary measures to prevent it.²³ The FDS then initiated a well-coordinated and comprehensive operation on the ground with the aim of preventing the demonstrators from reaching the RTI.²⁴

20. In addition to the deployment of the FDS, the evidence indicates the presence of militia and mercenary elements and their participation in the repression of the march.²⁵ Elements of the Group of Patriots for Peace (GPP) were deployed to participate in the dispersion of the demonstrators in coordination with the FDS elements,²⁶ with instruction to “*mater par tous les moyens*”.²⁷ Most importantly, witnesses describe the involvement of members of the Federation of Students and School Pupils of Côte d’Ivoire (FESCI),²⁸ a youth organisation which, as further outlined below, effectively operated as a militia.²⁹ According to the evidence, members of FESCI acted following instructions given from Charles Blé Goudé to Augustin Mian to mobilise the students in Cocody against the RHDP activists.³⁰

²³ CIV-OTP-0051-0935 at 0937, 0957, 0960-0962; CIV-OTP-0053-0574 at 0608-0609. The Chamber considers that the discrepancy in the evidence as to whether this meeting occurred on 14 or 15 December 2010 is immaterial for the purposes of the present decision.

²⁴ CIV-OTP-0006-0169 at 0170; CIV-OTP-0011-0430 at 0443; CIV-OTP-0014-0233 at 0262-0263; CIV-OTP-0015-0164 at 0174-0177, 0180-0181; CIV-OTP-0015-0270 at 0277-0282; CIV-OTP-0020-0193 at 0209-0211; CIV-OTP-0046-1011 at 1018, 1019, 1021, 1023; CIV-OTP-0047-0961 at 0961; CIV-OTP-0047-0962 at 0962; CIV-OTP-0047-0963 at 0963; CIV-OTP-0047-0964 at 0964; CIV-OTP-0051-0335 at 0352, 0354, 0355, 0358-0366, 0369, 0374-0376, 0381, 0384; CIV-OTP-0051-0907 at 0912-0913, 0927-0928; CIV-OTP-0051-0935 at 0938-0957, 0970; CIV-OTP-0057-1430 at 1449; CIV-OTP-0057-1463 at 1487-1493.

²⁵ CIV-OTP-0019-0211 at 0217; CIV-OTP-0020-0033 at 0042; CIV-OTP-0020-0064 at 0076, 0078; CIV-OTP-0029-0323 at 0332; CIV-OTP-0044-2614 at 2618-2619; see also CIV-OTP-0002-0166 at 0168; CIV-OTP-0048-1396 at 1430.

²⁶ CIV-OTP-0060-0015 at 0015; CIV-OTP-0063-1765 at 1774-1775, 1782, 1788; CIV-OTP-0063-2271 at 2280, 2290, 2296.

²⁷ CIV-OTP-0063-2597 at 2611.

²⁸ CIV-OTP-0019-0211 at 0217; CIV-OTP-0020-0064 at 0076-0077; CIV-OTP-0063-1765 at 1791, 1794; CIV-OTP-0063-2271 at 2286.

²⁹ See below, para. 70.

³⁰ CIV-OTP-0063-2597 at 2610.

21. The evidence shows that the unarmed³¹ demonstrators advancing from various directions throughout Abidjan towards the RTI were attacked by FDS units, supported by militia and mercenary elements, leading to killings and injuries³² and at least one instance of rape.³³

22. Demonstrators at the premises of RHDP political parties in Cocody were attacked at those locations, which equally resulted in deaths and injuries.³⁴ It appears that the violence against demonstrators was particularly intense at locations close to the RTI.³⁵

23. According to the evidence, after the dispersal of the demonstrations, the FDS continued to actively search neighbourhoods close to the RTI, arresting and attacking demonstrators.³⁶ Witnesses describe how they were arrested and held in police custody where they were raped, at times repeatedly over a

³¹ CIV-OTP-0019-0211 at 0217; CIV-OTP-0019-0306 at 0317; CIV-OTP-0020-0033 at 0039; CIV-OTP-0020-0064 at 0075; CIV-OTP-0020-0335 at 0377, 0379; CIV-OTP-0040-0372 at 0385; CIV-OTP-0044-2614 at 2618; CIV-OTP-0044-2628 at 2638, 2641, 2642; CIV-OTP-0048-1675 at 1680; see also CIV-OTP-0063-1765 at 1789-1790.

³² CIV-OTP-0002-0647 at 0660; CIV-OTP-0003-0745 at 0745; CIV-OTP-0007-0231 at 0232; CIV-OTP-0010-0028 at 0031-0032; CIV-OTP-0014-0289 at 0301; CIV-OTP-0019-0211 at 0217-0219; CIV-OTP-0019-0306 at 0311-0314; CIV-OTP-0020-0033 at 0039-0042; CIV-OTP-0020-0064 at 0073-0078; CIV-OTP-0020-0335 at 0377-0378; CIV-OTP-0028-0550 at 0556-0557; CIV-OTP-0032-0011 at 0022-0023; CIV-OTP-0040-0372 at 0385-0388; CIV-OTP-0040-0419 at 0419; CIV-OTP-0042-0508 at 0547-0549; CIV-OTP-0044-2401 at 2402; CIV-OTP-0044-2408 at 2410; CIV-OTP-0044-2441 at 2444; CIV-OTP-0044-2614 at 2618-2619; CIV-OTP-0044-2628 at 2639-2649; CIV-OTP-0045-0510 at 0511; CIV-OTP-0045-0735 at 0735; CIV-OTP-0045-1157 at 1165; CIV-OTP-0045-1413 at 1413; CIV-OTP-0046-0275 at 0284; CIV-OTP-0048-1396 at 1429-1430; CIV-OTP-0048-1675 at 1680-1681; CIV-OTP-0049-2570 at 2571-2596; CIV-OTP-0057-1430 at 1449-1450; CIV-OTP-0057-1463 at 1488, 1491; CIV-OTP-0057-1494 at 1496.

³³ CIV-OTP-0044-2614 at 2619-2620.

³⁴ CIV-OTP-0029-0323 at 0332-0333; CIV-OTP-0032-0011 at 0021; CIV-OTP-0039-0143 at 0173-0174; CIV-OTP-0044-2628 at 2640-2645; CIV-OTP-0045-1157 at 1165; see also CIV-OTP-0045-0510 at 0512-0515; CIV-OTP-0045-0541 at 0541; CIV-OTP-0051-0978 at 0992-0993, 0997-0998.

³⁵ CIV-OTP-0007-0231 at 0232-0233; CIV-OTP-0007-0235 at 0236; CIV-OTP-0020-0064 at 0074-0076; CIV-OTP-0042-0508 at 0549; CIV-OTP-0044-2393 at 2395; CIV-OTP-0044-2397 at 2399; CIV-OTP-0044-2401 at 2402; CIV-OTP-0045-0541 at 0541; CIV-OTP-0048-1396 at 1429; see also CIV-OTP-0051-0335 at 0371, 0384-0387.

³⁶ CIV-OTP-0020-0064 at 0076-0079; CIV-OTP-0020-0335 at 0378-0379; CIV-OTP-0044-2628 at 2644-2647; CIV-OTP-0045-0717 at 0717; CIV-OTP-0045-0735 at 0736; CIV-OTP-0045-0999 at 0999-1002.

period of several days,³⁷ and some specify that the attackers made reference to the victims' perceived ethnicity or political affiliation.³⁸

24. In addition, there is evidence that the violence by the FDS as well as militias continued in the days following 16 December 2010. FDS units went into hospitals where they searched for wounded participants of the demonstration;³⁹ the FDS and militias killed, raped and abducted residents during raids on civilian homes;⁴⁰ the FDS attacked mosques;⁴¹ and pro-Gbagbo militias committed killings at a roadblock.⁴²

25. In conclusion, based on the evidence available assessed individually and taken as a whole, the Chamber finds that the violent repression of the demonstration of RHDP supporters on 16 December 2010 and the violence in the days that followed resulted in the killing of at least 45 persons, the rape of at least 16 women and girls, and the injury of at least 54 persons.

B. The attack in Yopougon (25-28 February 2011)

26. The Prosecutor alleges that between 25 and 28 February 2011 in the Yopougon commune of Abidjan, pro-Gbagbo forces killed at least 24 persons, hailing primarily from northern Côte d'Ivoire and neighbouring West African countries,⁴³ and wounded at least seven persons.⁴⁴ The Prosecutor alleges that

³⁷ CIV-OTP-0019-0306 at 0312-0316; CIV-OTP-0020-0033 at 0043-0049; CIV-OTP-0048-1675 at 1681-1684; see also CIV-OTP-0002-0647 at 0675.

³⁸ CIV-OTP-0019-0306 at 0314-0315; CIV-OTP-0020-0033 at 0044-0045.

³⁹ CIV-OTP-0019-0211 at 0218; CIV-OTP-0020-0033 at 0049; CIV-OTP-0020-0064 at 0079; CIV-OTP-0029-0323 at 0333; CIV-OTP-0044-2628 at 2644-2645; CIV-OTP-0048-1396 at 1432.

⁴⁰ CIV-OTP-0002-0046 at 0054; CIV-OTP-0002-0166 at 0169-0170; CIV-OTP-0002-0647 at 0675-0676; CIV-OTP-0002-1019 at 1020; CIV-OTP-0044-0868 at 0870-0871; CIV-OTP-0048-1396 at 1442.

⁴¹ CIV-OTP-0002-0046 at 0056-0057; CIV-OTP-0044-0868 at 0870-0871; CIV-OTP-0048-1396 at 1445; CIV-OTP-0052-0386 at 0404.

⁴² CIV-OTP-0002-0647 at 0677.

⁴³ DCC, para. 327(b).

⁴⁴ DCC, para. 329(b).

these crimes were committed on political, national, ethnic or religious grounds.⁴⁵

27. The evidence indicates that on the evening of 24 February 2011, RTI television broadcast a statement recorded by Charles Blé Goudé,⁴⁶ in which he asked the youth to hinder the movements of the United Nations Operation in Côte d'Ivoire (UNOCI), and to attend a large meeting at 9.00 hours the following day at the Baron Bar in Yopougon in order to receive “the final instructions”.⁴⁷ Charles Blé Goudé visited the Presidential Residence the night before the broadcast,⁴⁸ as well as on 24 February 2011 shortly after the broadcast.⁴⁹

28. The evidence indicates that on the morning of 25 February 2011, during a meeting at the Baron Bar in Yopougon, Charles Blé Goudé said that he was giving an “*ordre*” to the youth that was to be applied in all neighbourhoods. The order was that when the youth returned to their neighbourhoods, they should prevent the movement of the UNOCI, contact the neighbourhood presidents, get together to be aware of and check the entrances and exits of their neighbourhoods, and report every “*personne étrangère*” coming into their neighbourhood.⁵⁰

29. According to several witnesses, soon after his speech at the Baron Bar, Charles Blé Goudé held another meeting at the nearby *Place CP1*, where he

⁴⁵ DCC, para. 330.

⁴⁶ CIV-OTP-0026-0020 at 01:08:48-01:12:10 (CIV-OTP-0044-2534 at 2556-2557).

⁴⁷ CIV-OTP-0026-0020 at 01:10:28-01:11:47 (CIV-OTP-0044-2534 at 2557).

⁴⁸ CIV-OTP-0053-0574 at 0704.

⁴⁹ CIV-OTP-0053-0574 at 0706.

⁵⁰ CIV-D25-0001-0985 at 1006; CIV-OTP-0002-0647 at 0677; CIV-OTP-0004-0072 at 0118; CIV-OTP-0043-0269 at 00:00:00-00:00:48 (CIV-OTP-0047-0611 at 0613); CIV-OTP-0055-0421 at 0421; CIV-OTP-0057-1345 at 1362; CIV-OTP-0058-0586 at 0604; CIV-OTP-0063-1497 at 1502-1503, 1524-1527; CIV-OTP-0064-0087 at 00:14:01-00:14:44 (CIV-OTP-0063-2998 at 3001).

presented a message to the crowd.⁵¹ Shortly after the meeting ended, in the vicinity of *Place CP1*, pro-Gbagbo youth identified two men as “rebels” after finding that they wore talismans, and killed them by beating and burning them.⁵²

30. Further, the evidence shows that clashes broke out around the *Boulevard Principal*⁵³ dividing Doukouré and Lem – an area with inhabitants mostly from the Dioula group, the north of Côte d’Ivoire and West African countries⁵⁴ – from Yaho Séhi – a neighbourhood with inhabitants perceived to be in support of Laurent Gbagbo.⁵⁵ At the beginning of the clashes, it appears that pro-Gbagbo youth and youth from Doukouré threw stones at each other.⁵⁶

31. Around the time of the clashes, a man sought shelter inside the police station of the 16th *arrondissement*. After being pushed outside, pro-Gbagbo youth killed the man by beating and burning him.⁵⁷ The pro-Gbagbo youth remained at the scene of the killing when a convoy, which evidence suggests contained Charles Blé Goudé,⁵⁸ arrived at the police station.⁵⁹

⁵¹ CIV-OTP-0058-0289 at 0304-0305; CIV-OTP-0058-0488 at 0501; CIV-OTP-0058-0586 at 0604; CIV-OTP-0061-0080 at 0085-0086.

⁵² CIV-OTP-0057-1345 at 1351; CIV-OTP-0058-0289 at 0305, 0311; CIV-OTP-0058-0488 at 0510.

⁵³ CIV-OTP-0020-0335 at 0360; CIV-OTP-0028-0229 at 0230-0231; CIV-OTP-0044-0392 at 0416; CIV-OTP-0057-1345 at 1355, 1358, 1362; CIV-OTP-0058-0289 at 0304, 0306; CIV-OTP-0062-0860 at 0865.

⁵⁴ CIV-OTP-0020-0335 at 0352; CIV-OTP-0029-0267 at 0289; CIV-OTP-0048-1396 at 1467; CIV-OTP-0057-1345 at 1350.

⁵⁵ CIV-OTP-0044-1738 at 1738; CIV-OTP-0058-0488 at 0495.

⁵⁶ CIV-OTP-0020-0335 at 0360; CIV-OTP-0028-0229 at 0232; CIV-OTP-0044-1738 at 1738; CIV-OTP-0057-1345 at 1355, 1356, 1361; CIV-OTP-0058-0289 at 0306-0307; CIV-OTP-0058-0488 at 0504; CIV-OTP-0062-0860 at 0865, 0866.

⁵⁷ CIV-OTP-0044-0392 at 0416; CIV-OTP-0058-0289 at 0307; CIV-OTP-0058-0488 at 0512.

⁵⁸ CIV-OTP-0057-1345 at 1358; CIV-OTP-0058-0289 at 0307; CIV-OTP-0058-0488 at 0505; CIV-OTP-0058-0586 at 0604.

⁵⁹ CIV-OTP-0058-0289 at 0307-0308; CIV-OTP-0058-0488 at 0512.

32. Two eyewitnesses explain that immediately after the convoy left, policemen exited the building and fired towards Doukouré.⁶⁰ The escalation of the clash is described by several witnesses, who state that grenades were launched⁶¹ and shots were fired⁶² towards Doukouré by militia members, including those of Maguy le Tocard, and FDS elements, especially the police.⁶³ Witnesses also describe the presence of youth amongst the perpetrators.⁶⁴ It appears that the grenade explosions and shots fired led to injuries⁶⁵ and killings.⁶⁶

33. The Lem mosque, located on the *Boulevard Principal*, was also attacked. The evidence suggests that people had retreated into the mosque's enclosure, from where they continued throwing stones.⁶⁷ Following this, it appears that at least one grenade was launched into the mosque,⁶⁸ shots were fired,⁶⁹ and some attackers entered the mosque.⁷⁰ The mosque caught fire⁷¹ and Qurans

⁶⁰ CIV-OTP-0058-0289 at 0308; CIV-OTP-0058-0488 at 0505.

⁶¹ CIV-OTP-0020-0335 at 0360; CIV-OTP-0057-1345 at 1361; CIV-OTP-0058-0289 at 0308-0310; CIV-OTP-0062-0860 at 0866.

⁶² CIV-OTP-0020-0335 at 0360, 0363; CIV-OTP-0044-1738 at 1738; CIV-OTP-0058-0289 at 0308, 0310; CIV-OTP-0062-0860 at 0866.

⁶³ CIV-OTP-0020-0335 at 0360-0361; CIV-OTP-0028-0229 at 0232-0233; CIV-OTP-0048-1396 at 1468; CIV-OTP-0057-1570 at 1581-1582; CIV-OTP-0058-0289 at 0309-0310; CIV-OTP-0062-0860 at 0865-0866.

⁶⁴ CIV-OTP-0020-0335 at 0360-0361; CIV-OTP-0028-0229 at 0232-0233; CIV-OTP-0062-0860 at 0865-0866.

⁶⁵ CIV-OTP-0020-0335 at 0361; CIV-OTP-0028-0229 at 0232-0233; CIV-OTP-0057-1570 at 1582; CIV-OTP-0058-0289 at 0308-0310; CIV-OTP-0058-0320 at 0329; CIV-OTP-0058-0488 at 0505; CIV-OTP-0062-0860 at 0866; CIV-OTP-0062-0872 at 0872; CIV-OTP-0062-0873 at 0873.

⁶⁶ CIV-OTP-0020-0335 at 0361; CIV-OTP-0028-0229 at 0233; CIV-OTP-0044-0392 at 0416; CIV-OTP-0046-0029 at 0029; CIV-OTP-0057-1345 at 1361; CIV-OTP-0057-1378 at 1378; CIV-OTP-0058-0289 at 0308, 0310; CIV-OTP-0058-0320 at 0320; CIV-OTP-0058-0488 at 0505, 0508; CIV-OTP-0062-0860 at 0867.

⁶⁷ CIV-OTP-0020-0335 at 0361; CIV-OTP-0028-0229 at 0232; CIV-OTP-0058-0488 at 0504, 0506.

⁶⁸ CIV-OTP-0020-0335 at 0361; CIV-OTP-0058-0488 at 0503, 0506.

⁶⁹ CIV-OTP-0020-0335 at 0361.

⁷⁰ CIV-OTP-0002-0647 at 0674; CIV-OTP-0004-0072 at 0126; CIV-OTP-0044-0392 at 0416; CIV-OTP-0048-1396 at 1446; CIV-OTP-0057-1345 at 1359.

⁷¹ CIV-OTP-0002-0647 at 0674; CIV-OTP-0004-0072 at 0126; CIV-OTP-0020-0335 at 0362; CIV-OTP-0028-0229 at 0234; CIV-OTP-0043-0269 at 00:28:30-00:29:04 (CIV-OTP-0047-0611 at 0626); CIV-OTP-0044-1522 at 1526; CIV-OTP-0044-1531 at 1531-1532; CIV-OTP-0046-0029 at 0029; CIV-OTP-0048-1396 at 1446-1447; CIV-OTP-0057-1345 at 1356; CIV-OTP-0057-1570 at 1581;

and prayer mats were burned.⁷² The evidence shows that the perpetrators consisted of youth, militia members, especially those of Maguy le Tocard, and FDS elements, especially the police.⁷³ As a consequence of the attack, several people were injured, either by bullets or machete.⁷⁴ The mosque's keeper was taken outside of the mosque and was subsequently beaten and burned to death by a combination of youth and militia members.⁷⁵

34. On the same day, further along the *Boulevard Principal*, near a roadblock at the Saguidiba crossing, youth and militia members accused a man of being a rebel and beat and burned him to death.⁷⁶ According to several sources, killings, some of which involved individuals being burned alive, also occurred at other locations in Yopougon.⁷⁷

35. As the Defence argues,⁷⁸ there is evidence establishing that roadblocks existed in Yopougon prior to the morning of 25 February 2011.⁷⁹ However, the evidence indicates that, between 25 and 28 February 2011, after Charles Blé Goudé's speeches at the Baron Bar and *Place CP1*, pro-Gbagbo youth erected

CIV-OTP-0058-0289 at 0309-0310; CIV-OTP-0058-0488 at 0503, 0506, 0507; CIV-OTP-0061-0080 at 0094; CIV-OTP-0062-0860 at 0869.

⁷² CIV-OTP-0048-1396 at 1446; CIV-OTP-0061-0080 at 0094.

⁷³ CIV-OTP-0002-0647 at 0674; CIV-OTP-0004-0072 at 0126; CIV-OTP-0020-0335 at 0361, 0362; CIV-OTP-0044-0392 at 0416; CIV-OTP-0048-1396 at 1446; CIV-OTP-0057-1345 at 1359; CIV-OTP-0057-1570 at 1581; CIV-OTP-0058-0488 at 0503, 0506; CIV-OTP-0062-0860 at 0869.

⁷⁴ CIV-OTP-0002-0647 at 0674; CIV-OTP-0020-0335 at 0363; CIV-OTP-0020-0392 at 0392; CIV-OTP-0020-0398 at 0398; CIV-OTP-0020-0399 at 0399; CIV-OTP-0020-0400 at 0400; CIV-OTP-0057-1345 at 1359.

⁷⁵ CIV-OTP-0020-0335 at 0362; CIV-OTP-0044-0392 at 0416; CIV-OTP-0057-1345 at 1359-1360; CIV-OTP-0058-0289 at 0309; CIV-OTP-0058-0488 at 0507-0508.

⁷⁶ CIV-OTP-0020-0335 at 0376-0377; CIV-OTP-0044-1738 at 1738; CIV-OTP-0046-0029 at 0030; CIV-OTP-0057-1570 at 1574-1578; CIV-OTP-0058-0289 at 0311; CIV-OTP-0058-0488 at 0510; CIV-OTP-0058-0586 at 0597, 0599-0602; CIV-OTP-0061-0080 at 0106.

⁷⁷ CIV-OTP-0002-0647 at 0677; CIV-OTP-0020-0335 at 0363; CIV-OTP-0044-0392 at 0416; CIV-OTP-0046-0029 at 0029-0030; CIV-OTP-0057-1345 at 1356-1357; CIV-OTP-0058-0289 at 0310; CIV-OTP-0058-0488 at 0512; CIV-OTP-0061-0080 at 0091-0092.

⁷⁸ Defence Final Confirmation Submissions, para. 3; Transcript of hearing, 1 October 2014, ICC-02/11-02/11-T-7-Red-ENG, pp. 9-10.

⁷⁹ CIV-D25-0001-0639 at 0642-0643; CIV-D25-0001-0658 at 0670-0671; CIV-D25-0001-0840 at 0857-0858; CIV-D25-0001-0865 at 0890; CIV-D25-0001-0937 at 0938; CIV-D25-0001-0967 at 0978; CIV-OTP-0003-0438 at 0438; CIV-OTP-0049-2842 at 2850; CIV-OTP-0057-1570 at 1579-1580.

additional roadblocks in Yopougon and that there was an increase in violent acts committed by pro-Gbagbo youth at the roadblocks.⁸⁰ The evidence indicates that these developments were triggered by the instructions of Charles Blé Goudé.⁸¹

36. A police report further supports the conclusion that there was an increase in violent activity at roadblocks between 25 and 28 February 2011, as pro-Gbagbo youth and militia members killed people suspected of being rebels.⁸² Significantly, it is specified in the report that only Charles Blé Goudé, the “initiator” of the roadblocks, had the power to call for the roadblocks and the killings to end.⁸³

37. Several witnesses state that pro-Gbagbo youth and militia members continued to attack the population in Yopougon from 26 to 28 February 2011.⁸⁴ In addition, reports based in part on first-hand accounts refer to numerous killings by pro-Gbagbo youth and militia members during this period.⁸⁵

⁸⁰ CIV-OTP-0002-0647 at 0677; CIV-OTP-0004-0072 at 0118, 0120, 0180; CIV-OTP-0020-0335 at 0355; CIV-OTP-0028-0008 at 00:01:17-00:01:29 (CIV-OTP-0027-0440 at 0442); CIV-OTP-0028-0229 at 0230-0231; CIV-OTP-0044-1531 at 1533; CIV-OTP-0044-1547 at 1548, 1550; CIV-OTP-0055-0421 at 0421; CIV-OTP-0057-1345 at 1364-1366; CIV-OTP-0057-1570 at 1579-1580; CIV-OTP-0058-0289 at 0314, 0316; CIV-OTP-0058-0586 at 0605-0606; CIV-OTP-0061-0080 at 0085-0086; CIV-OTP-0062-0860 at 0868; CIV-OTP-0063-1403 at 1414-1415; CIV-OTP-0063-1464 at 1495.

⁸¹ CIV-OTP-0004-0072 at 0118; CIV-OTP-0020-0335 at 0355; CIV-OTP-0028-0008 at 00:01:17-00:01:29 (CIV-OTP-0027-0440 at 0442); CIV-OTP-0044-1531 at 1533, 1536; CIV-OTP-0049-2842 at 2850; CIV-OTP-0057-1345 at 1364-1365; CIV-OTP-0058-0289 at 0315; CIV-OTP-0058-0425 at 0434-0435; CIV-OTP-0058-0586 at 0605; CIV-OTP-0062-0282 at 0290.

⁸² CIV-OTP-0045-0135 at 0135; CIV-OTP-0046-0029 at 0029-0030.

⁸³ CIV-OTP-0046-0029 at 0029-0030; CIV-OTP-0062-0282 at 0300-0303.

⁸⁴ CIV-OTP-0020-0335 at 0363; CIV-OTP-0057-1345 at 1363-1364; CIV-OTP-0058-0488 at 0513.

⁸⁵ CIV-OTP-0002-0647 at 0678-0679; CIV-OTP-0003-0013 at 00:00:00-00:02:25 (CIV-OTP-0008-0049 at 0050); CIV-OTP-0003-0418 at 0419-0420; CIV-OTP-0044-1480 at 1480; CIV-OTP-0044-1531 at 1531-1536; CIV-OTP-0044-1538 at 1539-1540; CIV-OTP-0044-1542 at 1545-1546; CIV-OTP-0044-1547 at 1548-1550; CIV-OTP-0044-1568 at 1568; CIV-OTP-0044-1743 at 1743-1744; CIV-OTP-0045-0389 at 0389; CIV-OTP-0052-0292 at 0305, 0306.

38. On the basis of the evidence presented taken individually and together, the Chamber concludes that in the Yopougon commune of Abidjan during the period commencing shortly after Charles Blé Goudé's speech at the Baron Bar on 25 February 2011, until 28 February 2011, pro-Gbagbo forces killed at least 24 persons and wounded at least seven persons. The evidence suggests that the victims were targeted on the basis that they were perceived as Ouattara supporters, nationals of neighbouring West African countries, Muslims, natives of northern Côte d'Ivoire, or members of the Dioula ethnic group.

C. Attack on a women's demonstration in Abobo (3 March 2011)

39. The Prosecutor alleges that on 3 March 2011, pro-Gbagbo forces killed seven women and wounded at least three persons who had participated in a pro-Ouattara women's demonstration in Abobo commune in Abidjan.⁸⁶

40. The evidence before the Chamber indicates that on the morning of 3 March 2011 a demonstration⁸⁷ of unarmed⁸⁸ women was fired at with heavy weapons and guns⁸⁹ by an FDS convoy⁹⁰ which included a vehicle of the

⁸⁶ DCC, paras 327(c) and 329(c).

⁸⁷ CIV-OTP-0019-0211 at 0220; CIV-OTP-0019-0245 at 0250; CIV-OTP-0019-0306 at 0320; CIV-OTP-0020-0033 at 0054; CIV-OTP-0020-0064 at 0082, 0084; CIV-OTP-0028-0550 at 0557; CIV-OTP-0032-0011 at 0024-0025; CIV-OTP-0040-0372 at 0395; CIV-OTP-0041-0328 at 0340.

⁸⁸ CIV-OTP-0019-0211 at 0220; CIV-OTP-0020-0064 at 0084; CIV-OTP-0032-0011 at 0028; CIV-OTP-0040-0372 at 0401; CIV-OTP-0044-1619 at 1621.

⁸⁹ CIV-OTP-0003-0716 at 00:03:39-00:07:48 (CIV-OTP-0021-0104 at 0106); CIV-OTP-0019-0211 at 0220; CIV-OTP-0019-0245 at 0250; CIV-OTP-0019-0306 at 0321; CIV-OTP-0020-0033 at 0055; CIV-OTP-0020-0064 at 0083; CIV-OTP-0028-0550 at 0557, 0562, 0563; CIV-OTP-0032-0011 at 0026; CIV-OTP-0039-0143 at 0175-0176; CIV-OTP-0040-0372 at 0395-0396; CIV-OTP-0041-0328 at 0340; CIV-OTP-0042-0508 at 0520; CIV-OTP-0042-0587 at 00:00:43-00:18:31 (CIV-OTP-0053-0089 at 0090-0095); CIV-OTP-0044-0313 at 0313-0314; CIV-OTP-0044-0738 at 00:00:18-00:12:51 (CIV-OTP-0053-0113 at 0115-0123); CIV-OTP-0048-1396 at 1451; see also CIV-OTP-0004-0072 at 0130.

⁹⁰ CIV-OTP-0004-0072 at 0130; CIV-OTP-0019-0245 at 0250; CIV-OTP-0019-0306 at 0320; CIV-OTP-0020-0033 at 0055; CIV-OTP-0032-0011 at 0026; CIV-OTP-0039-0143 at 0174-0175; CIV-OTP-0040-0372 at 0395; CIV-OTP-0046-1033 at 1034-1038; CIV-OTP-0049-2312 at 2321-2332; CIV-OTP-0049-2336 at 2353-2355; CIV-OTP-0051-1086 at 1121, 1125-1129, 1134; CIV-OTP-0057-1430 at 1453-1455; CIV-OTP-0057-1535 at 1553.

Republican Guard,⁹¹ coming from the direction of Camp Commando where FDS units were stationed.⁹² Taking into account the totality of the evidence available, the Chamber concludes that as a result of this shooting attributable to FDS units stationed in Camp Commando, seven women who participated in the march were killed⁹³ and at least three others were injured.⁹⁴

D. Shelling of Abobo market and the surrounding area (17 March 2011)

41. The Prosecutor alleges that on 17 March 2011, pro-Gbagbo forces killed at least 40 persons and injured at least 60 persons in or near Abobo market by shelling a densely populated area.⁹⁵

42. The evidence demonstrates that, on 17 March 2011, a number of mortar shells landed on the centre of Abobo, in particular at the Siaka Koné market, the SOS village neighbourhood and the Derrière Rails sector.⁹⁶ On the basis of

⁹¹ CIV-OTP-0014-0326 at 0338-0341; CIV-OTP-0019-0168 at 0172; CIV-OTP-0028-0481 at 0496; CIV-OTP-0037-0425 at 0451; CIV-OTP-0039-0143 at 0174-0175.

⁹² CIV-OTP-0020-0033 at 0055; CIV-OTP-0020-0064 at 0083; CIV-OTP-0028-0550 at 0557-0558; CIV-OTP-0049-2192 at 2199, 2226, 2228; see also CIV-OTP-0049-2269 at 2286.

⁹³ CIV-OTP-0019-0211 at 0220; CIV-OTP-0019-0245 at 0250; CIV-OTP-0020-0033 at 0055-0056; CIV-OTP-0020-0064 at 0083; CIV-OTP-0028-0550 at 0558-0559, 0562-0563; CIV-OTP-0040-0372 at 0396; CIV-OTP-0041-0328 at 0340-0341; CIV-OTP-0042-0508 at 0521; CIV-OTP-0044-0313 at 0313-0314; CIV-OTP-0044-0767 at 0767.

⁹⁴ CIV-OTP-0002-0010 at 0020; CIV-OTP-0002-0598 at 0603-0604; CIV-OTP-0019-0211 at 0220; CIV-OTP-0019-0245 at 0250; CIV-OTP-0028-0550 at 0558; CIV-OTP-0032-0011 at 0026-0027; CIV-OTP-0032-0051 at 0051; CIV-OTP-0032-0052 at 0052; CIV-OTP-0044-1740 at 1740; CIV-OTP-0044-1745 at 1745.

⁹⁵ DCC, paras 327(d) and 329(d).

⁹⁶ CIV-OTP-0002-0598 at 0604; CIV-OTP-0002-0647 at 0673; CIV-OTP-0002-0983 at 0991-0992; CIV-OTP-0003-0425 at 0425; CIV-OTP-0003-0725 at 0725-0727; CIV-OTP-0004-0072 at 0140-0141; CIV-OTP-0007-0231 at 0231-0233; CIV-OTP-0019-0211 at 0228; CIV-OTP-0019-0245 at 0248-0249; CIV-OTP-0028-0550 at 0565; CIV-OTP-0040-0372 at 0406-0409; CIV-OTP-0041-0328 at 0334-0336, 0339; CIV-OTP-0041-0345 at 0345; CIV-OTP-0041-0388 at 0392-0393; CIV-OTP-0041-0412 at 0416-0417, 0419-0420; CIV-OTP-0042-0508 at 0538-0539; CIV-OTP-0044-0729 at 0729-0732; CIV-OTP-0044-1654 at 1662-1665; CIV-OTP-0044-1666 at 1666-1679; CIV-OTP-0046-0275 at 0279-0283; CIV-OTP-0046-0286 at 0286; CIV-OTP-0046-0287 at 0287; CIV-OTP-0046-0288 at 0288; CIV-OTP-0046-1203 at 1207-1209; CIV-OTP-0046-1244 at 1247-1248; CIV-OTP-0046-1271 at 1274-1277; CIV-OTP-0046-1282 at 1282; CIV-OTP-0048-1396 at 1461-1463.

the evidence available, the Chamber concludes that this shelling resulted in the death of at least 40 persons and injured at least another 60.⁹⁷

43. The evidence indicates that the shelling was carried out by elements of the Surface-to-Air Artillery Battalion (BASA), a unit of the National Armed Forces of Côte d'Ivoire (FANCI) specialised in the use of heavy artillery including mortars, posted at Camp Commando,⁹⁸ in accordance with orders received from their superiors.⁹⁹

E. The attack in Yopougon (on or around 12 April 2011)

44. The Prosecutor alleges that on or around 12 April 2011 in Yopougon, pro-Gbagbo forces killed at least 68 persons hailing primarily from northern Côte d'Ivoire and neighbouring West African countries, raped at least 22 women and wounded at least two persons.¹⁰⁰

45. The analysis of the evidence indicates that on or around 12 April 2011, in the Yopougon neighbourhoods of Doukouré and Mami Fatai – areas with inhabitants mostly from the Dioula group, the north of Côte d'Ivoire and

⁹⁷ CIV-OTP-0002-0010 at 0021; CIV-OTP-0002-0214 at 0214-0215; CIV-OTP-0002-0235 at 0235; CIV-OTP-0002-0598 at 0604; CIV-OTP-0002-0647 at 0673; CIV-OTP-0002-0983 at 0991-0992; CIV-OTP-0004-0072 at 0140-0141; CIV-OTP-0019-0211 at 0228; CIV-OTP-0019-0245 at 0248-0250; CIV-OTP-0029-0323 at 0334; CIV-OTP-0032-0011 at 0023, 0030-0031; CIV-OTP-0037-0151 at 0151; CIV-OTP-0041-0328 at 0335-0336; CIV-OTP-0041-0388 at 0392; CIV-OTP-0041-0412 at 0416-0417; CIV-OTP-0042-0508 at 0538-0539, 0540-0541; CIV-OTP-0044-1739 at 1739; CIV-OTP-0046-0275 at 0280-0282; CIV-OTP-0046-1203 at 1208; CIV-OTP-0046-1244 at 1248; CIV-OTP-0046-1254 at 1258; CIV-OTP-0046-1264 at 1264; CIV-OTP-0046-1265 at 1265; CIV-OTP-0046-1271 at 1276; CIV-OTP-0048-1396 at 1461-1463.

⁹⁸ CIV-OTP-0004-0072 at 0140; CIV-OTP-0007-0231 at 0231-0233; CIV-OTP-0016-0084 at 0098, 0102; CIV-OTP-0016-0104 at 0117; CIV-OTP-0028-0481 at 0484, 0486, 0488-0491, 0495; CIV-OTP-0037-0425 at 0429, 0432, 0434-0436, 0441-0445; CIV-OTP-0039-0143 at 0148-0149, 0167-0168; CIV-OTP-0040-0446 at 0462; CIV-OTP-0046-0275 at 0279-0280; CIV-OTP-0046-1011 at 1012-1013; CIV-OTP-0048-1396 at 1461; CIV-OTP-0048-1503 at 1510.

⁹⁹ CIV-OTP-0028-0481 at 0502-0503; CIV-OTP-0037-0425 at 0443-0444; CIV-OTP-0039-0143 at 0177-0179; see also CIV-OTP-0040-0446 at 0463; CIV-OTP-0041-0534 at 0574-0577.

¹⁰⁰ DCC, paras 327(e), 328(b), 329(e).

West-African countries¹⁰¹ – pro-Gbagbo forces armed with guns and machetes attacked people on the street and broke into homes, killing,¹⁰² raping¹⁰³ and injuring residents.¹⁰⁴ This violence was politically motivated and directed against real or perceived Ouattara supporters.¹⁰⁵

46. The evidence suggests that a number of mass graves found in Yopougon were associated with these acts of violence.¹⁰⁶ On the basis of this evidence,

¹⁰¹ CIV-OTP-0020-0335 at 0352; CIV-OTP-0028-0008 at 00:02:30-00:02:58 (CIV-OTP-0027-0440 at 0443); CIV-OTP-0029-0267 at 0289; CIV-OTP-0029-0656 at 0660; CIV-OTP-0039-0196 at 0219; CIV-OTP-0048-1396 at 1467; CIV-OTP-0057-1345 at 1350.

¹⁰² CIV-OTP-0002-0631 at 0632-0633, 0642-0645; CIV-OTP-0004-0072 at 0147-0150; CIV-OTP-0007-0231 at 0233; CIV-OTP-0020-0335 at 0366-0373; CIV-OTP-0020-0393 at 0393; CIV-OTP-0020-0404 at 0404; CIV-OTP-0029-0656 at 0670-0671; CIV-OTP-0032-0054-0001 at 0104, 0106; CIV-OTP-0039-0143 at 0182-0185; CIV-OTP-0044-0356 at 0356; CIV-OTP-0044-0392 at 0415; CIV-OTP-0044-1270 at 1275; CIV-OTP-0048-1396 at 1465-1466; CIV-OTP-0049-2842 at 2860-2861; CIV-OTP-0051-0236 at 0249-0250; CIV-OTP-0057-1345 at 1368-1369; CIV-OTP-0058-0289 at 0311-0312; CIV-OTP-0058-0488 at 0516-0517, 0519; CIV-OTP-0058-0526 at 0526; CIV-OTP-0058-0586 at 0609; CIV-OTP-0061-0080 at 0095-0100; CIV-OTP-0061-0111 at 0111.

¹⁰³ CIV-OTP-0002-0631 at 0632-0633, 0644-0645; CIV-OTP-0004-0072 at 0149-0150; CIV-OTP-0021-0955 at 0982, 0983; CIV-OTP-0022-0002 at 0002; CIV-OTP-0022-0003 at 0003; CIV-OTP-0022-0004 at 0004; CIV-OTP-0022-0005 at 0005; CIV-OTP-0022-0006 at 0006; CIV-OTP-0022-0008 at 0008; CIV-OTP-0022-0009 at 0009; CIV-OTP-0022-0010 at 0010; CIV-OTP-0022-0011 at 0011; CIV-OTP-0022-0013 at 0013; CIV-OTP-0022-0017 at 0017; CIV-OTP-0022-0018 at 0018; CIV-OTP-0022-0020 at 0020; CIV-OTP-0022-0022 at 0022; CIV-OTP-0022-0023 at 0023; CIV-OTP-0022-0029 at 0029; CIV-OTP-0022-0030 at 0030; CIV-OTP-0022-0037 at 0037; CIV-OTP-0022-0038 at 0038; CIV-OTP-0022-0039 at 0039; CIV-OTP-0022-0040 at 0040; CIV-OTP-0022-0041 at 0041; CIV-OTP-0022-0042 at 0042-0047; CIV-OTP-0029-0656 at 0670-0673; CIV-OTP-0048-1396 at 1466-1467; CIV-OTP-0049-2842 at 2856-2859; CIV-OTP-0051-0236 at 0246-0249.

¹⁰⁴ CIV-OTP-0004-0072 at 0147-0148; CIV-OTP-0020-0335 at 0367.

¹⁰⁵ CIV-OTP-0002-0631 at 0642-0644; CIV-OTP-0004-0234 at 00:01:20-00:01:30 (CIV-OTP-0021-0929 at 0931); CIV-OTP-0020-0335 at 0367-0368, 0370-0371; CIV-OTP-0029-0656 at 0670-0672; CIV-OTP-0039-0143 at 0184-0185; CIV-OTP-0048-1396 at 1465-1466; CIV-OTP-0049-2842 at 2856, 2857, 2859-2861; CIV-OTP-0051-0236 at 0246, 0247; CIV-OTP-0057-1345 at 1368; CIV-OTP-0058-0289 at 0311-0312; CIV-OTP-0061-0080 at 0097-0098.

¹⁰⁶ CIV-OTP-0002-0598 at 0605; CIV-OTP-0002-1006 at 1006; CIV-OTP-0002-1046 at 1046; CIV-OTP-0003-0603 at 0603; CIV-OTP-0004-0043 at 0043; CIV-OTP-0004-0072 at 0149; CIV-OTP-0004-0222 at 0222-0223; CIV-OTP-0004-0234 at 00:00:00-00:00:58 (CIV-OTP-0021-0929 at 0930); CIV-OTP-0012-0048 at 00:00:00-00:07:37 (CIV-OTP-0053-0003 at 0004); CIV-OTP-0013-0108 at 0126; CIV-OTP-0017-0040 at 0040-0041; CIV-OTP-0017-0042 at 00:00:00-00:04:04 (CIV-OTP-0021-1014 at 1015-1016); CIV-OTP-0020-0335 at 0366, 0367, 0369, 0374-0375; CIV-OTP-0020-0387 at 0387; CIV-OTP-0020-0395 at 0396; CIV-OTP-0020-0408 at 0408; CIV-OTP-0032-0054-0001 at 0106; CIV-OTP-0037-0138 at 0144; CIV-OTP-0044-1270 at 1274; CIV-OTP-0048-1396 at 1466; CIV-OTP-0049-2842 at 2861; CIV-OTP-0051-0236 at 0249; CIV-OTP-0057-1345 at 1368-1369; CIV-OTP-0057-1381 at 1381; CIV-OTP-0057-1382 at 1382; CIV-OTP-0057-1570 at 1582; CIV-OTP-0058-0320 at 0330; CIV-OTP-0058-0488 at 0519-0520; CIV-OTP-0058-0526 at 0526; CIV-OTP-0061-0080 at 0101-0103; CIV-OTP-0061-0112 at 0112; CIV-OTP-0062-0311 at 0330.

which includes the identification of some victims of the attack who were buried in mass graves,¹⁰⁷ the Chamber considers that the connection between the reported mass graves and the acts of violence is sufficiently established for the purpose of the present decision. In the view of the Chamber, and contrary to the assertion of the Defence,¹⁰⁸ it is therefore appropriate to take into account the entirety of the evidence related to the mass graves when determining the total number of killings.

47. Based on the analysis above, the evidence indicates that at least 22 women were raped and at least 68 individuals were killed, while at least two persons were injured, by the pro-Gbagbo forces in the course of the attack on perceived Ouattara supporters in Yopougon.

48. The evidence points to the acts of violence having been committed by pro-Gbagbo youth, militia and mercenaries.¹⁰⁹ A number of militia groups, with links to Charles Blé Goudé, Laurent Gbagbo and other members of the latter's inner circle, were active in Yopougon at the relevant time and cooperated with mercenaries.¹¹⁰

49. The Chamber acknowledges that the violence in Yopougon may have been triggered in part by anger and a wish for revenge after Laurent Gbagbo's arrest on 11 April 2011.¹¹¹ However, the evidence also indicates that the pro-Gbagbo youth, militia and mercenaries in Yopougon harboured aversion

¹⁰⁷ CIV-OTP-0020-0335 at 0366, 0367, 0369; CIV-OTP-0058-0488 at 0516-0517, 0519-0520; CIV-OTP-0058-0526 at 0526; CIV-OTP-0061-0080 at 0101-0104; see also CIV-OTP-0057-1345 at 1368-1369; CIV-OTP-0057-1381 at 1381; CIV-OTP-0057-1382 at 1382; CIV-OTP-0057-1570 at 1582.

¹⁰⁸ Transcript of hearing, 1 October 2014, ICC-02/11-02/11-T-7-Red-ENG, pp. 24, 29-30.

¹⁰⁹ CIV-OTP-0002-0598 at 0602-0603; CIV-OTP-0002-0631 at 0642-0645; CIV-OTP-0020-0335 at 0366-0368, 0370-0373; CIV-OTP-0029-0656 at 0670, 0671; CIV-OTP-0039-0143 at 0183-0184; CIV-OTP-0048-1396 at 1466; CIV-OTP-0049-2842 at 2856; CIV-OTP-0051-0236 at 0246-0247, 0249-0250.

¹¹⁰ See below, paras 68-73.

¹¹¹ CIV-OTP-0004-0072 at 0147-0148; CIV-OTP-0020-0335 at 0374. See also CIV-OTP-0004-0043 at 0043.

against those they considered enemies prior to Laurent Gbagbo's arrest¹¹² and that inter-community tensions appear to have been fuelled within the youth and militia groups in Yopougon by Charles Blé Goudé¹¹³ as well as by Laurent Gbagbo.¹¹⁴ Most importantly, the Chamber notes that throughout the relevant period, Charles Blé Goudé engaged in a sustained effort to mobilise the youth, in particular in Yopougon, including for the use of violence against civilians, and that his speeches and public statements equally had an effect on the members of militias and mercenaries.¹¹⁵

50. The Chamber notes that the Defence has raised an alibi, asserting that Charles Blé Goudé cannot be responsible for the crimes in Yopougon on or around 12 April 2011, because at that time he had already left Côte d'Ivoire.¹¹⁶ However, the Chamber notes that the evidence demonstrates that Charles Blé Goudé undertook the conduct which led to the commission of the crimes in Yopougon during the period preceding the alleged time of his escape to Ghana, and it is only the consequence of his conduct, *i.e.* the realisation of the objective elements of the crimes by the direct perpetrators, that occurred thereafter.

II. Other acts of violence

51. The Prosecutor submits that numerous violent acts were committed against the civilian population within the context of a number of incidents which occurred in Abidjan during the post-election crisis.¹¹⁷ The Chamber

¹¹² CIV-OTP-0020-0064 at 0068-0070; CIV-OTP-0020-0335 at 0374; CIV-OTP-0028-0008 at 00:01:23-00:03:07 (CIV-OTP-0027-0440 at 0442-0443); CIV-OTP-0029-0656 at 0662; CIV-OTP-0039-0143 at 0183-0185.

¹¹³ CIV-OTP-0020-0335 at 0352; see also CIV-OTP-0063-1040 at 1066-1067.

¹¹⁴ CIV-OTP-0020-0335 at 0346, 0350; see also CIV-OTP-0013-0108 at 0113-0114. See also below, para. 94.

¹¹⁵ See below, para. 101.

¹¹⁶ Transcript of hearing, 1 October 2014, ICC-02/11-02/11-T-7-Red-ENG, p. 24, line 13; Defence Final Confirmation Submissions, para. 5.

¹¹⁷ DCC, paras 83-93.

notes that the Prosecutor relies on over 800 acts committed against civilians in the context of 38 incidents, including the 348 acts allegedly committed within the five incidents for which Charles Blé Goudé bears criminal responsibility.¹¹⁸

52. The Chamber considers that, in addition to the rapes committed on 16 December 2010 and in the days that followed,¹¹⁹ and on or around 12 April 2011 in Yopougon,¹²⁰ the evidence demonstrates that on 25 February 2011 in Abobo, FDS and pro-Gbagbo youth raped nine women who were targeted because of their known political affiliation with the Ouattara camp.¹²¹

53. Further, in addition to the events on 16 December 2010¹²² and on 3 March 2011 in Abobo,¹²³ there is evidence of a pattern of repression of civilian demonstrations organised by Ouattara supporters by the FDS, for example between 27 and 29 November 2010 in Abobo;¹²⁴ on 4 December 2010 in Koumassi;¹²⁵ on 6 December 2010 in Adjamé;¹²⁶ on 18 and 19 January 2011 in Adjamé and Attécoubé;¹²⁷ between 19 and 21 February 2011 in Abobo, Koumassi and Treichville;¹²⁸ and on 19 February 2011 in Abobo.¹²⁹

¹¹⁸ DCC, para. 331.

¹¹⁹ See above, paras 21, 23-24.

¹²⁰ See above, para. 45.

¹²¹ CIV-OTP-0002-0173 at 0176-0177; CIV-OTP-0048-1396 at 1447-1449.

¹²² See above, paras 17-25.

¹²³ See above, paras 39-40.

¹²⁴ CIV-OTP-0003-0565 at 0573; CIV-OTP-0032-0011 at 0019-0020; CIV-OTP-0045-0793 at 0798-0799; CIV-OTP-0051-0830 at 0844; CIV-OTP-0053-0835 at 0847.

¹²⁵ CIV-OTP-0045-0527 at 0532-0533; see also CIV-OTP-0004-0072 at 0103-0105; CIV-OTP-0048-1396 at 1441.

¹²⁶ CIV-OTP-0044-0955 at 0958-0959; CIV-OTP-0045-0751 at 0751; CIV-OTP-0045-0793 at 0865; CIV-OTP-0045-1535 at 1535.

¹²⁷ CIV-OTP-0002-0010 at 0019; CIV-OTP-0002-0076 at 0079; CIV-OTP-0003-0435 at 0435-0436; CIV-OTP-0003-0527 at 0534; CIV-OTP-0044-0996 at 0999-1000; CIV-OTP-0044-2441 at 2446, 2461-2463; CIV-OTP-0053-0835 at 0848.

¹²⁸ CIV-OTP-0002-0173 at 0178; CIV-OTP-0002-0198 at 0199-0200; CIV-OTP-0021-3713 at 3714; CIV-OTP-0025-0082 at 0083-0084; CIV-OTP-0044-0316 at 0328; CIV-OTP-0044-1606 at 1606-1608; CIV-OTP-0048-1396 at 1449-1450; see also CIV-OTP-0043-0318 at 0318-0319.

¹²⁹ CIV-OTP-0032-0011 at 0024; CIV-OTP-0037-0482 at 0482.

54. Similarly, in addition to the events at the party offices of the Union of Côte d'Ivoire Republicans (RDR) and of the Democratic Party of Côte d'Ivoire (PDCI) on 16 December 2010,¹³⁰ the Chamber notes the evidence of a series of attacks on premises of parties supporting Alassane Ouattara, in particular on 1-2 December 2010 at the RDR seat in Yopougon,¹³¹ and on 25 December 2010¹³² and 4 January 2011¹³³ at the PDCI seat in Cocody.

55. Furthermore, the evidence shows that violence by pro-Gbagbo forces was also directed more generally at parts of the population perceived to be Ouattara supporters, such as Dioulas, Muslims or people from the north of Côte d'Ivoire or the neighbouring West African countries.¹³⁴ In particular, the Chamber recalls its analysis of the events in Abobo on 17 March 2011,¹³⁵ and the attacks in Yopougon on 25-28 February 2011¹³⁶ and on or around 12 April 2011,¹³⁷ and takes note of the evidence establishing specific acts of violence by pro-Gbagbo forces including FDS, pro-Gbagbo youth and militia, for example

¹³⁰ See above, para. 22.

¹³¹ CIV-OTP-0002-0010 at 0018-0019; CIV-OTP-0002-0212 at 0212; CIV-OTP-0003-0173 at 0185; CIV-OTP-0003-0527 at 0533; CIV-OTP-0044-0392 at 0415, 0445, 0452; CIV-OTP-0044-1398 at 1401; CIV-OTP-0045-0793 at 0850; CIV-OTP-0046-0099 at 0100-0102; CIV-OTP-0054-0852 at 0853-0855; CIV-OTP-0057-1646 at 1646; CIV-OTP-0057-1647 at 1647; CIV-OTP-0062-0194 at 0200-0201; CIV-OTP-0062-0247 at 0260-0280; CIV-OTP-0062-0282 at 0283; CIV-OTP-0063-1553 at 1554-1556.

¹³² CIV-OTP-0003-0527 at 0533; CIV-OTP-0044-1323 at 1330; CIV-OTP-0045-0793 at 0921; CIV-OTP-0048-1396 at 1483; see also CIV-OTP-0014-0170 at 0197-0200; CIV-OTP-0014-0204 at 0205-0206.

¹³³ CIV-OTP-0002-0010 at 0019; CIV-OTP-0002-0076 at 0079; CIV-OTP-0002-0647 at 0671; CIV-OTP-0003-0527 at 0533-0534; CIV-OTP-0044-0337 at 0345-0346; CIV-OTP-0044-0392 at 0421; CIV-OTP-0044-0975 at 0980-0981; CIV-OTP-0044-0996 at 1000; CIV-OTP-0044-1332 at 1339; CIV-OTP-0044-1341 at 1349; CIV-OTP-0045-0793 at 0933; CIV-OTP-0048-1396 at 1484; CIV-OTP-0053-0835 at 0848.

¹³⁴ See also CIV-OTP-0019-0211 at 0224-0225; CIV-OTP-0023-0323 at 0328; CIV-OTP-0028-0550 at 0564; CIV-OTP-0032-0011 at 0024; CIV-OTP-0040-0372 at 0391, 0409; CIV-OTP-0042-0508 at 0517; CIV-OTP-0045-0135 at 0138; CIV-OTP-0046-0029 at 0030; see also CIV-OTP-0003-0344 at 0344; CIV-OTP-0003-0423 at 0423; CIV-OTP-0052-0292 at 0355-0372; CIV-OTP-0052-0386 at 0404-0429; CIV-OTP-0053-0835 at 0848.

¹³⁵ See above, paras 41-43.

¹³⁶ See above, paras 26-38.

¹³⁷ See above, paras 44-50.

on 30 November 2010 in Abobo;¹³⁸ on 4 December 2010 in Port-Bouët;¹³⁹ on around 5 January 2011 in Adjamé;¹⁴⁰ on 11-12 January 2011 in Abobo;¹⁴¹ on 7 and 8 February 2011 in Abobo;¹⁴² on 24 February 2011 in Yopougon;¹⁴³ on 26 February 2011 in Abobo;¹⁴⁴ on 1 March 2011 in Yopougon;¹⁴⁵ on 3-4 March 2011 in Port-Bouët;¹⁴⁶ on 4 and 8 March 2011 in Yopougon;¹⁴⁷ on 11 March 2011 in Yopougon;¹⁴⁸ on 11-12 March 2011 in Abobo;¹⁴⁹ on 15 March 2011 in Yopougon;¹⁵⁰ on 19 March 2011 in Williamsville;¹⁵¹ on 22 March 2011 in Abobo;¹⁵² on 29 March 2011 in Adjamé;¹⁵³ on 30 March 2011 in Adjamé;¹⁵⁴ on 2

¹³⁸ CIV-OTP-0044-0903 at 0907; CIV-OTP-0052-0292 at 0359.

¹³⁹ CIV-OTP-0001-0052 at 0053-0054; CIV-OTP-0003-0723 at 0723; CIV-OTP-0043-0380 at 0380-0384; CIV-OTP-0045-0527 at 0528-0529; CIV-OTP-0048-1396 at 1483.

¹⁴⁰ CIV-OTP-0044-0310 at 0311; CIV-OTP-0052-0292 at 0300; see also CIV-OTP-0003-0527 at 0539.

¹⁴¹ CIV-OTP-0002-0010 at 0019; CIV-OTP-0002-0166 at 0169; CIV-OTP-0003-0527 at 0534-0535; CIV-OTP-0024-0759 at 0759-0778; CIV-OTP-0044-0975 at 0978; CIV-OTP-0045-0777 at 0777-0778; CIV-OTP-0046-0316 at 0316-0331; CIV-OTP-0053-0835 at 0848.

¹⁴² CIV-OTP-0044-1119 at 1121; CIV-OTP-0053-0835 at 0848.

¹⁴³ CIV-OTP-0045-0391 at 0393; CIV-OTP-0045-0396 at 0396-0397.

¹⁴⁴ CIV-OTP-0040-0372 at 0405; CIV-OTP-0040-0426 at 0426; CIV-OTP-0040-0427 at 0427-0429; CIV-OTP-0051-1045 at 1072-1081.

¹⁴⁵ CIV-OTP-0002-0173 at 0176; CIV-OTP-0048-1396 at 1484.

¹⁴⁶ CIV-OTP-0003-0416 at 0416; CIV-OTP-0003-0423 at 0423; CIV-OTP-0004-0072 at 0121; CIV-OTP-0044-1709 at 1715; CIV-OTP-0045-0180 at 0181; CIV-OTP-0048-1396 at 1484-1485.

¹⁴⁷ CIV-OTP-0002-0173 at 0176; CIV-OTP-0044-0310 at 0312; CIV-OTP-0044-0392 at 0433; CIV-OTP-0044-1562 at 1562-1563; CIV-OTP-0044-1709 at 1712-1713, 1715; CIV-OTP-0045-0144 at 0146; CIV-OTP-0048-1396 at 1485.

¹⁴⁸ CIV-OTP-0013-0108 at 0122.

¹⁴⁹ CIV-OTP-0002-0010 at 0021; CIV-OTP-0002-0647 at 0673; CIV-OTP-0044-1167 at 1170.

¹⁵⁰ CIV-OTP-0044-0392 at 0416; CIV-OTP-0057-1345 at 1366; CIV-OTP-0057-1463 at 1485-1486; CIV-OTP-0062-0311 at 0331; CIV-OTP-0063-1436 at 1449.

¹⁵¹ CIV-OTP-0002-0598 at 0608; CIV-OTP-0014-0170 at 0177-0179; CIV-OTP-0014-0479 at 0501-0502; CIV-OTP-0044-0392 at 0416-0417; CIV-OTP-0044-1681 at 1683; CIV-OTP-0052-0292 at 0308; see also CIV-OTP-0054-0940 at 0941; CIV-OTP-0054-0989 at 0992.

¹⁵² CIV-OTP-0020-0033 at 0058; CIV-OTP-0042-0508 at 0544-0546; CIV-OTP-0042-0567 at 0579; CIV-OTP-0042-0594 at 00:00:00-00:11:04 (CIV-OTP-0053-0101 at 0102-0107); CIV-OTP-0044-1211 at 1212; CIV-OTP-0044-1692 at 1694, 1695, 1703; CIV-OTP-0048-1396 at 1464. See also CIV-OTP-0044-1201 at 1204.

¹⁵³ CIV-OTP-0004-0072 at 0144-0145; CIV-OTP-0048-1396 at 1486.

¹⁵⁴ CIV-OTP-0002-0182 at 0185; CIV-OTP-0048-1396 at 1486.

April 2011 in Port-Bouët;¹⁵⁵ on 10 April 2011 in Yopougon;¹⁵⁶ and on 11 April 2011 in Treichville.¹⁵⁷

III. The inner circle and the pro-Gbagbo forces

56. According to the Prosecutor, Charles Blé Goudé committed the crimes charged jointly with Laurent Gbagbo and other persons, referred to in the DCC as “Gbagbo’s inner circle”,¹⁵⁸ and through an organisation comprising the FDS, militias, mercenaries and pro-Gbagbo youth (the “pro-Gbagbo forces”).¹⁵⁹

A. The inner circle

57. In the view of the Chamber, the evidence shows that the effort to maintain Laurent Gbagbo in power at any cost, including by the use of force against civilians, was conceived and controlled by Laurent Gbagbo and a limited number of close associates who shared his objective of staying in power and who coordinated with him the means to achieve this goal.

58. According to the evidence, Charles Blé Goudé was a prominent member of Laurent Gbagbo’s inner circle. Laurent Gbagbo and Charles Blé Goudé had a long-lasting relationship that predated the crisis, which involved Charles Blé Goudé rallying youth behind Laurent Gbagbo.¹⁶⁰ Charles Blé Goudé maintained very close relations with Laurent Gbagbo and Simone Gbagbo throughout the period of events under consideration.¹⁶¹ It appears that

¹⁵⁵ CIV-OTP-0007-0235 at 0235.

¹⁵⁶ CIV-OTP-0007-0235 at 0235.

¹⁵⁷ CIV-OTP-0044-0356 at 0357; CIV-OTP-0044-0392 at 0414; CIV-OTP-0052-0292 at 0319-0320.

¹⁵⁸ DCC, paras 97-103, 323-325.

¹⁵⁹ DCC, paras 174, 324, 326.

¹⁶⁰ CIV-OTP-0011-0482 at 0498-0499; CIV-OTP-0014-0400 at 0440-0441; CIV-OTP-0014-0665 at 0676; CIV-OTP-0014-0684 at 0702; CIV-OTP-0014-0713 at 0715; CIV-OTP-0047-0008 at 0013-0014; see also CIV-OTP-0063-1248 at 1273-1274, 1279-1280; CIV-OTP-0063-1283 at 1284-1285.

¹⁶¹ CIV-OTP-0011-0201 at 0221; CIV-OTP-0014-0400 at 0433; CIV-OTP-0014-0665 at 0676; CIV-OTP-0014-0684 at 0699-0700; CIV-OTP-0017-0392 at 0407, 0410-0411; CIV-OTP-0029-0172 at

Charles Blé Goudé received payments from the Ivorian Presidency already before the crisis.¹⁶² In addition, there is evidence that Charles Blé Goudé maintained direct links with other members of the inner circle, including high commanders of the FDS.¹⁶³

59. In accordance with the evidence, Charles Blé Goudé's role in the inner circle was primarily to serve as the link to the pro-Gbagbo youth.¹⁶⁴ He was the most prominent leader of the pro-Gbagbo youth movements and was referred to as the "*général de la rue*".¹⁶⁵ Charles Blé Goudé possessed an extraordinary ability to influence the masses at political rallies.¹⁶⁶

60. In December 2010, Laurent Gbagbo appointed Charles Blé Goudé as Minister for Youth, Vocational Training and Employment,¹⁶⁷ which, in the view of the Chamber, served as additional legitimisation for his activities. The appointment of Charles Blé Goudé, despite the fact that he was subject to sanctions by the UN,¹⁶⁸ illustrates the importance which Laurent Gbagbo and the inner circle attached to him.

61. Another prominent figure in the inner circle next to Charles Blé Goudé was Simone Gbagbo. The evidence shows that she exerted considerable influence over State institutions, relying on her status as Laurent Gbagbo's

0176; CIV-OTP-0046-1368 at 1394; CIV-OTP-0046-1461 at 1465; CIV-OTP-0062-0574 at 0594-0595.

¹⁶² CIV-OTP-0025-0680 at 0680; CIV-OTP-0025-0687 at 0687; CIV-OTP-0025-0690 at 0690; CIV-OTP-0025-0692 at 0692; CIV-OTP-0025-0696 at 0696; CIV-OTP-0025-0701 at 0701; CIV-OTP-0025-0787 at 0787.

¹⁶³ CIV-OTP-0011-0482 at 0488-0489; CIV-OTP-0011-0593 at 0603; CIV-OTP-0016-0321 at 0336, 0342; CIV-OTP-0016-0390 at 0395-0397; CIV-OTP-0046-1050 at 1051-1052; CIV-OTP-0051-0300 at 0301; CIV-OTP-0051-0871 at 0880.

¹⁶⁴ CIV-OTP-0011-0201 at 0215-0216, 0221, 0222; CIV-OTP-0016-0321 at 0335; CIV-OTP-0046-1368 at 1394; CIV-OTP-0063-1377 at 1389; CIV-OTP-0063-1641 at 1660.

¹⁶⁵ CIV-OTP-0011-0201 at 0221; CIV-OTP-0014-0400 at 0425; CIV-OTP-0017-0392 at 0403; CIV-OTP-0046-1345 at 1359, 1360; CIV-OTP-0051-0697 at 0699-0700; see also below, paras 74-75.

¹⁶⁶ CIV-OTP-0011-0201 at 0221-0222; CIV-OTP-0014-0713 at 0715; CIV-OTP-0029-0125 at 0128; CIV-OTP-0049-2359 at 2379; CIV-OTP-0051-0697 at 0700; CIV-OTP-0063-1248 at 1279.

¹⁶⁷ CIV-OTP-0018-0047 at 0050-0051; CIV-OTP-0051-0663 at 0694-0695.

¹⁶⁸ CIV-OTP-0052-0613 at 0613; CIV-OTP-0052-0681 at 0751-0752.

wife and on the political positions held in her own name.¹⁶⁹ During the crisis, Simone Gbagbo performed an important coordinating role, as she presided over regular crisis meetings.¹⁷⁰ There is specific evidence that Simone Gbagbo maintained direct relationships with the high commanders of the FDS,¹⁷¹ as well as with the leaders of youth organisations and militias,¹⁷² including through her position as the Secretary-General of the National Resistance Congress for Democracy (CNRD).¹⁷³ The Chamber also notes the evidence indicating that Simone Gbagbo coordinated activities with Laurent Gbagbo¹⁷⁴ and Charles Blé Goudé.¹⁷⁵

62. In addition to Charles Blé Goudé and Simone Gbagbo, the evidence indicates that Laurent Gbagbo's inner circle comprised a limited number of trusted political associates, including government ministers,¹⁷⁶ certain other leaders of pro-Gbagbo youth movements,¹⁷⁷ high commanders of the FDS,¹⁷⁸ and other trusted military commanders.¹⁷⁹

¹⁶⁹ CIV-OTP-0011-0361 at 0370; CIV-OTP-0014-0443 at 0453, 0457-0458; CIV-OTP-0014-0622 at 0639, 0643; CIV-OTP-0014-0646 at 0647, 0653; CIV-OTP-0016-0347 at 0349; CIV-OTP-0016-0372 at 0375; CIV-OTP-0017-0056 at 0074; CIV-OTP-0017-0124 at 0139.

¹⁷⁰ CIV-OTP-0016-0642 at 0643; CIV-OTP-0018-0309 at 0309; CIV-OTP-0018-0395 at 0396; CIV-OTP-0051-1247 at 1276-1277.

¹⁷¹ CIV-OTP-0011-0361 at 0370; CIV-OTP-0014-0443 at 0454-0455; CIV-OTP-0017-0056 at 0069-0070.

¹⁷² CIV-OTP-0017-0392 at 0412; CIV-OTP-0018-0339 at 0339-0340; CIV-OTP-0018-0426 at 0426-0429; CIV-OTP-0018-0810 at 0834, 0836, 0850-0852; CIV-OTP-0029-0172 at 0178.

¹⁷³ CIV-OTP-0017-0144 at 0160. The Chamber notes that according to a document emanating from the CNRD, one of the latter's goals was to ensure Laurent Gbagbo's re-election; see CIV-OTP-0018-0326 at 0326.

¹⁷⁴ CIV-OTP-0014-0684 at 0701; CIV-OTP-0017-0056 at 0069.

¹⁷⁵ CIV-OTP-0014-0684 at 0700; CIV-OTP-0014-0713 at 0737-0738; CIV-OTP-0014-0768 at 0775; CIV-OTP-0063-1641 at 1660.

¹⁷⁶ CIV-OTP-0014-0443 at 0444-0448, 0463-0464; CIV-OTP-0014-0646 at 0661; CIV-OTP-0016-0301 at 0318-0319; CIV-OTP-0046-0932 at 0950-0951; CIV-OTP-0062-0615 at 0625.

¹⁷⁷ CIV-OTP-0014-0400 at 0441-0442; CIV-OTP-0014-0622 at 0642; CIV-OTP-0014-0646 at 0661; CIV-OTP-0016-0256 at 0270; CIV-OTP-0018-0581 at 0581; CIV-OTP-0029-0172 at 0176, 0178; CIV-OTP-0046-0759 at 0773-0774; CIV-OTP-0046-1102 at 1108; CIV-OTP-0046-1574 at 1575-1576.

¹⁷⁸ CIV-OTP-0014-0646 at 0661; CIV-OTP-0016-0301 at 0318; CIV-OTP-0051-0770 at 0782.

¹⁷⁹ See below, paras 66-67.

B. The pro-Gbagbo forces

63. The evidence demonstrates that Laurent Gbagbo and his inner circle, including Charles Blé Goudé, controlled an organisation (the “pro-Gbagbo forces”) composed of several identifiable components, namely FDS, militias, mercenaries and youth organisations.

a) Defence and Security Forces

64. According to the evidence, the FDS principally comprised FANCI, the Gendarmerie, the Republican Guard (GR), the Security Operations Command Centre (CECOS) and the Police, each headed by a senior commander.¹⁸⁰ At the time of the events under consideration, the various components of the FDS were consolidated under the command of the Army Chief of Staff,¹⁸¹ who would generally report to the President directly or through the Minister of Defence.¹⁸²

65. The FDS was a functioning apparatus of State power, under responsible command, and with considerable capacity.¹⁸³ The FDS hierarchy was effective, in the sense that execution of orders was ensured and disobedience repressed.¹⁸⁴ The Chamber is conscious of the fact that the capacity of the FDS to conduct operations diminished towards the end of the crisis, but considers

¹⁸⁰ CIV-OTP-0010-0019 at 0019; CIV-OTP-0010-0020 at 0020; CIV-OTP-0011-0324 at 0331; CIV-OTP-0011-0341 at 0348; CIV-OTP-0014-0135 at 0137-0138, 0140, 0147; CIV-OTP-0016-0046 at 0049-0050; CIV-OTP-0016-0204 at 0211, 0248-0249; CIV-OTP-0016-0347 at 0368-0369; CIV-OTP-0016-0372 at 0384; CIV-OTP-0046-0689 at 0711; CIV-OTP-0046-0932 at 0958; CIV-OTP-0051-0556 at 0566; CIV-OTP-0051-0586 at 0602, 0605-0607.

¹⁸¹ CIV-OTP-0046-0886 at 0888-0890; CIV-OTP-0051-0434 at 0450; see also below, para. 104.

¹⁸² See below, para. 92.

¹⁸³ CIV-OTP-0002-0573 at 0577, 0578.

¹⁸⁴ CIV-OTP-0043-0289 at 0289-0291; CIV-OTP-0045-0692 at 0692-0297; CIV-OTP-0045-1289 at 1289-1297; CIV-OTP-0051-0586 at 0599-0600; see also CIV-OTP-0045-0692 at 0694-0695; CIV-OTP-0045-1143 at 1143.

that the FDS nevertheless remained operative, if only in part, until the end of the crisis.¹⁸⁵

66. Laurent Gbagbo and the inner circle exercised control over the FDS through the official State hierarchy, on the basis of Laurent Gbagbo's claim of status as President of Côte d'Ivoire,¹⁸⁶ and through parallel lines of control and command, which depended on the personal relationships of Laurent Gbagbo and the inner circle with certain individuals in the FDS.¹⁸⁷ The evidence demonstrates that these individuals bypassed the official hierarchy where necessary and received instructions directly from Laurent Gbagbo and the inner circle, even without informing their formal superiors.¹⁸⁸

67. The evidence also shows that the units that were led by individuals who were particularly close to Laurent Gbagbo were better equipped,¹⁸⁹ and were entrusted with operations deemed more important in the pursuit of preserving power.¹⁹⁰ These units were also the ones which worked alongside militias and to which new elements that had been recruited outside of regular procedures were sent.¹⁹¹

b) Militia

68. The pro-Gbagbo forces also included a number of militia groups which were organised as paramilitary units under formalised and effective

¹⁸⁵ See below, paras 109-113.

¹⁸⁶ CIV-OTP-0016-0426 at 0433; CIV-OTP-0051-0586 at 0598.

¹⁸⁷ CIV-OTP-0014-0233 at 0246; CIV-OTP-0014-0443 at 0444-0448; CIV-OTP-0016-0390 at 0392-0395; CIV-OTP-0019-0168 at 0173; CIV-OTP-0037-0425 at 0432, 0433; CIV-OTP-0039-0143 at 0151-0152; CIV-OTP-0043-0461 at 0471; CIV-OTP-0046-0886 at 0904-0905; CIV-OTP-0048-1503 at 1510-1512; CIV-OTP-0051-0618 at 0636-0637.

¹⁸⁸ CIV-OTP-0019-0168 at 0172; CIV-OTP-0046-0932 at 0957-0959; CIV-OTP-0048-1503 at 1519; CIV-OTP-0051-0586 at 0594. See also all other evidence cited in the previous footnote.

¹⁸⁹ CIV-OTP-0048-1503 at 1514, 1515; CIV-OTP-0051-0556 at 0566; CIV-OTP-0051-0586 at 0611-0617; CIV-OTP-0051-0618 at 0624, 0628-0630, 0635-0636.

¹⁹⁰ CIV-OTP-0039-0143 at 0166; CIV-OTP-0041-0534 at 0565-0566; CIV-OTP-0051-0871 at 0888; CIV-OTP-0051-1086 at 1091.

¹⁹¹ CIV-OTP-0011-0572 at 0574, 0577; CIV-OTP-0014-0233 at 0244-0246.

command. The most prominent pro-Gbagbo militia group operating in Abidjan at the relevant time was the GPP.¹⁹² The available evidence demonstrates that the GPP maintained an effective hierarchical structure,¹⁹³ carried out military training of its recruits in the pre-election period,¹⁹⁴ and had considerable operating capability.¹⁹⁵ In addition, the evidence points to Charles Blé Goudé's important role in the creation of the GPP in 2003,¹⁹⁶ and to his continued links, including at the time of the post-election crisis, to Touré Zéguen, a GPP leader.¹⁹⁷ The Chamber also notes the evidence that GPP elements provided security to Charles Blé Goudé's residence in Yopougon from September 2010.¹⁹⁸ The evidence further indicates that the GPP regularly reported in writing to, *inter alia*, the Presidency and Simone Gbagbo directly.¹⁹⁹

69. In addition, the evidence demonstrates the existence of other organised militia groups in Yopougon.²⁰⁰ The group of Maguy le Tocard was one such

¹⁹² CIV-OTP-0014-0400 at 0429-0430, 0432; CIV-OTP-0015-0323 at 0339-0341; CIV-OTP-0016-0256 at 0265-0269; CIV-OTP-0020-0283 at 0292; CIV-OTP-0051-0266 at 0281; CIV-OTP-0051-0392 at 0418-0419; CIV-OTP-0051-0618 at 0652-0653, 0655; CIV-OTP-0051-1195 at 1222-1223; CIV-OTP-0051-0663 at 0670.

¹⁹³ CIV-OTP-0063-1615 at 1632; CIV-OTP-0063-1718 at 1747; CIV-OTP-0063-1833 at 1846, 1849.

¹⁹⁴ CIV-OTP-0063-1718 at 1744-1745; CIV-OTP-0063-1833 at 1840-1841; CIV-OTP-0063-2180 at 2193.

¹⁹⁵ CIV-OTP-0063-1668 at 1702; CIV-OTP-0063-1718 at 1749.

¹⁹⁶ CIV-OTP-0063-1615 at 1626-1627.

¹⁹⁷ CIV-OTP-0029-0107 at 0108; CIV-OTP-0058-0355 at 0371-0372; CIV-OTP-0062-0574 at 0587; CIV-OTP-0062-0632 at 0639; CIV-OTP-0063-1377 at 1391; CIV-OTP-0063-2597 at 2604-2608. The Chamber notes the evidence, relied upon by the Defence, to the effect that there were disagreements between Touré Zéguen and Charles Blé Goudé, but considers that this evidence does not deny, and in fact confirms, the existence of links between the two; see CIV-D25-0001-0985 at 1012; CIV-D25-0001-0967 at 0978.

¹⁹⁸ CIV-OTP-0063-2227 at 2228-2229.

¹⁹⁹ CIV-OTP-0063-2137 at 2160-2163.

²⁰⁰ CIV-OTP-0020-0064 at 0086; CIV-OTP-0020-0335 at 0357, 0358, 0364; CIV-OTP-0039-0143 at 0183, 0186; CIV-OTP-0039-0196 at 0212, 0214, 0222, 0223; CIV-OTP-0041-0678 at 0678; CIV-OTP-0041-0681 at 0681; CIV-OTP-0043-0461 at 0483; CIV-OTP-0046-1545 at 1571-1572; CIV-OTP-0048-1396 at 1468; CIV-OTP-0048-1503 at 1536, 1547; CIV-OTP-0049-2634 at 2644-2647, 2662; CIV-OTP-0051-0618 at 0652-0653, 0655; CIV-OTP-0051-1247 at 1278-1283.

group,²⁰¹ and there is evidence that this group was linked to the hierarchy of the GPP,²⁰² as well as directly to Charles Blé Goudé.²⁰³ In addition, the group of Cobri²⁰⁴ was, according to witnesses, directly linked to Charles Blé Goudé.²⁰⁵ There is also evidence of the presence at the relevant time in Yopougon of a militia composed of fighters from the west of Côte d'Ivoire and foreign mercenaries, led by Maho Glofiéhi,²⁰⁶ and of the latter's links to Charles Blé Goudé.²⁰⁷

70. Furthermore, the evidence reveals that some youth movements, notably FESCI, were in fact operating as militias.²⁰⁸ There is specific evidence that GPP elements trained FESCI elements in the use of firearms in the period before the elections at university residence halls, including in Cocody.²⁰⁹ According to the evidence, FESCI worked with Charles Blé Goudé during the crisis.²¹⁰

²⁰¹ CIV-OTP-0013-0108 at 0114-0115; CIV-OTP-0020-0064 at 0086; CIV-OTP-0020-0335 at 0364; CIV-OTP-0028-0550 at 0567; CIV-OTP-0039-0143 at 0183, 0186; CIV-OTP-0043-0461 at 0483; CIV-OTP-0046-1545 at 1571-1572; CIV-OTP-0048-1396 at 1468; CIV-OTP-0048-1503 at 1547; CIV-OTP-0051-1247 at 1278-1279; CIV-OTP-0061-0080 at 0104; CIV-OTP-0062-0157 at 0168; CIV-OTP-0063-1718 at 1739; CIV-OTP-0063-2180 at 2196.

²⁰² CIV-OTP-0063-1718 at 1740-1741; CIV-OTP-0063-1752 at 1756.

²⁰³ CIV-OTP-0013-0108 at 0114; CIV-OTP-0057-1345 at 1367; CIV-OTP-0058-0289 at 0300; CIV-OTP-0062-0157 at 0188-0191; CIV-OTP-0063-0781 at 0803; CIV-OTP-0063-1377 at 1388; CIV-OTP-0063-2327 at 2353.

²⁰⁴ CIV-OTP-0020-0335 at 0358-0359; CIV-OTP-0058-0289 at 0298; CIV-OTP-0058-0488 at 0500-0501; CIV-OTP-0058-0586 at 0594.

²⁰⁵ CIV-OTP-0058-0289 at 0299-0300; CIV-OTP-0058-0488 at 0522.

²⁰⁶ CIV-OTP-0016-0256 at 0261-0262; CIV-OTP-0016-0347 at 0355; CIV-OTP-0020-0335 at 0364; CIV-OTP-0029-0244 at 0263-0264; CIV-OTP-0048-1396 at 1468; CIV-OTP-0048-1503 at 1540; CIV-OTP-0049-2818 at 2830; CIV-OTP-0051-0266 at 0283-0284; CIV-OTP-0058-0425 at 0444-0445.

²⁰⁷ CIV-OTP-0045-0457 at 0461; CIV-OTP-0058-0355 at 0373-0374; CIV-OTP-0062-0574 at 0586; CIV-OTP-0062-0632 at 0646.

²⁰⁸ CIV-OTP-0051-0712 at 0768; CIV-OTP-0051-1247 at 1278-1283; CIV-OTP-0062-0194 at 0197-0198; CIV-OTP-0062-0247 at 0256-0257; CIV-OTP-0063-1668 at 1690.

²⁰⁹ CIV-OTP-0063-1668 at 1685-1688; CIV-OTP-0063-1877 at 1913-1914.

²¹⁰ CIV-D25-0001-0967 at 0973; see also CIV-D25-0001-0658 at 0689; CIV-OTP-0058-0355 at 0375-0376; CIV-OTP-0062-0632 at 0651-0652.

71. According to the evidence, these militia groups were linked to Laurent Gbagbo and the inner circle through the leaders of youth movements,²¹¹ including – as explained above – Charles Blé Goudé, and through some loyal FDS commanders.²¹² Reliance on organised militia groups is confirmed by government documents,²¹³ as well as the diary of Simone Gbagbo seized from the Presidential Residence.²¹⁴

72. The evidence also shows that on occasion, militias operated alongside the FDS, receiving their assistance.²¹⁵ According to the evidence, militia were particularly active in Abidjan late in the crisis,²¹⁶ and at some point operated from FDS bases.²¹⁷

c) Mercenaries

73. The Chamber finds, on the basis of the evidence, that mercenaries formed part of the organisation under the control of Laurent Gbagbo and the inner circle. According to the evidence, they were recruited and integrated into certain FDS units, or operated as part of loyal militias.²¹⁸ Control over the mercenary component of the organisation was thus exercised through the FDS or through militias.

d) Pro-Gbagbo youth

74. According to the evidence, a large number of organisations supportive of Laurent Gbagbo existed in Côte d'Ivoire, through which political

²¹¹ CIV-OTP-0002-0573 at 0579; CIV-OTP-0013-0108 at 0114; CIV-OTP-0014-0400 at 0429-0430; CIV-OTP-0014-0622 at 0634-0635; CIV-OTP-0046-1545 at 1571-1572.

²¹² CIV-OTP-0039-0143 at 0183, 0186; CIV-OTP-0047-0036 at 0056-0057.

²¹³ CIV-OTP-0045-0127 at 0128; CIV-OTP-0045-0148 at 0151-0152.

²¹⁴ CIV-OTP-0018-0810 at 0834, 0850.

²¹⁵ CIV-OTP-0045-0148 at 0151; CIV-OTP-0051-0266 at 0284-0285; CIV-OTP-0051-0618 at 0657-0658; CIV-OTP-0063-1833 at 1862-1866, 1870-1871.

²¹⁶ CIV-OTP-0051-1195 at 1223; CIV-OTP-0063-1833 at 1869-1870; CIV-OTP-0063-2180 at 2217-2218.

²¹⁷ CIV-OTP-0028-0481 at 0487, 0508-0509; CIV-OTP-0039-0143 at 0182; CIV-OTP-0049-2634 at 2645-2647, 2662; CIV-OTP-0051-0392 at 0415.

²¹⁸ See below, paras 86-88.

supporters, primarily youths, were mobilised and used for acts of violence.²¹⁹ Albeit not organised in a formal hierarchy, these groups were assembled in an umbrella organisation, commonly referred to as the “Patriotic Galaxy”.²²⁰ Laurent Gbagbo’s Presidency systematically financed loyal youth organisations.²²¹

75. The Chamber notes the argument of the Defence that the Patriotic Galaxy was not a formal hierarchy of organisations, and that, due to power struggles and an ideological split among the youth leaders, Charles Blé Goudé

²¹⁹ See below, paras 93-102.

²²⁰ CIV-D25-0001-0865 at 0883; CIV-D25-0001-2020 at 2024-2025; CIV-D25-0001-2062 at 2067-2068; CIV-OTP-0014-0622 at 0625, 0629-0630; CIV-OTP-0014-0684 at 0686; CIV-OTP-0029-0107 at 0110; CIV-OTP-0046-1427 at 1433; CIV-OTP-0062-0212 at 0218-0219; CIV-OTP-0062-0574 at 0589; CIV-OTP-0063-1248 at 1274, 1278; CIV-OTP-0063-1615 at 1627; see also CIV-OTP-0014-0135 at 0165-0167; CIV-OTP-0014-0170 at 0172; CIV-OTP-0014-0233 at 0248.

²²¹ CIV-OTP-0014-0768 at 0778; CIV-OTP-0025-0450 at 0450; CIV-OTP-0025-0451 at 0451; CIV-OTP-0025-0452 at 0452; CIV-OTP-0025-0453 at 0453; CIV-OTP-0025-0454 at 0454; CIV-OTP-0025-0456 at 0456; CIV-OTP-0025-0460 at 0460; CIV-OTP-0025-0461 at 0461; CIV-OTP-0025-0462 at 0462; CIV-OTP-0025-0468 at 0468; CIV-OTP-0025-0469 at 0469; CIV-OTP-0025-0473 at 0473; CIV-OTP-0025-0478 at 0478; CIV-OTP-0025-0479 at 0479; CIV-OTP-0025-0484 at 0484; CIV-OTP-0025-0487 at 0487; CIV-OTP-0025-0492 at 0492; CIV-OTP-0025-0494 at 0494; CIV-OTP-0025-0496 at 0496; CIV-OTP-0025-0497 at 0497; CIV-OTP-0025-0498 at 0498; CIV-OTP-0025-0505 at 0505; CIV-OTP-0025-0506 at 0506; CIV-OTP-0025-0508 at 0508; CIV-OTP-0025-0514 at 0514; CIV-OTP-0025-0515 at 0515; CIV-OTP-0025-0519 at 0519; CIV-OTP-0025-0525 at 0525; CIV-OTP-0025-0526 at 0526; CIV-OTP-0025-0528 at 0528; CIV-OTP-0025-0532 at 0532; CIV-OTP-0025-0533 at 0533; CIV-OTP-0025-0537 at 0537; CIV-OTP-0025-0541 at 0541; CIV-OTP-0025-0542 at 0542; CIV-OTP-0025-0548 at 0548; CIV-OTP-0025-0550 at 0550; CIV-OTP-0025-0551 at 0551; CIV-OTP-0025-0555 at 0555; CIV-OTP-0025-0559 at 0559; CIV-OTP-0025-0560 at 0560; CIV-OTP-0025-0566 at 0566; CIV-OTP-0025-0568 at 0568; CIV-OTP-0025-0569 at 0569; CIV-OTP-0025-0573 at 0573; CIV-OTP-0025-0577 at 0577; CIV-OTP-0025-0578 at 0578; CIV-OTP-0025-0582 at 0582; CIV-OTP-0025-0586 at 0586; CIV-OTP-0025-0587 at 0587; CIV-OTP-0025-0591 at 0591; CIV-OTP-0025-0595 at 0595; CIV-OTP-0025-0596 at 0596; CIV-OTP-0025-0600 at 0600; CIV-OTP-0025-0604 at 0604; CIV-OTP-0025-0605 at 0605; CIV-OTP-0025-0609 at 0609; CIV-OTP-0025-0613 at 0613; CIV-OTP-0025-0614 at 0614; CIV-OTP-0025-0615 at 0615; CIV-OTP-0025-0616 at 0616; CIV-OTP-0025-0617 at 0617; CIV-OTP-0025-0622 at 0622; CIV-OTP-0025-0623 at 0623; CIV-OTP-0025-0624 at 0624; CIV-OTP-0025-0625 at 0625; CIV-OTP-0025-0626 at 0626; CIV-OTP-0025-0628 at 0628; CIV-OTP-0025-0631 at 0631; CIV-OTP-0025-0632 at 0632; CIV-OTP-0025-0633 at 0633; CIV-OTP-0025-0634 at 0634; CIV-OTP-0025-0637 at 0637; CIV-OTP-0025-0638 at 0638; CIV-OTP-0025-0641 at 0641; CIV-OTP-0025-0642 at 0642; CIV-OTP-0025-0643 at 0643; CIV-OTP-0025-0644 at 0644; CIV-OTP-0025-0645 at 0645; CIV-OTP-0025-0651 at 0651; CIV-OTP-0025-0652 at 0652; CIV-OTP-0025-0653 at 0653; CIV-OTP-0025-0654 at 0654; CIV-OTP-0025-0655 at 0655; CIV-OTP-0025-0656 at 0656; CIV-OTP-0025-0686 at 0686; CIV-OTP-0025-0657 at 0657; see also CIV-OTP-0025-0174 at 0174; CIV-OTP-0025-0681 at 0681; CIV-OTP-0025-0796 at 0796.

cannot be said to have exercised control over all the youth organisations.²²² Indeed, the evidence indicates that there were disputes between the leaders of the Patriotic Galaxy and that some leaders refused to recognise Charles Blé Goudé's primacy.²²³ However, the Chamber notes that: (i) this evidence also shows that the division between leaders was largely on a personal level and that all the leaders and organisations nevertheless shared the common objective to keep Laurent Gbagbo in power; (ii) no competing or opposing camps of pro-Gbagbo youth formed on the ground; and (iii) the rival youth leaders nevertheless continued to be associated with Charles Blé Goudé because of his close link to Laurent Gbagbo²²⁴ and because of his unmatched ability to mobilise the youth.²²⁵ In light of this, and in light of the evidence of the instructions given to the youth by Charles Blé Goudé and the effect of these instructions on the youth,²²⁶ the Chamber is of the view that the Prosecutor's allegation that Charles Blé Goudé exercised considerable leadership over the pro-Gbagbo youth during the relevant time is sufficiently supported by the evidence.

IV. Preparatory activities in anticipation of the use of violence

A. Acquisition of weapons

76. The evidence shows that Laurent Gbagbo and his inner circle engaged in efforts to acquire weapons, ammunition and other combat material before and during the post-election crisis, in spite of a UN arms embargo.²²⁷ Further,

²²² Transcript of hearing, 30 September 2014, ICC-02/11-02/11-T-6-Red-ENG, p. 67, line 8 to p. 81, line 25; Defence Final Confirmation Submissions, paras 14, 16.

²²³ CIV-D25-0001-0865 at 0873, 0882; CIV-D25-0001-0895 at 0908-0909; CIV-D25-0001-2062 at 2070; CIV-OTP-0029-0107 at 0109; CIV-OTP-0046-1574 at 1575; CIV-OTP-0063-1641 at 1659, 1661.

²²⁴ CIV-OTP-0046-1368 at 1394; CIV-OTP-0062-0574 at 0590; see also above, paras 58-60.

²²⁵ CIV-OTP-0029-0125 at 0128; CIV-OTP-0063-1248 at 1279.

²²⁶ See below, paras 93-102.

²²⁷ CIV-OTP-0014-0646 at 0652; CIV-OTP-0014-0684 at 0704-0710; CIV-OTP-0014-0768 at 0783-0784; CIV-OTP-0017-0246 at 0265-0267; CIV-OTP-0017-0270 at 0271-0272; CIV-OTP-0018-0810 at 0854; CIV-OTP-0021-0125 at 0137, 0146-0148; CIV-OTP-0021-7523 at 7523; CIV-OTP-0041-

there is evidence that weaponry was stored at the Presidential Palace²²⁸ and that it was distributed outside the official structure and procedures,²²⁹ including with personal involvement of Charles Blé Goudé.²³⁰

77. Additionally, the evidence demonstrates that significant financial means were assigned, including by Laurent Gbagbo directly, to the procurement of arms, ammunition and other equipment.²³¹

B. Recruitment into the FDS

78. The evidence shows that efforts were made to mobilise new elements for the armed forces, both through official recruitment, as well as through irregular recruitment of youth and militia elements that were integrated into the FDS.

79. According to the evidence, several waves of official recruitment into the FDS took place before and during the post-election crisis.²³² There is specific evidence of recruitment after the second election round,²³³ approved by Laurent Gbagbo,²³⁴ for the purposes of which entry requirements were

0534 at 0554; CIV-OTP-0042-0686 at 0697, 0700, 0785-0789; CIV-OTP-0045-0102 at 0102-0104; CIV-OTP-0046-1150 at 1153-1157; CIV-OTP-0051-0663 at 0665-0666, 0668-0669; CIV-OTP-0051-0770 at 0788-0799; CIV-OTP-0052-0282 at 0282; CIV-OTP-0052-0283 at 0284.

²²⁸ CIV-OTP-0011-0423 at 0424-0427; CIV-OTP-0014-0684 at 0705-0707; CIV-OTP-0021-0125 at 0160; CIV-OTP-0042-0686 at 0700; CIV-OTP-0046-1121 at 1123-1125; CIV-OTP-0046-1150 at 1159-1161.

²²⁹ CIV-OTP-0046-1150 at 1151-1152, 1159-1162; CIV-OTP-0051-0712 at 0733.

²³⁰ CIV-OTP-0014-0684 at 0690, 0703-0706; see also CIV-OTP-0062-0157 at 0191.

²³¹ CIV-OTP-0028-0303 at 0303; CIV-OTP-0028-0304 at 0304-0316; CIV-OTP-0028-0317 at 0317; CIV-OTP-0028-0318 at 0318-0332; CIV-OTP-0046-1121 at 1129-1146, 1148-1149; CIV-OTP-0046-1150 at 1152-1153, 1155-1157; CIV-OTP-0051-0556 at 0575-0576; CIV-OTP-0051-0663 at 0669; CIV-OTP-0051-0806 at 0809-0815.

²³² CIV-OTP-0045-0341 at 0342-0346; CIV-OTP-0048-1094 at 1094-1095; CIV-OTP-0048-1110 at 1110; CIV-OTP-0048-1111 at 1111; CIV-OTP-0048-1112 at 1112; CIV-OTP-0048-1117 at 1117-1120; CIV-OTP-0048-1121 at 1121-1123; CIV-OTP-0048-1124 at 1124-1128; CIV-OTP-0048-1129 at 1129-1133; CIV-OTP-0048-1134 at 1134-1137; CIV-OTP-0048-1138 at 1138-1140; CIV-OTP-0048-1146 at 1146-1147; CIV-OTP-0051-1195 at 1198-1204, 1213-1218; CIV-OTP-0057-1430 at 1438-1442; CIV-OTP-0057-1511 at 1529-1534.

²³³ CIV-OTP-0051-1195 at 1196-1199.

²³⁴ CIV-OTP-0051-0806 at 0807-0808, 0813, 0815.

lowered, people with prior experience in weapon handling were prioritised, and the training period for the new recruits was shortened.²³⁵ There is also evidence that the FDS utilised elements still in training.²³⁶

80. In addition to official recruitment activities, members of youth groups and militias were integrated into the FDS in an irregular manner. According to witness statements, members of youth groups were already incorporated into the official FDS structure in 2003, forming what was informally called “*contingent Blé Goudé*”.²³⁷ There is evidence that Charles Blé Goudé provided lists of youth who were to be recruited to FDS officers; these lists could not be contested.²³⁸ It appears that the majority of these recruits were from the west, south and east of the country,²³⁹ and that some were recruited despite not fulfilling all physical requirements.²⁴⁰ The recruits received an accelerated training in FDS units including BASA.²⁴¹ According to the evidence, elements of this contingent were given special treatment and acted with impunity, they implemented orders that a trained soldier would have to refuse because they involved infringement of the law,²⁴² and they were trained “*pour défendre la personne de Gbagbo*”.²⁴³ According to one witness, these youth participated in FDS missions during the crisis, including in missions to Abobo,²⁴⁴ which are of particular significance for the case.

81. There is also evidence that additional recruitment of youths took place around the time of the elections and during the crisis, with the recruits being

²³⁵ CIV-OTP-0051-1195 at 1199-1207.

²³⁶ CIV-OTP-0045-0084 at 0084-0085.

²³⁷ CIV-OTP-0028-0481 at 0492, 0493; CIV-OTP-0043-0461 at 0472; CIV-OTP-0063-1970 at 1987-1988.

²³⁸ CIV-OTP-0043-0461 at 0472; see also CIV-OTP-0063-1970 at 1988-1989.

²³⁹ CIV-OTP-0028-0481 at 0492.

²⁴⁰ CIV-OTP-0043-0461 at 0472.

²⁴¹ CIV-OTP-0028-0481 at 0492; CIV-OTP-0043-0461 at 0483.

²⁴² CIV-OTP-0028-0481 at 0492.

²⁴³ CIV-OTP-0028-0481 at 0492; see also CIV-OTP-0043-0461 at 0473.

²⁴⁴ CIV-OTP-0028-0481 at 0493.

sent to different FDS units including the GR and BASA after a brief training.²⁴⁵ According to the evidence, Charles Blé Goudé arranged for members of his personal guard to participate in this training.²⁴⁶ There is evidence suggesting that the recruitment into the GR was ordered by Laurent Gbagbo.²⁴⁷

C. Recruitment into, training and supplying of loyal militias

82. In addition to official recruitment into FDS ranks, other efforts focused on building up and sustaining loyal militia groups. The evidence shows that different groups recruited and trained youths in various neighbourhoods of Abidjan, in particular in Yopougon, starting as early as 2004 and continuing during the post-election crisis.²⁴⁸ It appears that the youths were promised that they would later be integrated into the regular forces.²⁴⁹

83. The evidence indicates links between such militia groups and FDS units, including through assistance in training, as well as the Gbagbo political camp.²⁵⁰ There is evidence linking Charles Blé Goudé to the training of militia

²⁴⁵ CIV-OTP-0002-0164 at 0165; CIV-OTP-0003-0527 at 0538; CIV-OTP-0007-0283 at 0287; CIV-OTP-0016-0175 at 0179-0183; CIV-OTP-0037-0425 at 0437-0439; CIV-OTP-0037-0464 at 0464; CIV-OTP-0037-0465 at 0465; CIV-OTP-0043-0461 at 0484-0486; CIV-OTP-0044-2421 at 2427; CIV-OTP-0048-1503 at 1548; CIV-OTP-0049-2818 at 2825; CIV-OTP-0057-1430 at 1438, 1441; CIV-OTP-0057-1511 at 1529-1530, 1533.

²⁴⁶ CIV-OTP-0063-1073 at 1101-1106.

²⁴⁷ CIV-OTP-0037-0425 at 0437, 0438.

²⁴⁸ CIV-OTP-0002-0046 at 0047, 0058, 0059; CIV-OTP-0002-0995 at 00:04:42-00:06:28, 00:08:59-00:16:35 (CIV-OTP-0007-0181 at 0186-0189, 0190-0193); CIV-OTP-0003-0713 at 00:00:13-00:02:45 (CIV-OTP-0021-0009 at 0010-0012); CIV-OTP-0013-0108 at 0115; CIV-OTP-0014-0684 at 0690; CIV-OTP-0014-0742 at 0757-0767; CIV-OTP-0014-0768 at 0769-0771; CIV-OTP-0020-0033 at 0051; CIV-OTP-0020-0064 at 0068, 0069; CIV-OTP-0020-0335 at 0345, 0356-0359; CIV-OTP-0028-0008 at 00:00:15-00:02:59 (CIV-OTP-0027-0440 at 0441-0443); CIV-OTP-0039-0143 at 0153-0154; CIV-OTP-0044-1488 at 1488; CIV-OTP-0044-1562 at 1563; CIV-OTP-0048-0203 at 0203-0217; CIV-OTP-0048-1396 at 1477.

²⁴⁹ CIV-OTP-0013-0108 at 0114; CIV-OTP-0020-0335 at 0356-0357, 0358; CIV-OTP-0063-1615 at 1637-1638.

²⁵⁰ CIV-OTP-0002-0527 at 0565; CIV-OTP-0013-0108 at 0115; CIV-OTP-0020-0033 at 0051, 0053; CIV-OTP-0020-0335 at 0357-0359; CIV-OTP-0039-0143 at 0153-0154; CIV-OTP-0041-0534 at 0578.

which started shortly before the election, in particular in Yopougon.²⁵¹ Further, the evidence points to such recruitment and training of youth in militia groups at least being condoned, if not actively supported, by Laurent Gbagbo,²⁵² Simone Gbagbo²⁵³ and her aide-de-camp.²⁵⁴

84. This is further substantiated by the evidence showing that militia groups received weapons from the FDS and the Gbagbo political camp,²⁵⁵ and were given financial support by the State, including at the Presidency,²⁵⁶ and by members of Laurent Gbagbo's inner circle.²⁵⁷ Importantly, the evidence points to Charles Blé Goudé's involvement in the provision of arms or money to militias, in particular the militias of Maguy le Tocard and Cobri in

²⁵¹ CIV-OTP-0014-0684 at 0690; CIV-OTP-0014-0742 at 0758, 0763. Two other witnesses, despite not mentioning the involvement of Charles Blé Goudé, corroborate the evidence of Witness P-44 as they state that militia were trained at approximately the same location; see CIV-OTP-0039-0143 at 0153; CIV-OTP-0063-1718 at 1744-1745; CIV-OTP-0063-2180 at 2192-2193. Witness P-440 also refers to the presence of militia at that location, see CIV-OTP-0062-0157 at 0185.

²⁵² CIV-OTP-0014-0742 at 0763-0764; CIV-OTP-0018-0059 at 0059-0060; CIV-OTP-0063-1668 at 1711.

²⁵³ CIV-OTP-0018-0810 at 0834, 0836, 0838, 0850, 0854, 0857; CIV-OTP-0018-0881 at 0884-0891.

²⁵⁴ CIV-OTP-0028-0450 at 0457-0458.

²⁵⁵ CIV-OTP-0003-0123 at 0130; CIV-OTP-0003-0527 at 0538; CIV-OTP-0003-0670 at 00:07:54-00:10:17 (CIV-OTP-0020-0479 at 0538-0539); CIV-OTP-0004-0002 at 0021; CIV-OTP-0004-0238 at 0238; CIV-OTP-0011-0201 at 0209, 0214; CIV-OTP-0013-0108 at 0120; CIV-OTP-0014-0684 at 0690, 0708-0710; CIV-OTP-0014-0768 at 0781-0783; CIV-OTP-0020-0064 at 0070, 0087; CIV-OTP-0039-0196 at 0209-0210, 0222; CIV-OTP-0041-0534 at 0578; CIV-OTP-0043-0461 at 0496; CIV-OTP-0045-0148 at 0152; CIV-OTP-0046-1102 at 1111-1113; CIV-OTP-0047-0036 at 0049-0052; CIV-OTP-0048-1503 at 1538; CIV-OTP-0049-2634 at 2653-2656; CIV-OTP-0051-0712 at 0760-0767; CIV-OTP-0063-1877 at 1917-1920; CIV-OTP-0063-2137 at 2174-2176.

²⁵⁶ CIV-OTP-0019-0168 at 0173-0174; CIV-OTP-0025-0459 at 0459; CIV-OTP-0025-0472 at 0472; CIV-OTP-0025-0480 at 0480; CIV-OTP-0025-0488 at 0488; CIV-OTP-0025-0501 at 0501; CIV-OTP-0025-0511 at 0511; CIV-OTP-0025-0518 at 0518; CIV-OTP-0025-0527 at 0527; CIV-OTP-0025-0536 at 0536; CIV-OTP-0025-0544 at 0544; CIV-OTP-0025-0552 at 0552; CIV-OTP-0025-0561 at 0561; CIV-OTP-0025-0572 at 0572; CIV-OTP-0025-0581 at 0581; CIV-OTP-0025-0590 at 0590; CIV-OTP-0025-0599 at 0599; CIV-OTP-0025-0608 at 0608; CIV-OTP-0039-0143 at 0161-0162; CIV-OTP-0043-0461 at 0487; CIV-OTP-0046-0759 at 0773-0775; CIV-OTP-0048-1503 at 1539; CIV-OTP-0063-1615 at 1636.

²⁵⁷ CIV-OTP-0002-0573 at 0580; CIV-OTP-0014-0233 at 0249-0250; CIV-OTP-0014-0326 at 0333-0334; CIV-OTP-0014-0400 at 0428-0429; CIV-OTP-0043-0461 at 0487.

Yopougon.²⁵⁸ There is also indication that later in the crisis, militia took possession of weapons in FDS bases and at other locations.²⁵⁹

85. The evidence suggests the presence of militia in camps of regular FDS and their cooperation with the regular forces, in some respects to an extent which indicates their *de facto* integration into the FDS chain of command.²⁶⁰ In this context, the Chamber notes that there is evidence suggesting that Charles Blé Goudé gave money to the commander of an FDS unit which cooperated with the militia of Maguy le Tocard.²⁶¹

D. Recruitment and financing of mercenaries

86. The evidence shows that efforts were made to recruit and finance mercenaries who cooperated with and fought alongside regular armed forces during the post-election crisis.

87. It appears that active recruitment of mercenaries by the Gbagbo camp commenced as early as 2002,²⁶² and there is evidence demonstrating that recruitment of mercenaries, for example from Liberia and Angola, took place

²⁵⁸ CIV-OTP-0058-0289 at 0300; CIV-OTP-0062-0157 at 0191; CIV-OTP-0063-2327 at 2353; see also CIV-OTP-0003-0653 at 0653; CIV-OTP-0014-0684 at 0690.

²⁵⁹ CIV-OTP-0003-0123 at 0130; CIV-OTP-0014-0443 at 0462-0463, 0476-0477; CIV-OTP-0015-0595 at 00:02:00-00:06:42 (CIV-OTP-0021-0026 at 0027-0030); CIV-OTP-0016-0256 at 0275-0278; CIV-OTP-0016-0347 at 0359-0360; CIV-OTP-0028-0023 at 0026.

²⁶⁰ CIV-OTP-0002-0647 at 0679-0680; CIV-OTP-0003-0527 at 0538; CIV-OTP-0005-0002 at 0013; CIV-OTP-0011-0201 at 0212-0213, 0217; CIV-OTP-0013-0108 at 0120-0121; CIV-OTP-0014-0233 at 0243-0247; CIV-OTP-0014-0326 at 0332-0334; CIV-OTP-0014-0443 at 0471-0472; CIV-OTP-0014-0768 at 0800-0801; CIV-OTP-0015-0595 at 00:04:41-00:09:04 (CIV-OTP-0021-0026 at 0030-0031); CIV-OTP-0016-0347 at 0353-0354; CIV-OTP-0019-0168 at 0174; CIV-OTP-0020-0064 at 0069; CIV-OTP-0020-0335 at 0360-0363; CIV-OTP-0028-0481 at 0487; CIV-OTP-0037-0425 at 0447-0448; CIV-OTP-0039-0143 at 0186; CIV-OTP-0040-0446 at 0463-0464, 0467; CIV-OTP-0041-0534 at 0578; CIV-OTP-0043-0461 at 0494-0496; CIV-OTP-0045-0127 at 0128; CIV-OTP-0045-0148 at 0151-0152; CIV-OTP-0046-0790 at 0804-0806; CIV-OTP-0046-0814 at 0816-0821, 0824; CIV-OTP-0047-0036 at 0056-0057; CIV-OTP-0049-2634 at 2662-2663; CIV-OTP-0049-2760 at 2782-2784; CIV-OTP-0051-0392 at 0415.

²⁶¹ CIV-OTP-0014-0326 at 0332-0334; see also CIV-D25-0001-0840 at 0856; CIV-OTP-0063-1718 at 1741-1742; CIV-OTP-0063-2227 at 2235-2240, who confirm that Maguy le Tocard indeed worked together with that unit.

²⁶² CIV-OTP-0013-0108 at 0117; CIV-OTP-0014-0768 at 0784-0785, 0792; CIV-OTP-0048-1396 at 1480.

during the post-election crisis.²⁶³ Individuals close to Laurent Gbagbo were involved in the recruitment, organisation and supervision of mercenaries,²⁶⁴ and there is evidence that money as well as weaponry and other equipment, such as uniforms, were provided for the mercenaries by Laurent Gbagbo's associates.²⁶⁵ The evidence suggests that mercenaries cooperated with or were *de facto* integrated into FDS units, and were controlled by FDS officers or other members of the inner circle.²⁶⁶

88. There is specific evidence that Charles Blé Goudé organised and financed the procurement of Liberian mercenaries from a refugee camp in Ghana in December 2010.²⁶⁷ Furthermore, the Chamber considers relevant the evidence that after the crisis, blank Ivorian birth certificates which were

²⁶³ CIV-OTP-0002-0010 at 0020; CIV-OTP-0002-0161 at 0162; CIV-OTP-0002-0295 at 0295; CIV-OTP-0013-0108 at 0118, 0119; CIV-OTP-0014-0443 at 0469; CIV-OTP-0014-0768 at 0772, 0792; CIV-OTP-0020-0064 at 0086-0087; CIV-OTP-0020-0335 at 0364-0365; CIV-OTP-0027-0304 at 0325, 0326, 0331; CIV-OTP-0037-0425 at 0453; CIV-OTP-0041-0534 at 0577-0580; CIV-OTP-0042-0508 at 0558-0559; CIV-OTP-0043-0461 at 0497-0499; CIV-OTP-0046-0790 at 0800-0803; CIV-OTP-0048-1396 at 1479-1481. See also CIV-OTP-0049-2842 at 2856; CIV-OTP-0051-0236 at 0245.

²⁶⁴ CIV-OTP-0013-0108 at 0117-0119; CIV-OTP-0014-0646 at 0651-0652; CIV-OTP-0014-0684 at 0710; CIV-OTP-0014-0768 at 0784-0785, 0792; CIV-OTP-0018-0810 at 0859; CIV-OTP-0018-0881 at 0891; CIV-OTP-0020-0335 at 0364-0365; CIV-OTP-0021-1290 at 1290-1291; CIV-OTP-0027-0304 at 0325-0326; CIV-OTP-0039-0143 at 0187; CIV-OTP-0043-0461 at 0499; CIV-OTP-0046-0790 at 0800-0805, 0811; CIV-OTP-0046-0862 at 0878-0880; CIV-OTP-0051-0392 at 0416.

²⁶⁵ CIV-OTP-0002-0010 at 0020; CIV-OTP-0002-0527 at 0546; CIV-OTP-0004-0072 at 0140; CIV-OTP-0013-0108 at 0117, 0118; CIV-OTP-0020-0335 at 0365, 0380; CIV-OTP-0027-0304 at 0324-0327; CIV-OTP-0039-0143 at 0150; CIV-OTP-0041-0534 at 0578, 0579; CIV-OTP-0042-0508 at 0559; CIV-OTP-0046-0814 at 0821-0822, 0830-0831; CIV-OTP-0046-0862 at 0878-0882; CIV-OTP-0048-1396 at 1479, 1480.

²⁶⁶ CIV-OTP-0002-0527 at 0546; CIV-OTP-0011-0572 at 0574-0583; CIV-OTP-0014-0289 at 0323-0325; CIV-OTP-0014-0326 at 0331-0332; CIV-OTP-0014-0400 at 0423-0425; CIV-OTP-0014-0443 at 0466-0471; CIV-OTP-0014-0768 at 0793-0801; CIV-OTP-0014-0802 at 0806; CIV-OTP-0016-0642 at 0642; CIV-OTP-0019-0168 at 0174; CIV-OTP-0020-0033 at 0053-0054; CIV-OTP-0020-0064 at 0086-0087; CIV-OTP-0020-0283 at 0294-0295, 0301; CIV-OTP-0020-0335 at 0365, 0380; CIV-OTP-0027-0304 at 0317, 0319, 0330-0331; CIV-OTP-0028-0481 at 0487, 0508, 0509; CIV-OTP-0029-0323 at 0332; CIV-OTP-0037-0425 at 0453; CIV-OTP-0041-0534 at 0577-0580; CIV-OTP-0043-0461 at 0497-0499; CIV-OTP-0044-2421 at 2423; CIV-OTP-0046-0790 at 0802-0806; CIV-OTP-0046-0814 at 0816-0821, 0824, 0828-0829; CIV-OTP-0046-0862 at 0876; CIV-OTP-0046-1050 at 1063, 1066-1067; CIV-OTP-0046-1102 at 1109-1110; CIV-OTP-0047-0113 at 0119; CIV-OTP-0048-1396 at 1480-1481; CIV-OTP-0048-1503 at 1541; CIV-OTP-0049-2538 at 2566-2569; CIV-OTP-0049-2616 at 2617-2620; CIV-OTP-0051-0392 at 0413-0414.

²⁶⁷ CIV-OTP-0063-1801 at 1825-1827.

intended for issuance to foreign mercenaries were found at Charles Blé Goudé's house.²⁶⁸ There is additional evidence of Charles Blé Goudé's involvement in the recruitment of mercenaries for the pro-Gbagbo forces.²⁶⁹

V. Planning and coordination of the use of violence

A. Meetings and instructions within the inner circle

89. The evidence, including the logbook of visitors to the Presidential Residence,²⁷⁰ demonstrates that Charles Blé Goudé was in unrestricted contact with Laurent Gbagbo at all times relevant for the case.²⁷¹ In addition, the Chamber notes the evidence that Charles Blé Goudé maintained direct relationships with Simone Gbagbo and with certain high commanders of the FDS.²⁷² Minutes of a government meeting held on 22 February 2011 reveal that Charles Blé Goudé intervened in the discussion on a matter affecting the military.²⁷³

90. Other evidence demonstrates that members of the inner circle were involved in coordination meetings throughout the crisis, for example in regular crisis meetings which seem to have been held at the Presidential Residence,²⁷⁴ with a view to discussing the situation on the ground and to

²⁶⁸ CIV-OTP-0039-0143 at 0162; CIV-OTP-0062-1001 at 00:00:00-00:00:53. The Chamber also notes an item of documentary evidence, which demonstrates that provision of Ivorian nationality to mercenaries was stated as part of conditions to obtain their services; see CIV-OTP-0021-6645.

²⁶⁹ CIV-OTP-0013-0108 at 0117; CIV-OTP-0039-0143 at 0163.

²⁷⁰ CIV-OTP-0053-0574 at 0584, 0586, 0588, 0589, 0593, 0596, 0610, 0612, 0614, 0624, 0633, 0642-0643, 0663, 0673, 0678, 0704, 0706-0707, 0737.

²⁷¹ CIV-OTP-0014-0400 at 0433-0435; CIV-OTP-0014-0665 at 0676; CIV-OTP-0046-1368 at 1394; CIV-OTP-0061-0080 at 0087; CIV-OTP-0062-0512 at 0535.

²⁷² See above, paras 57-62.

²⁷³ CIV-OTP-0025-0082 at 0084.

²⁷⁴ CIV-OTP-0011-0361 at 0370-0371; CIV-OTP-0014-0684 at 0697-0698; CIV-OTP-0017-0144 at 0159-0161; CIV-OTP-0017-0162 at 0163-0176, 0178-0179, 0181-0182; CIV-OTP-0021-5125 at 5125; CIV-OTP-0051-1247 at 1276-1278. See also CIV-OTP-0018-0309 at 0309; CIV-OTP-0018-0395 at 0397.

coordinating necessary actions.²⁷⁵ According to the evidence, Simone Gbagbo also took part in meetings of the CNRD.²⁷⁶

91. The evidence before the Chamber shows that during the post-election crisis, regular briefings took place at the General Staff involving all high commanders of the armed forces, especially after the military assumed command over all operations which were then coordinated from the General Staff.²⁷⁷

92. Laurent Gbagbo held regular meetings with the high commanders of the FDS,²⁷⁸ occasionally with the participation of Charles Blé Goudé.²⁷⁹ In addition, there is evidence that he was in regular telephone contact with the Chief of Staff,²⁸⁰ that he was informed of discussions at meetings held at the General Staff and of developments on the ground,²⁸¹ and that he gave direct

²⁷⁵ CIV-OTP-0017-0162 at 0172, 0175.

²⁷⁶ CIV-OTP-0018-0810 at 0817, 0830, 0832, 0836, 0840; CIV-OTP-0018-0881 at 0882-0893. See also above, para. 61.

²⁷⁷ CIV-OTP-0011-0341 at 0349-0351; CIV-OTP-0011-0361 at 0366-0369; CIV-OTP-0011-0455 at 0477; CIV-OTP-0011-0505 at 0506; CIV-OTP-0014-0354 at 0379-0380; CIV-OTP-0014-0479 at 0516; CIV-OTP-0015-0077 at 0095-0104; CIV-OTP-0015-0109 at 0117-0118; CIV-OTP-0015-0270 at 0273-0275; CIV-OTP-0015-0298 at 0312-0314; CIV-OTP-0016-0256 at 0258; CIV-OTP-0016-0301 at 0304-0308; CIV-OTP-0016-0413 at 0419; CIV-OTP-0016-0426 at 0438-0440, 0444; CIV-OTP-0045-0308 at 0308; CIV-OTP-0046-0908 at 0909-0912; CIV-OTP-0051-0556 at 0571-0575; CIV-OTP-0051-1086 at 1092-1093, 1100-1101; CIV-OTP-0051-0434 at 0449-0450.

²⁷⁸ CIV-OTP-0011-0361 at 0362-0364; CIV-OTP-0011-0505 at 0519-0528; CIV-OTP-0011-0529 at 0530, 0538-0540; CIV-OTP-0015-0134 at 0153-0160; CIV-OTP-0016-0084 at 0087; CIV-OTP-0016-0426 at 0445; CIV-OTP-0046-0886 at 0895-0901; CIV-OTP-0049-0036 at 0036; CIV-OTP-0051-0434 at 0449-0456; CIV-OTP-0051-0462 at 0471-0472; CIV-OTP-0051-0480 at 0500-0501; CIV-OTP-0051-0806 at 0808-0815; CIV-OTP-0051-1045 at 1047, 1053-1056, 1064-1065, 1067, 1069-1071, 1081-1084; CIV-OTP-0053-0574 at 0584, 0586, 0588, 0592, 0595, 0601, 0605, 0608, 0609, 0610, 0613, 0642, 0706, 0722, 0723, 0736, 0737, 0739, 0759, 0761, 0762, 0763, 0764; see also below, para. 104.

²⁷⁹ CIV-OTP-0053-0574 at 0584, 0586, 0588, 0610, 0613-0614, 0642-0643, 0706, 0736-0737; see also below, para. 104.

²⁸⁰ CIV-OTP-0011-0361 at 0369; CIV-OTP-0011-0395 at 0410-0418; CIV-OTP-0014-0289 at 0309-0312, 0316-0321; CIV-OTP-0015-0298 at 0312-0313; CIV-OTP-0016-0084 at 0087, 0101; CIV-OTP-0016-0175 at 0195; CIV-OTP-0016-0204 at 0224-0225; CIV-OTP-0016-0301 at 0315-0319; CIV-OTP-0016-0426 at 0432-0435; CIV-OTP-0046-0886 at 0901-0904; CIV-OTP-0051-0556 at 0572-0574.

²⁸¹ CIV-OTP-0011-0395 at 0414-0417; CIV-OTP-0011-0505 at 0524-0525; CIV-OTP-0014-0289 at 0312-0322; CIV-OTP-0016-0065 at 0081-0083; CIV-OTP-0016-0084 at 0085-0087; CIV-OTP-0016-

instructions to the Chief of Staff and other high commanders.²⁸² The evidence also indicates that units on the ground at times received orders outside their official chain of command, including directly from Laurent Gbagbo.²⁸³

B. Mobilisation of the youth for violent acts

93. In the view of the Chamber, the evidence demonstrates that as part of the effort to keep Laurent Gbagbo in power at any cost, the pro-Gbagbo youth, whose allegiance had been cultivated for years in the framework of various organisations forming part of the Patriotic Galaxy,²⁸⁴ was mobilised for violence in an organised and planned manner. The Chamber finds that this mobilisation also resulted in some of the crimes charged.

94. The conduct of campaign activities on behalf of Laurent Gbagbo, in particular among communities perceived as loyal to him, indicates that the mobilisation of supporters for the possible use of violence began well in advance of the violence at issue in the present case. Large and well-organised rallies, including at major public gatherings referred to as *parlements*, formed a prominent part of Laurent Gbagbo's election campaign in 2010.²⁸⁵ The evidence also indicates that violent rhetoric and hate speech was utilised at these rallies, in particular in Yopougon.²⁸⁶ Already at this time, members of communities identified as pro-Ouattara were openly threatened with death at

0204 at 0224; CIV-OTP-0016-0426 at 0434-0435, 0438-0440; CIV-OTP-0046-0932 at 0949-0950; CIV-OTP-0051-0556 at 0572-0575; CIV-OTP-0051-0871 at 0882-0887; CIV-OTP-0051-1086 at 1088, 1101.

²⁸² CIV-OTP-0011-0395 at 0414-0416; CIV-OTP-0016-0130 at 0138; CIV-OTP-0020-0307 at 0308-0311. See also CIV-OTP-0014-0135 at 0151-0152; CIV-OTP-0014-0170 at 0171-0172.

²⁸³ CIV-OTP-0007-0283 at 0293; CIV-OTP-0028-0481 at 0497-0499; CIV-OTP-0037-0425 at 0432-0433; CIV-OTP-0039-0143 at 0151-0153, 0159, 0171; CIV-OTP-0041-0534 at 0560; CIV-OTP-0048-1503 at 1510-1511, 1517, 1519-1520. See also above, paras 66-67.

²⁸⁴ See above, paras 74-75.

²⁸⁵ CIV-OTP-0014-0622 at 0625, 0632; CIV-OTP-0020-0335 at 0348; CIV-OTP-0046-1345 at 1350, 1352.

²⁸⁶ CIV-OTP-0002-0046 at 0051; CIV-OTP-0013-0108 at 0113; CIV-OTP-0020-0064 at 0068-0069; CIV-OTP-0020-0335 at 0347, 0348; CIV-OTP-0029-0656 at 0668; CIV-OTP-0039-0196 at 0224; CIV-OTP-0042-0508 at 0558; CIV-OTP-0048-1503 at 1538.

the rallies,²⁸⁷ and violence was used against perceived supporters of Alassane Ouattara on the side lines of large pro-Gbagbo gatherings.²⁸⁸ The Chamber notes the evidence showing that Charles Blé Goudé²⁸⁹ and also Simone Gbagbo²⁹⁰ were regular speakers at pro-Gbagbo rallies. The evidence also demonstrates that Laurent Gbagbo attended campaign rallies in Yopougon.²⁹¹

95. According to the evidence, the central figure in the mobilisation of the youth was Charles Blé Goudé, who engaged in a sustained effort to control and direct the actions of the pro-Gbagbo youth throughout the time period relevant for the charges. The evidence demonstrates that he was aware of and wilfully exploited his capacity to mobilise the youth.²⁹² Charles Blé Goudé's speeches were designed to create and maintain the youth in a state of alert and at his disposal, waiting for his instructions at the opportune moment, as evidenced by announcements of orders to be given in the near future,²⁹³ and by references to previous acts of mobilisation.²⁹⁴ The Chamber also finds relevant, as a tool to control the youth, his instruction to the effect that only information received from the RTI and from representatives of the youth organisations in the neighbourhoods should be trusted, and not opposition

²⁸⁷ CIV-OTP-0049-2842 at 2848.

²⁸⁸ CIV-OTP-0049-2842 at 2848.

²⁸⁹ CIV-OTP-0013-0108 at 0114; CIV-OTP-0016-0372 at 0378; CIV-OTP-0020-0335 at 0348-0350, 0352-0354; CIV-OTP-0039-0196 at 0225; CIV-OTP-0049-2359 at 2379.

²⁹⁰ CIV-OTP-0013-0108 at 0116-0117; CIV-OTP-0016-0372 at 0375, 0378.

²⁹¹ CIV-OTP-0017-0392 at 0400; CIV-OTP-0020-0335 at 0346. See also CIV-OTP-0020-0335 at 0348, 0350.

²⁹² CIV-OTP-0003-0670 at 00:05:47-00:06:02 (CIV-OTP-0020-0531 at 0537); CIV-OTP-0052-0673 at 00:08:30-00:12:17 (CIV-OTP-0054-0458 at 0462-0463); CIV-OTP-0062-1041 at 00:30:57-00:33:24 (CIV-OTP-0063-3017 at 3023).

²⁹³ CIV-OTP-0022-0065 at 00:03:52-00:03:55 (CIV-OTP-0062-0922 at 0925); CIV-OTP-0022-0065 at 00:11:19-00:11:39 (CIV-OTP-0062-0922 at 0298); CIV-OTP-0022-0067 at 00:35:24-00:35:48 (CIV-OTP-0053-0014 at 0027-0028); CIV-OTP-0026-0016 at 00:50:00-00:50:03 (CIV-OTP-0052-0653 at 0666); CIV-OTP-0026-0020 at 01:11:29-01:11:46 (CIV-OTP-0044-2534 at 2557); CIV-OTP-0026-0022 at 00:29:23-00:29:26 (CIV-OTP-0052-0813 at 0822); CIV-OTP-0055-0449 at 00:12:18-00:12:41 (CIV-OTP-0062-0949 at 0957); CIV-OTP-0055-0470 at 00:01:52-00:02:10; CIV-OTP-0064-0087 at 00:14:45-00:15:14 (CIV-OTP-0063-2998 at 3001); CIV-OTP-0064-0094 at 00:20:59-00:22:07.

²⁹⁴ CIV-OTP-0052-0673 at 00:06:41-00:06:43 (CIV-OTP-0054-0458 at 0461).

media or foreign media.²⁹⁵ The evidence indicates that the RTI spread messages of hate against specific groups considered to be opponents, such as perceived Ouattara supporters, foreigners or the UN.²⁹⁶

96. The evidence also indicates a systematic effort on the part of Charles Blé Goudé to impart a sense of threat to the pro-Gbagbo youth, and to create a situation of apparent self-defence, which would justify an eventual use of force. In particular, the Chamber notes the repeated references to the need to defend themselves,²⁹⁷ to the existence of genocidal threat,²⁹⁸ as well as inflammatory or even xenophobic statements, vilifying broad components of the international community, such as France, the European Union, the United States of America, the United Nations as well as the UNOCI, the Economic Community of West African States (CEDEAO) and the Economic Community of West African States Monitoring Group (ECOMOG) and the Peace and Security Council of the African Union.²⁹⁹

97. Importantly, the effect of these speeches was compounded by an amalgam of external actors and internal opposition. According to Charles Blé

²⁹⁵ CIV-OTP-0026-0026 at 00:19:30-00:19:59; CIV-OTP-0043-0269 at 00:03:41-00:04:00 (CIV-OTP-0047-0611 at 0614).

²⁹⁶ CIV-OTP-0002-0010 at 0023; CIV-OTP-0002-0046 at 0047, 0057-0058; CIV-OTP-0020-0033 at 0037; CIV-OTP-0025-0138 at 0139-0140; CIV-OTP-0044-0337 at 0354; CIV-OTP-0044-0392 at 0430-0431; CIV-OTP-0044-1323 at 1326; CIV-OTP-0044-1332 at 1332; CIV-OTP-0048-1396 at 1439, 1473-1475; CIV-OTP-0049-2359 at 2378-2379.

²⁹⁷ CIV-OTP-0041-0470 at 00:12:39-00:12:42 (CIV-OTP-0044-2597 at 2600); CIV-OTP-0055-0449 at 00:07:07-00:07:15 (CIV-OTP-0062-0949 at 0954).

²⁹⁸ CIV-OTP-0015-0530 at 00:12:12-00:12:23 (CIV-OTP-0063-2928 at 2936); CIV-OTP-0026-0028 at 00:25:52-00:25:59 (CIV-OTP-0063-2955 at 2963).

²⁹⁹ CIV-OTP-0015-0524 at 00:07:07-00:10:34 (CIV-OTP-0063-2914 at 2917-2918); CIV-OTP-0022-0065 at 00:01:24-00:03:55, 00:09:06-00:09:33 (CIV-OTP-0062-0922 at 0923-0925, 0927); CIV-OTP-0026-0016 at 00:45:45-00:47:32 (CIV-OTP-0052-0653 at 0665); CIV-OTP-0026-0020 at 01:08:48-01:11:19 (CIV-OTP-0044-2534 at 2556-2557); CIV-OTP-0026-0022 at 00:26:49-00:29:26 (CIV-OTP-0052-0813 at 0821-0822); CIV-OTP-0026-0028 at 00:25:41-00:29:03 (CIV-OTP-0063-2955 at 2962-2965); CIV-OTP-0026-0028 at 00:25:41-00:27:54 (CIV-OTP-0063-2955 at 2963-2964); CIV-OTP-0041-0470 at 00:06:49-00:07:03 (CIV-OTP-0044-2597 at 2599); CIV-OTP-0041-0474 at 00:04:10-00:10:43 (CIV-OTP-0044-2485 at 2487-2489); CIV-OTP-0052-0673 at 00:03:10-00:03:43 (CIV-OTP-0054-0458 at 0460); CIV-OTP-0055-0449 at 00:05:53-00:06:12 (CIV-OTP-0062-0949 at 0953); CIV-OTP-0055-0470 at 00:00:09-00:01:00.

Goudé, the threat, including the threat of genocide, originated also from Alassane Ouattara.³⁰⁰ The evidence indicates that such an amalgam contributed to identifying the civilian population perceived as supporting Alassane Ouattara as a legitimate target of violence. The Chamber notes that while Charles Blé Goudé referred to the adversaries as “rebels”,³⁰¹ on many occasions persons attacked by the pro-Gbagbo youth under the pretext of being rebels, in particular at roadblocks, were in fact civilians perceived to be rebels on the basis of their ethnicity, religion or nationality.³⁰²

98. Furthermore, the Chamber is satisfied that the evidence indicates that the youth were mobilised for violence. The calls to obstruct the activities of the UNOCI,³⁰³ to erect roadblocks and control the neighbourhoods,³⁰⁴ and to assist the FDS in their combat,³⁰⁵ were, and were understood as, calls to engage in violence, in particular against civilians. This conclusion is supported by the evidence of the use of violence against civilians, in particular in Yopougon and at roadblocks.³⁰⁶

³⁰⁰ CIV-OTP-0015-0524 at 00:08:18-00:08:26, 00:12:35-00:12:53 (CIV-OTP-0063-2914 at 2917, 2919); CIV-OTP-0022-0065 at 00:03:00-00:03:08 (CIV-OTP-0062-0922 at 0925); CIV-OTP-0022-0067 at 00:33:02-00:33:37 (CIV-OTP-0053-0014 at 0027); CIV-OTP-0064-0094 at 00:21:38-00:21:57.

³⁰¹ CIV-OTP-0022-0065 at 00:03:00-00:03:08 (CIV-OTP-0062-0922 at 0925); CIV-OTP-0026-0020 at 01:09:28-01:09:55 (CIV-OTP-0044-2534 at 2556-2557); CIV-OTP-0026-0028 at 00:26:00-00:27:36 (CIV-OTP-0063-2955 at 2963-2964); CIV-OTP-0052-0673 at 00:03:10-00:03:43 (CIV-OTP-0054-0458 at 0460); CIV-OTP-0055-0449 at 00:05:53-00:06:12 (CIV-OTP-0062-0949 at 0953); CIV-OTP-0055-0470 at 00:02:18-00:02:19.

³⁰² See above, paras 26-38, 44-50, 52, 55.

³⁰³ CIV-OTP-0026-0020 at 01:11:19-01:11:28 (CIV-OTP-0044-2534 at 2557); CIV-OTP-0064-0087 at 00:14:02-00:14:14 (CIV-OTP-0063-2998 at 3001).

³⁰⁴ CIV-OTP-0015-0482 at 00:01:56-00:02:04 (CIV-OTP-0019-0204 at 0205); CIV-OTP-0026-00118 at 01:10:50-01:12:19 (CIV-OTP-0051-2220 at 2241-2242); CIV-OTP-0047-0604 at 00:02:51-00:03:00 (CIV-OTP-0051-1681 at 1682); CIV-OTP-0064-0087 at 00:14:15-00:14:32 (CIV-OTP-0063-2998 at 3001).

³⁰⁵ CIV-OTP-0002-1057 at 00:00:50-00:01:28 (CIV-OTP-0007-0195 at 0196); CIV-OTP-0015-0476 at 00:05:14-00:05:20 (CIV-OTP-0020-0500 at 0502); CIV-OTP-0015-0482 at 00:00:08-00:00:21 (CIV-OTP-0019-0204 at 0205); CIV-OTP-0047-0604 at 00:03:50-00:04:07 (CIV-OTP-0051-1681 at 1682).

³⁰⁶ See above, paras 26-38, 44-50, 55.

99. Thus, the Chamber is not persuaded by the argument of the Defence that the activities of Charles Blé Goudé were peaceful in nature.³⁰⁷ The Chamber notes that Charles Blé Goudé's speeches regularly contained messages of non-violence,³⁰⁸ but considers that these messages were rendered meaningless by qualifications which accompanied them or paled in comparison with the rest of his speeches. As concerns specifically the reference to combat with bare hands ("*mains nues*"), it appears from a recording of a speech given by Charles Blé Goudé that it involved, at least in part, the idea of the youth being an auxiliary force that could support the activities of the FDS.³⁰⁹ In this context, the Chamber considers the references to combat,³¹⁰ readiness to die for the cause³¹¹ and similar phrases³¹² to be calls for actual violence and not mere hyperbole.

100. The Chamber also notes that the statements at the rallies indicate that Charles Blé Goudé possessed knowledge of the fact that violence was being exerted, in particular at the roadblocks established following his explicit instructions.³¹³ The Chamber notes the argument of the Defence as well as some evidence that at the end of the crisis Charles Blé Goudé was concerned with the proliferation of weapons among the population.³¹⁴ However, there is evidence that, despite such concerns, his mobilisation of the pro-Gbagbo youth for violence did not end. On the contrary, in a video broadcast in the

³⁰⁷ Transcript of hearing, 30 September 2014, ICC-02/11-02/11-T-6-Red-ENG, p. 47, line 4 to p. 61, line 12.

³⁰⁸ CIV-OTP-0026-0022 at 00:06:28-00:06:35 (CIV-OTP-0052-0813 at 0816); CIV-OTP-0026-0026 at 00:18:49-00:19:30, 00:20:47-00:21:06; CIV-OTP-0055-0470 at 00:02:20-00:02:48.

³⁰⁹ CIV-OTP-0064-0094 at 00:21:58-00:22:07.

³¹⁰ CIV-OTP-0028-0103 at 00:00:34-00:02:18 (CIV-OTP-0044-2590 at 2591); CIV-OTP-0047-0604 at 00:04:08-00:05:40 (CIV-OTP-0051-1681 at 1682); CIV-OTP-0055-0449 at 00:07:13-00:07:18 (CIV-OTP-0062-0949 at 0954); CIV-OTP-0055-0470 at 00:02:54-00:03:00.

³¹¹ CIV-OTP-0026-0020 at 01:11:51-01:12:01 (CIV-OTP-0044-2534 at 2557); CIV-OTP-0026-0028 at 00:28:39-00:28:50 (CIV-OTP-0063-2955 at 2964); CIV-OTP-0064-0094 at 00:23:29-00:23:31.

³¹² CIV-OTP-0026-0016 at 00:50:53-00:51:02 (CIV-OTP-0052-0653 at 0666).

³¹³ CIV-OTP-0003-0670 at 00:05:16-00:05:39 (CIV-OTP-0020-0479 at 0486); CIV-OTP-0026-0018 at 01:11:08-01:11:19 (CIV-OTP-0051-2220 at 2241).

³¹⁴ Transcript of hearing, 1 October 2014, ICC-02/11-02/11-T-7-Red-ENG, p. 40, lines 3-12.

beginning of April 2011, Charles Blé Goudé continued with the same kind of rhetoric that was employed throughout the crisis.³¹⁵

101. It appears that while Charles Blé Goudé's mobilisation activities were most immediately directed at the pro-Gbagbo youth, they also had an impact on the conduct of militia groups, including those that employed mercenaries. In this respect, the Chamber notes first that, at least in the later stages of the crisis, the distinction between pro-Gbagbo youth and pro-Gbagbo militias was blurred, as more and more youth took up arms.³¹⁶ Secondly, the Chamber finds important the evidence that Maguy le Tocard and Maho Glofiéhi participated in the rallies organised by Charles Blé Goudé.³¹⁷ Third, the Chamber notes the specific evidence that on 25 February 2011, militia elements participated in the violence which erupted immediately following public speeches of Charles Blé Goudé.³¹⁸

102. Finally, the Chamber also notes that the youth mobilisation activities emphasised a connection between the youth and the FDS, two limbs of the pro-Gbagbo forces.³¹⁹ A particularly significant manifestation of this effort was the rally in honour of the FDS held on 23 January 2011 at the Champroux Stadium in Marcory,³²⁰ apparently organised in order to dispel rumours questioning the loyalty of the FDS, in particular of the Chief of Staff.³²¹

³¹⁵ CIV-OTP-0047-0604 at 00:00:00-00:05:40 (CIV-OTP-0051-1681 at 1682).

³¹⁶ CIV-OTP-0011-0201 at 0209, 0217.

³¹⁷ CIV-OTP-0058-0355 at 0373-0374; CIV-OTP-0062-0632 at 0646; CIV-OTP-0063-1377 at 1388; see also above para. 69.

³¹⁸ See above, paras 26-38.

³¹⁹ CIV-OTP-0015-0476 at 00:05:14-00:05:20 (CIV-OTP-0020-0500 at 0502); CIV-OTP-0015-0482 at 00:00:08-00:00:21 (CIV-OTP-0019-0204 at 0205); CIV-OTP-0026-0016 at 00:50:11-00:50:15 (CIV-OTP-0052-0653 at 0666).

³²⁰ CIV-OTP-0002-0995 at 00:08:59-00:11:16 (CIV-OTP-0007-0181 at 0189-0191); CIV-OTP-0003-0651 at 0651; CIV-OTP-0003-0872 at 0872; CIV-OTP-0041-0470 at 00:05:49-00:06:48 (CIV-OTP-0044-2597 at 2599); CIV-OTP-0047-0444 at 0444-0445; CIV-OTP-0047-0670 at 00:00:00-00:00:27 (CIV-OTP-0048-1660 at 1661); CIV-OTP-0051-1159 at 1176, 1187, 1192.

³²¹ CIV-OTP-0051-1159 at 1193.

C. Reaction to the evolution of the crisis

103. In the view of the Chamber, the evidence of the reaction of Laurent Gbagbo and the inner circle, including Charles Blé Goudé, to the changing situation is particularly important for findings in relation to the charges.

104. The evidence demonstrates that in response to the commencement of armed attacks on the FDS in Abobo from the second half of December 2010,³²² FANCI, rather than regular law enforcement units, had control over FDS operations in Abobo,³²³ and instituted a curfew.³²⁴ There is evidence that Laurent Gbagbo directly ordered that these measures be taken,³²⁵ and that he held a meeting with the high commanders of the FDS for the purpose of discussing these measures.³²⁶ Notably, there is evidence that Charles Blé Goudé participated in this meeting.³²⁷

105. However, in the weeks that followed, there was an intensification of attacks on the FDS in Abobo by elements that were increasingly organised and well-equipped.³²⁸ By 23 February 2011, also, the situation in western Côte

³²² CIV-OTP-0014-0135 at 0159; CIV-OTP-0014-0354 at 0356-0357; CIV-OTP-0016-0301 at 0310; CIV-OTP-0017-0124 at 0143; CIV-OTP-0043-0461 at 0497; CIV-OTP-0044-1341 at 1346; CIV-OTP-0045-0291 at 0291-0294; CIV-OTP-0045-0785 at 0785-0792; CIV-OTP-0045-1084 at 1084; CIV-OTP-0048-1503 at 1524; CIV-OTP-0049-2676 at 2716-2717; CIV-OTP-0051-0462 at 0472; CIV-OTP-0051-1008 at 1025-1026.

³²³ CIV-OTP-0046-0814 at 0827-0828; CIV-OTP-0046-0862 at 0884; CIV-OTP-0047-0653 at 00:00:14-00:08:18 (CIV-OTP-0048-1657 at 1658-1659); CIV-OTP-0051-0434 at 0442-0443, 0449; CIV-OTP-0051-1045 at 1057.

³²⁴ CIV-OTP-0017-0124 at 0139-0140; CIV-OTP-0044-0975 at 0976; CIV-OTP-0047-0653 at 00:00:00-00:04:18 (CIV-OTP-0048-1657 at 1658-1659); CIV-OTP-0051-0434 at 0439-0442; CIV-OTP-0051-1008 at 1024.

³²⁵ CIV-OTP-0051-0434 at 0443-0444; CIV-OTP-0051-1008 at 1024-1025; CIV-OTP-0051-1045 at 1047, 1057-1058.

³²⁶ CIV-OTP-0046-0886 at 0895-0901; CIV-OTP-0049-0036 at 0036; CIV-OTP-0053-0574 at 0642-0643.

³²⁷ CIV-OTP-0049-0036 at 0036; CIV-OTP-0053-0574 at 0642-0643.

³²⁸ CIV-OTP-0040-0372 at 0403; CIV-OTP-0042-0508 at 0517, 0518; CIV-OTP-0043-0461 at 0497; CIV-OTP-0049-2359 at 2374-2375; CIV-OTP-0051-0434 at 0448.

d'Ivoire had degenerated into a non-international armed conflict between pro-Gbagbo and pro-Ouattara forces.³²⁹

106. In Abobo, the FDS responded with full-scale military intervention,³³⁰ and heavy weapons were used in densely populated areas.³³¹ There is evidence that Laurent Gbagbo held a meeting with the high commanders of the FDS on 24 February 2011 at the Presidential Palace for the purpose of discussing the intervention in Abobo.³³²

107. The evidence also indicates that, by this time, the distinction between the enemy, most commonly referred to as “rebels”, and the civilian population was blurred, if at all present.³³³ In fact, the evidence indicates that residents of certain neighbourhoods of Abobo were, on account of their ethnic, national or religious affiliation, perceived as pro-Ouattara and thus targeted by the FDS intervening in Abobo at the time.³³⁴

108. At this juncture, the Chamber recalls its analysis of the evidence related to the attack in Yopougon in late February 2011, noting in particular that it occurred at approximately the same time as the beginning of the FANCI intervention in Abobo, and was set in motion by Charles Blé Goudé, who had met Laurent Gbagbo twice immediately before.³³⁵

³²⁹ CIV-OTP-0002-0527 at 0540-0541, 0568; CIV-OTP-0053-0835 at 0847, 0849-0850, 0854.

³³⁰ CIV-OTP-0002-0010 at 0020; CIV-OTP-0037-0425 at 0442; CIV-OTP-0049-2404 at 2439-2441, 2454-2456; CIV-OTP-0051-0462 at 0473-0474; CIV-OTP-0051-0556 at 0571; CIV-OTP-0051-1045 at 1048, 1065-1067.

³³¹ See above, paras 41-43, 55.

³³² CIV-OTP-0011-0505 at 0526-0528; CIV-OTP-0011-0529 at 0530, 0538-0540; CIV-OTP-0051-1045 at 1047, 1064-1065, 1067, 1069-1071, 1081-1084; see also CIV-OTP-0015-0134 at 0153-0160.

³³³ CIV-OTP-0025-0082 at 0084; CIV-OTP-0028-0481 at 0494, 0495; CIV-OTP-0028-0550 at 0564; CIV-OTP-0037-0425 at 0451; CIV-OTP-0041-0534 at 0547-0548, 0573; CIV-OTP-0043-0269 at 00:50:14-00:50:47 (CIV-OTP-0047-0611 at 0633).

³³⁴ CIV-OTP-0020-0064 at 0085; CIV-OTP-0028-0550 at 0564; CIV-OTP-0029-0323 at 0328-0329, 0332; CIV-OTP-0046-1203 at 1209; CIV-OTP-0049-2760 at 2786.

³³⁵ See above, paras 26-38.

109. The Chamber also notes that during this period there were numerous defections from the FDS, and that the regular structure of the FDS effectively collapsed by the end of March 2011.³³⁶ However, the evidence shows that Laurent Gbagbo and the inner circle were able to reorganise the loyal forces in order to continue the fight for power, including through the commission of crimes against civilians.

110. In particular, persons most loyal to Laurent Gbagbo continued to fight, and took leading roles,³³⁷ an example of which is General Dogbo Blé's *de facto* assumption of command over the FDS following the defection of the Chief of Staff.³³⁸ Laurent Gbagbo and the inner circle also increased their reliance on loyal militias, which occupied FDS bases,³³⁹ and on the pro-Gbagbo youth.

111. With respect to the latter, the Chamber notes that on 19 March 2011 Charles Blé Goudé publicly appealed to the youth to enrol in the army.³⁴⁰ He indicated that the purpose of his call was to legitimise their fight and their taking up weapons on behalf of Laurent Gbagbo.³⁴¹ On 21 March 2011, the youth responded massively by gathering at the General Staff,³⁴² but no integration of new recruits into the armed forces actually took place.

³³⁶ CIV-OTP-0019-0211 at 0225; CIV-OTP-0045-0140 at 0142; CIV-OTP-0046-0814 at 0827; CIV-OTP-0046-0862 at 0865, 0875, 0878; CIV-OTP-0049-2192 at 2201-2202; CIV-OTP-0049-2336 at 2337; CIV-OTP-0051-0556 at 0580-0581.

³³⁷ CIV-OTP-0002-0573 at 0577; CIV-OTP-0048-1503 at 1512, 1519; CIV-OTP-0051-0586 at 0591-0593.

³³⁸ CIV-OTP-0002-0573 at 0577; CIV-OTP-0051-0586 at 0591-0593.

³³⁹ See above, paras 68-72.

³⁴⁰ CIV-OTP-0002-0010 at 0021; CIV-OTP-0002-1057 at 00:00:00-00:01:18 (CIV-OTP-0007-0195 at 0196); CIV-OTP-0003-0632 at 0632; CIV-OTP-0004-0072 at 0119; CIV-OTP-0011-0201 at 0209-0210; CIV-OTP-0011-0593 at 0603; CIV-OTP-0013-0108 at 0116; CIV-OTP-0015-0323 at 0335-0336; CIV-OTP-0019-0211 at 0221; CIV-OTP-0020-0335 at 0356; CIV-OTP-0029-0656 at 0662; CIV-OTP-0041-0534 at 0581; CIV-OTP-0046-1102 at 1107-1108.

³⁴¹ CIV-OTP-0002-1057 at 00:03:43-00:05:09 (CIV-OTP-0007-0195 at 0198).

³⁴² CIV-OTP-0002-0389 at 00:00:45-00:02:03 (CIV-OTP-0020-0517 at 0518); CIV-OTP-0003-0010 at 00:03:10-00:03:39 (CIV-OTP-0007-0220 at 0223); CIV-OTP-0011-0201 at 0211-0212; CIV-OTP-0013-0108 at 0116; CIV-OTP-0015-0323 at 0340; CIV-OTP-0020-0335 at 0356; CIV-OTP-0046-1102 at 1107-1108.

112. In addition to the calls to recruit the youth into the army, during this time period, Charles Blé Goudé also undertook other activities aimed at the mobilisation of the youth for the struggle to preserve power.³⁴³ On 26-27 March 2011, a mass rally was held at the *Place de la République* in Plateau in order to mobilise the pro-Gbagbo youth.³⁴⁴ There is evidence that youth in Abidjan were increasingly armed at the time,³⁴⁵ and that the violence against perceived supporters of Alassane Ouattara, in particular at roadblocks, intensified.³⁴⁶ There is also evidence which links such violence to the public appearances of Charles Blé Goudé.³⁴⁷

113. According to the evidence, these activities, which were primarily led by Charles Blé Goudé, were coordinated with Laurent Gbagbo and the inner circle. For example, there is evidence that the call to the youth to enrol in the army was coordinated with Laurent Gbagbo and the inner circle.³⁴⁸ In addition, on 18 March 2011 Laurent Gbagbo issued a statement through his spokesperson in which he called on Ivorians to take greater responsibility and for stronger collaboration between citizens and security forces, so that all suspect presences could be neutralised,³⁴⁹ and on 9 April 2011 a government *communiqué* was issued, stating, *inter alia*, that the President was calling on the people to continue the resistance.³⁵⁰

³⁴³ See above, paras 93-102.

³⁴⁴ CIV-OTP-0011-0201 at 0214-0216.

³⁴⁵ CIV-OTP-0011-0201 at 0209, 0217; CIV-OTP-0013-0108 at 0116; CIV-OTP-0019-0211 at 0221; CIV-OTP-0029-0656 at 0663; CIV-OTP-0039-0196 at 0210; CIV-OTP-0048-1503 at 1538; CIV-OTP-0058-0586 at 0608; CIV-OTP-0063-1464 at 1477-1493; CIV-OTP-0063-1497 at 1498-1501; CIV-OTP-0063-2180 at 2215.

³⁴⁶ CIV-OTP-0011-0201 at 0216, 0217; CIV-OTP-0019-0211 at 0221-0222; CIV-OTP-0049-2842 at 2852. See also above, paras 44-50, 55.

³⁴⁷ CIV-OTP-0017-0003 at 0020; CIV-OTP-0029-0656 at 0663.

³⁴⁸ CIV-OTP-0014-0646 at 0657-0658; see also CIV-OTP-0053-0574 at 0736-0737.

³⁴⁹ CIV-OTP-0004-0072 at 0119.

³⁵⁰ CIV-OTP-0018-0564 at 0566.

SECTION 3. FINDINGS OF THE CHAMBER

I. Specific elements of the alleged crimes against humanity

114. On the basis of the analysis of evidence as laid out in the preceding section, the Chamber makes the following conclusions in relation to the specific elements of the crimes charged.

A. Murder

115. The Chamber finds that there are substantial grounds to believe that in the course of the five incidents analysed above the pro-Gbagbo forces killed at least 184 persons, namely:

- (i) at least 45 persons during the attacks related to the demonstrations at the RTI building on 16-19 December 2010;³⁵¹
- (ii) at least 24 persons during the attack in Yopougon on 25-28 February 2011;³⁵²
- (iii) seven women during the attack on a women's demonstration in Abobo on 3 March 2011;³⁵³
- (iv) at least 40 persons in the shelling of Abobo market and the surrounding area on 17 March 2011;³⁵⁴ and
- (v) at least 68 persons during the attack in Yopougon on or around 12 April 2011.³⁵⁵

116. Accordingly, the specific elements of the crime of murder under article 7(1)(a) of the Statute are met.

³⁵¹ See above, paras 17-25.

³⁵² See above, paras 26-38.

³⁵³ See above, paras 39-40.

³⁵⁴ See above, paras 41-43.

³⁵⁵ See above, paras 44-50.

B. Rape

117. The Chamber finds that there are substantial grounds to believe that the pro-Gbagbo forces raped at least 38 persons, namely:

- (i) at least 16 women and girls during the attacks related to the demonstrations at the RTI building on 16-19 December 2010;³⁵⁶ and
- (ii) at least 22 women during the attack in Yopougon on or around 12 April 2011.³⁵⁷

118. Accordingly, the specific elements of the crime of rape under article 7(1)(g) of the Statute are met.

C. Other inhumane acts or attempted murder

119. The Chamber finds that there are substantial grounds to believe that in the course of the five incidents analysed above, the pro-Gbagbo forces injured at least 126 persons, namely:

- (i) at least 54 persons during the attacks related to the demonstrations at the RTI building on 16-19 December 2010;³⁵⁸
- (ii) at least seven persons during the attack in Yopougon on 25-28 February 2011;³⁵⁹
- (iii) at least three persons during the attack on a women's demonstration in Abobo on 3 March 2011;³⁶⁰
- (iv) at least 60 persons in the shelling of Abobo market and the surrounding area on 17 March 2011;³⁶¹ and

³⁵⁶ See above, paras 17-25.

³⁵⁷ See above, paras 44-50.

³⁵⁸ See above, paras 17-25.

³⁵⁹ See above, paras 26-38.

³⁶⁰ See above, paras 39-40.

³⁶¹ See above, paras 41-43.

- (v) at least two persons during the attack in Yopougon on or around 12 April 2011.³⁶²

120. Considering the modalities in which the alleged criminal acts were performed, including the kinds of weaponry used, and in light of the available information on the nature of the injuries suffered by the victims of the crimes charged, the Chamber is satisfied that there are substantial grounds to believe that the infliction of these acts by the pro-Gbagbo forces, which were of a character similar to the other acts referred to in article 7(1) of the Statute, caused great suffering and serious injury to body. Accordingly, the Chamber concludes that the specific elements of the crime of other inhumane acts under article 7(1)(k) of the Statute are met.

121. Turning to the alternative charge, with respect to the same injuries, of attempted murder under articles 7(1)(a) and 25(3)(f) of the Statute, the Chamber likewise takes into account the modalities of the criminal acts under consideration, including the kinds of weaponry used, and the information in relation to the nature of the injuries experienced by the victims. On the basis of the available evidence, the Chamber is of the view that there are substantial grounds to believe that the conduct of the pro-Gbagbo forces which led to the injuries referred to above was designed to bring about the death of the victims. Further, the Chamber considers that there are substantial grounds to believe that these acts constituted a substantial step for the attainment of said consequence, and that the fact that the death of the victims eventually did not occur was independent of the perpetrators' intentions. Accordingly, the Chamber concludes that the specific elements of the crime of attempted murder under articles 7(1)(a) and 25(3)(f) of the Statute are met. Therefore, since the evidentiary threshold is met in relation to the constitutive elements

³⁶² See above, paras 44-50.

of both other inhumane acts, under article 7(1)(k), and attempted murder, under articles 7(1)(a) and 25(3)(f) of the Statute, the Chamber considers it appropriate to confirm the charge with the alternative qualification as proposed by the Prosecutor.³⁶³

D. Persecution

122. The Chamber considers that there are substantial grounds to believe that at least 348 victims of the killings, rapes and injuries committed by the pro-Gbagbo forces in the course of the five incidents analysed above³⁶⁴ were targeted by reason of their identity as perceived supporters of Alassane Ouattara. This conclusion of the Chamber is supported by the facts, outlined above, that during the five events under consideration, the pro-Gbagbo forces targeted participants at pro-Ouattara demonstrations,³⁶⁵ or inhabitants of areas perceived as supporting Alassane Ouattara, namely Abobo and certain neighbourhoods of Yopougon (Doukouré, Mami Fatai and Lem).³⁶⁶

123. Accordingly, the Chamber finds that these acts of violence constitute persecution on political grounds, as well as on ethnic (against ethnic groups originating in the north of Côte d'Ivoire, such as Dioula and Baoulé), national (against nationals of other West African countries, and Ivorians of West African descent) and religious (against Muslims) grounds, as members of these groups were as such considered as supporters of Alassane Ouattara. Therefore, the Chamber concludes that the specific elements of the crime of persecution under article 7(1)(h) of the Statute are met.

³⁶³ DCC, p. 244.

³⁶⁴ See above, paras 17-50.

³⁶⁵ See above, paras 17-25, 39-40.

³⁶⁶ See above, paras 26-50.

II. Contextual elements of the alleged crimes against humanity

124. On the basis of the analysis of evidence as laid out in the preceding section, the Chamber finds that there are substantial grounds to believe that the charged criminal acts committed within the context of the five incidents described above were part of a widespread and systematic attack directed against the civilian population pursuant to article 7 of the Statute. Also, as further developed below,³⁶⁷ the Chamber is satisfied that there are substantial grounds to believe that Charles Blé Goudé, in performing his actions, had knowledge of the attack.

125. Article 7(1) of the Statute states that in order for a crime to qualify as a crime against humanity under the Statute, it must have been committed “as part of a widespread or systematic attack against the civilian population”. Article 7(2)(a) of the Statute defines the “attack” as “a course of conduct involving the multiple commission of acts referred to in paragraph 1 [of article 7 of the Statute] against any civilian population, pursuant to or in furtherance of a State or organisational policy to commit such attack”.

126. The Chamber recalls the previous findings of the Court, including of this Chamber, with regard to the interpretation of these provisions.³⁶⁸ Pursuant to them, the Chamber must ascertain first the existence of an attack directed against the civilian population, within the meaning of article 7(2)(a) of the Statute, and then its widespread or systematic character.

A. Existence of an attack directed against the civilian population

127. The Chamber concludes that there are substantial grounds to believe that, between 27 November 2010 and on or around 12 April 2011, a course of

³⁶⁷ See below, paras 156, 164, 170, 180.

³⁶⁸ See Pre-Trial Chamber I, “[Decision on the confirmation of charges against Laurent Gbagbo](#)”, 12 June 2014, ICC-02/11-01/11-656-Red, paras 208-210 and 213-217 and legal provisions and jurisprudence referred therein and in the corresponding footnotes.

conduct involving the multiple commission of acts referred to in paragraph 1 of article 7 of the Statute was carried out by the pro-Gbagbo forces against civilians perceived to be Alassane Ouattara's supporters. These acts were committed in the context of the five incidents charged as well as the other events of violence analysed above.³⁶⁹

128. The Chamber considers that this course of conduct against the civilian population was carried out pursuant to a State or organisational policy. The Chamber notes in this regard the evidence which demonstrates that preparatory activities were undertaken for the purpose of the possible use of violence against civilians in order to keep Laurent Gbagbo in power,³⁷⁰ and that the violence was a planned and coordinated effort of Laurent Gbagbo and his inner circle,³⁷¹ carried out through the forces under their control.³⁷² In light of the evidence available,³⁷³ the Chamber is also satisfied that the pro-Gbagbo forces, which included elements of the FDS, militia, mercenaries and pro-Gbagbo youth, and were led by Laurent Gbagbo and his inner circle, constituted an organisation within the terms of article 7(2)(a) of the Statute and that the policy may thus be attributed to an organisation in accordance with that provision. The Chamber is equally of the view that the policy to be attributed to such entity, which comprised part of the State apparatus, may on this basis be also qualified as a State policy. Therefore, for the purposes of the present decision, the Chamber considers that the Prosecutor's allegation that the policy to carry out the attack on the civilian population may qualify as a

³⁶⁹ See above, paras 17-55.

³⁷⁰ See above, paras 76-88.

³⁷¹ See above, paras 89-113.

³⁷² See above, paras 64-75.

³⁷³ See above, paras 64-75.

State or organisational policy³⁷⁴ also finds sufficient support in the available evidence.

129. The Chamber notes that the Prosecutor asserts as part of the facts and circumstances described in the charges that “[u]pon assuming the Presidency of the Republic of Côte d’Ivoire in October 2000, Gbagbo harboured the objective of retaining power by, *inter alia*, repressing or violently attacking those who challenged his authority”.³⁷⁵ The Chamber refrains from any finding in this regard and focuses on the time frame of the post-election crisis, as indeed pleaded by the Prosecutor³⁷⁶ and discussed by the parties and participants during the proceedings.

130. In light of the above, the Chamber concludes that the course of conduct that took place between 27 November 2010 and on or around 12 April 2011 constituted an “attack directed against the civilian population” within the meaning of article 7(2)(a) of the Statute.

B. Widespread or systematic character of the attack

131. The attack referred to above was widespread within the meaning of article 7(1) of the Statute, as it: (i) involved a large number of acts; (ii) targeted and victimised a significant number of individuals; (iii) extended over a time period of more than four months; and (iv) affected the entire city of Abidjan, a metropolis of more than three million inhabitants.³⁷⁷

132. The Chamber is equally of the view that the attack was “systematic” within the meaning of article 7(1) of the Statute, considering that: (i) preparations for the attack were undertaken in advance,³⁷⁸ and the attack was

³⁷⁴ DCC, para. 212.

³⁷⁵ DCC, para. 323.

³⁷⁶ DCC, paras 323-324.

³⁷⁷ See above, paras 17-55.

³⁷⁸ See above, paras 76-88.

planned and coordinated;³⁷⁹ and (ii) the acts of violence analysed by the Chamber reveal a clear pattern of violence directed at pro-Ouattara demonstrators or activists,³⁸⁰ and more generally against areas whose inhabitants were perceived to be supporters of Alassane Ouattara.³⁸¹

III. Individual criminal responsibility of Charles Blé Goudé

133. The Prosecutor alleges that Charles Blé Goudé is criminally responsible for the crimes charged under the alternative modes of liability of article 25(3)(a), 25(3)(b), 25(3)(c) and 25(3)(d) of the Statute.³⁸² As this Chamber has stated previously, when alternative legal characterisations of the same facts proposed by the Prosecutor are satisfactorily established by the evidence, it is appropriate that the charges be confirmed with the various available alternatives, in order for the Trial Chamber to determine whether any of those legal characterisations is established to the applicable standard of proof at trial.³⁸³

A. Article 25(3)(a) of the Statute

134. According to article 25(3)(a) of the Statute, commission of a crime may be joint with another person. The central aspect of joint commission (also called “co-perpetration”) pursuant to article 25(3)(a) of the Statute is the presence of an agreement between a plurality of persons to commit a crime³⁸⁴

³⁷⁹ See above, paras 89-113.

³⁸⁰ See above, paras 17-25, 39-40, 53-54.

³⁸¹ See above, paras 26-50.

³⁸² DCC, para. 322.

³⁸³ Pre-Trial Chamber I, “[Decision on the confirmation of charges against Laurent Gbagbo](#)”, 12 June 2014, ICC-02/11-01/11-656-Red, paras 227-228. See also Pre-Trial Chamber II, “[Decision Pursuant to Article 61\(7\)\(a\) and \(b\) of the Rome Statute on the Charges of the Prosecutor Against Bosco Ntaganda](#)”, 9 June 2014, ICC-01/04-02/06-309, para. 100.

³⁸⁴ Having regard to article 30(2) of the Statute, this includes situations where the co-perpetrators share the intent to engage in certain conduct knowing that crimes will result from that conduct in the ordinary course of events.

– which may take the form of a “common plan”.³⁸⁵ The existence of this agreement justifies the reciprocal attribution of the contributive acts of the joint perpetrators, the coordinated sum of which results in the realisation of the objective elements of a crime.³⁸⁶ It is not required that each joint perpetrator personally participates in the execution of each material element of the crime, and there may be circumstances in which a particular joint perpetrator contributes to the commission of the crimes in ways other than by realising a material element of the crimes, such as by performing a crucial role at the planning or preparation stage, including when the common plan is conceived.³⁸⁷

135. The decisive consideration is whether the individual contribution of each co-perpetrator within the framework of the agreement is such that without it the crime would not be committed or would be committed in a significantly different way. In this regard, the Chamber is attentive to the recent findings of the Appeals Chamber, which confirmed the criterion of “control over the crime” as the distinguishing factor between “commission” under article 25(3)(a) and accessory responsibility under article 25(3)(b) to (d) of the Statute for a crime committed by (an)other person(s), and defined a “co-perpetrator” as “one who makes, within the framework of a common plan, an essential contribution with the resulting power to frustrate the commission of the crime”.³⁸⁸ More specifically, the Appeals Chamber held:

[I]n circumstances where a plurality of persons was involved in the commission of crimes under the Statute, the question of whether an accused ‘committed’ a crime – and therefore not only contributed to the crime committed by someone else – cannot only be answered by reference to how close the accused was to the actual crime and whether he or she directly carried out the incriminated conduct. Rather, what is required is a normative

³⁸⁵ Appeals Chamber, “[Judgment on the appeal of Mr Thomas Lubanga Dyilo against his conviction](#)”, 1 December 2014, ICC-01/04-01/06-3121-Red, para. 445.

³⁸⁶ *Ibid.*

³⁸⁷ *Ibid.*, para. 469.

³⁸⁸ *Ibid.*, para. 7.

assessment of the role of the accused person in the specific circumstances of the case. The Appeals Chamber considers that the most appropriate tool for conducting such an assessment is an evaluation of whether the accused had control over the crime, by virtue of his or her essential contribution to it and the resulting power to frustrate its commission, even if that essential contribution was not made at the execution stage of the crime.³⁸⁹

136. In accordance with the jurisprudence of the Court, the co-perpetrators may execute the material elements of the crimes directly or through another person. In the latter case, it is required that the co-perpetrators do so by jointly controlling the action of another person to such a degree that the will of that person becomes irrelevant, and her/his action must be attributed to the co-perpetrators as if it were their own. In cases of multiple direct perpetrators, it is not required that each co-perpetrator be individually in a position of control with respect to some or all of the direct perpetrators. What is decisive is that the co-perpetrators be jointly in control of the direct perpetrators, whom the co-perpetrators utilise for the commission of the crimes. This form of responsibility combines the commission of a crime “jointly with another” (in which a plurality of persons has the capacity to frustrate the commission of the crime in the way it is realised by not performing their coordinated contributive acts within the framework of an agreement among them) with the commission of a crime “through another person” (in which a person commits the crime by subjugating another person’s will, rather than directly).

137. In the present case, Charles Blé Goudé is charged with having committed the alleged crimes jointly with Laurent Gbagbo and the latter’s inner circle, through the pro-Gbagbo forces. In essence, what is required in order for these charges to be confirmed as proposed by the Prosecutor is that the evidence establishes substantial grounds to believe that:

- (i) there existed an agreement or common plan between Charles Blé Goudé and his alleged co-perpetrators to commit the crimes or

³⁸⁹ *Ibid.*, para. 473.

to engage in a conduct which, in the ordinary course of events, would result in the commission of the crimes;

- (ii) Charles Blé Goudé, acting in a coordinated manner with his co-perpetrators, had control over the crimes by virtue of his essential contribution within the framework of the common plan with the resulting power to frustrate the commission of the crimes;
- (iii) Charles Blé Goudé and his co-perpetrators relied on the pro-Gbagbo forces to carry out the material elements of the crimes, over which they exercised joint control subjugating the individual will of the direct perpetrators; and
- (iv) Charles Blé Goudé held the requisite intent and knowledge pursuant to the Statute with respect to the crimes charged.

a) The common plan between Charles Blé Goudé and others

138. The Chamber finds that Charles Blé Goudé, together with Laurent Gbagbo, Simone Gbagbo and other members of the inner circle, agreed to keep Laurent Gbagbo in power at any cost, including through the use of force against civilians, and conceived a plan to this effect (“common plan”).

139. The Chamber relies on evidence demonstrating: (i) Charles Blé Goudé’s relations with Laurent Gbagbo and a limited number of close associates who agreed on the objective of keeping Laurent Gbagbo in power and coordinated the means to achieve this goal, including the use of force against civilians;³⁹⁰ (ii) the mobilisation of the youth for violent acts;³⁹¹ (iii) preparatory activities in anticipation of the use of violence, such as acquisition of weapons, recruitment into the FDS, recruitment, training and supplying of militias and

³⁹⁰ See above, paras 57-62.

³⁹¹ See above, paras 93-102.

mercenaries;³⁹² (iv) the interaction between Charles Blé Goudé, Laurent Gbagbo and members of his inner circle, and the forces under their control, illustrated by the evidence of meetings and instructions to units on the ground during the crisis;³⁹³ as well as (v) the steps undertaken by Charles Blé Goudé, Laurent Gbagbo and the inner circle in reaction to the evolution of the crisis.³⁹⁴

140. Based on these considerations, the Chamber concludes that violence against civilians, while it was not in itself the ultimate goal of Charles Blé Goudé, Laurent Gbagbo and the inner circle, was a criminal element inherent to the common plan to keep Laurent Gbagbo in power at any cost.

b) Charles Blé Goudé's contribution within the framework of the common plan

141. As recalled above, in order to determine whether Charles Blé Goudé is criminally responsible as a co-perpetrator for the crimes charged, the Chamber must evaluate whether he had control over the crimes by virtue of his essential contribution within the framework of the common plan and the resulting power to frustrate their commission. Such evaluation, according to the Appeals Chamber, cannot be made only "by reference to how close [he] was to the actual crime or whether he [...] directly carried out the incriminated conduct", but requires "a normative assessment" of his role in the specific circumstances of the case.³⁹⁵

142. In light of the evidence, the Chamber is satisfied that Charles Blé Goudé was a prominent member of the inner circle although not the ultimate decision maker. The evidence demonstrates that he participated in the conception and implementation of the common plan, including by way of his

³⁹² See above, paras 76-88.

³⁹³ See above, paras 89-92.

³⁹⁴ See above, paras 103-113.

³⁹⁵ Appeals Chamber, "[Judgment on the appeal of Mr Thomas Lubanga Dyilo against his conviction](#)", 1 December 2014, ICC-01/04-01/06-3121-Red, para. 473.

contribution to the recruitment into the FDS, the recruitment, training and financing of militias and mercenaries, the distribution of weapons,³⁹⁶ and, in particular, by way of the mobilisation of the youth for violence against perceived supporters of Alassane Ouattara and related activities aimed at strengthening the co-operation between the youth and the FDS.³⁹⁷

143. The Chamber also considers that the evidence sufficiently establishes that Charles Blé Goudé, by mobilising the youth for violence in Yopougon decisively contributed to the commission of the crimes in the context of the attacks of 25-28 February and on or around 12 April 2011 in Yopougon.³⁹⁸ In the view of the Chamber, these crimes would not have been committed or would have been committed in a significantly different way had Charles Blé Goudé not performed his own conduct.

144. However, in the particular circumstances of the present case as emerging from the available evidence, the Chamber is of the view that his contribution to the conception and implementation of the common plan, including his essential contribution to the violence that unfolded in Yopougon during the post-electoral crisis, does not suffice to attribute to Charles Blé Goudé responsibility as co-perpetrator for all the crimes that were committed in pursuance of the common plan to keep Laurent Gbagbo in power at any cost, including by the use of violence against civilians.

145. The Chamber recognises that the contributions of Charles Blé Goudé to the conception and implementation of the common plan, as described above, had the effect of strengthening the general capability of the pro-Gbagbo forces to commit all the crimes in pursuance of the common plan. Nonetheless, the Chamber is not satisfied that Charles Blé Goudé's contribution was such that,

³⁹⁶ See above, paras 76-88.

³⁹⁷ See above, paras 93-104.

³⁹⁸ See above, paras 26-38, 44-50, 93-102.

in its absence, the crimes committed in the context of the repression of the RTI march and the attacks in Abobo (which appear to be part of separate and primarily FDS operations) would have been frustrated, namely that they would not have been committed or would have been committed in a significantly different way.

146. The Chamber notes that the common plan in the instant case was broad in nature and its implementation carried out by an organisation which included both a formal and informal structure composed of different elements, different chains of command and distinct lines of activation. Furthermore, in light of the available evidence, it appears that the attack against the civilian population that resulted from the implementation of such a plan did not take the form of a single, unified and coordinated operation but rather the form of separate, multiple violent operations tied together mainly by the overarching coordinating role exercised by Laurent Gbagbo and by the overall purpose to keep Laurent Gbagbo in power at any cost, including by use of violence against civilians.

147. In these particular circumstances, the Chamber is of the view that the contribution provided by Charles Blé Goudé within the framework of the common plan was only essential with respect to some of the violent operations that were carried out in its implementation, in particular – as already indicated – with respect to the attacks in Yopougon.

148. However, the evidence does not demonstrate that, had his contribution not taken place, the crimes committed within the separate and primarily FDS operations with respect to the repression of the march on the RTI building on 16-19 December 2010 and the attacks in Abobo on 3 and 17 March 2011 would not have taken place or would have taken place in a significantly different way. Without prejudice to his responsibility under other forms of liability

under the Statute, the Chamber concludes that the available evidence does not establish substantial grounds to believe that Charles Blé Goudé had control over the commission of these crimes and, accordingly, may be deemed to have committed them, within the meaning of article 25(3)(a) of the Statute, jointly with Laurent Gbagbo and the inner circle and through the pro-Gbagbo forces as alleged by the Prosecutor.

c) The co-perpetrators' joint control over the pro-Gbagbo forces

149. The Chamber further finds that, by virtue of the common plan to which he was party, Charles Blé Goudé was able to exercise control, jointly with the other co-perpetrators, over the pro-Gbagbo forces, which were organised and hierarchical in nature and through which the crimes charged were committed.

150. The evidence analysed above demonstrates that joint control over the FDS, as well as over militias and mercenaries by way of their *de facto* integration into the FDS, was exercised by the co-perpetrators, both through the official State hierarchy and a parallel structure and chain of command which initially complemented and eventually virtually replaced the official structure.³⁹⁹

151. Control over the pro-Gbagbo youth was ensured in the context of the campaign activities and their related mobilisation to use violence, as well as later calls for their enrolment in the FDS. Charles Blé Goudé himself, by way of his own activities relating to mobilisation of the youth for violence, played a vital role in ensuring control over the pro-Gbagbo youth, which despite not being organised in a formal hierarchy, had a clearly defined leadership in his

³⁹⁹ See above, paras 63-67.

person, received financial support, and was controlled primarily through manipulation at mass rallies.⁴⁰⁰

152. Charles Blé Goudé was also fundamental for the exercise of control by the co-perpetrators over the militia groups, in particular in Yopougon, through his personal links with militia leaders and the provision of weapons, assistance in training and financial support.⁴⁰¹

153. Finally, the Chamber observes that the co-perpetrators' joint control over the pro-Gbagbo forces – in the sense of their capacity to rely on them for the pursuance of the shared common effort – also resulted from the fact that the implementation of the common plan to keep Laurent Gbagbo in power at any cost, including through the use of violence against civilians, was coordinated and planned through meetings, instructions to units on the ground and a generally functioning communication chain.⁴⁰²

d) Charles Blé Goudé's intent and knowledge

154. The Chamber finds that Charles Blé Goudé meant to engage in his activities in the post-election crisis, and to issue orders and instructions, with a view to implementing the common plan to retain power at any cost, including by the use of force against civilians. Further, the Chamber finds that Charles Blé Goudé, in performing his actions aimed at sustaining the common effort agreed with the other co-perpetrators, meant to cause the use of violence against civilians or was aware that the violence would occur in the ordinary course of events, leading to killings, rape and acts causing serious injury to body and great suffering, and that Charles Blé Goudé intended the discriminatory use of violence against civilians known or perceived to be supporters of his political opponent Alassane Ouattara. The Chamber also

⁴⁰⁰ See above, paras 74-75.

⁴⁰¹ See above, paras 68-72.

⁴⁰² See above, paras 89-113.

finds that Charles Blé Goudé and the other co-perpetrators were mutually aware and accepted that the implementation of the common plan to maintain power at any cost would result in the use of violence against civilians.

155. Indeed, the evidence shows that: (i) Charles Blé Goudé, Laurent Gbagbo and his inner circle mobilised the youth for violent acts against known or perceived supporters of Laurent Gbagbo's political opponent Alassane Ouattara;⁴⁰³ (ii) Charles Blé Goudé, Laurent Gbagbo and his inner circle engaged in preparatory activities in anticipation of the use of violence, such as acquisition of weapons and recruitment of FDS elements, militias and mercenaries;⁴⁰⁴ (iii) Charles Blé Goudé, Laurent Gbagbo and his inner circle coordinated the implementation of the common plan through their interaction with the pro-Gbagbo forces, as illustrated by the meetings and instructions given to units on the ground during the crisis;⁴⁰⁵ and (iv) Charles Blé Goudé, Laurent Gbagbo and his inner circle reacted to the evolution of the crisis by taking specific steps to ensure continued implementation of the common plan to retain power at any cost, including by use of violence against civilians.⁴⁰⁶

156. In the view of the Chamber, this evidence also shows that Charles Blé Goudé was aware that the crimes committed formed part of a widespread and systematic attack directed against a civilian population, namely known or perceived Ouattara supporters.

157. Finally, the Chamber finds that Charles Blé Goudé was aware that he had the capacity to direct the conduct of the pro-Gbagbo youth by way of publicly issuing instructions to them.⁴⁰⁷ In addition, Charles Blé Goudé knew that Laurent Gbagbo, on the basis of his claim of status as President of Côte

⁴⁰³ See above, paras 93-102.

⁴⁰⁴ See above, paras 76-88.

⁴⁰⁵ See above, paras 89-92.

⁴⁰⁶ See above, paras 103-113.

⁴⁰⁷ See above, paras 93-102.

d'Ivoire, was able to assert his authority over the entirety of the FDS, with the high commanders of the FDS recognising his leadership, receiving instructions from him, and reporting to him, directly or indirectly, and that Laurent Gbagbo and the inner circle exercised joint control over the pro-Gbagbo forces also through a parallel structure which initially complemented and eventually virtually replaced the official structure.⁴⁰⁸

e) Conclusion on Charles Blé Goudé's criminal responsibility under article 25(3)(a) of the Statute

158. In conclusion, the Chamber finds that there are substantial grounds to believe that Charles Blé Goudé is criminally responsible under article 25(3)(a) of the Statute for committing, jointly with Laurent Gbagbo and other members of Laurent Gbagbo's inner circle and through members of the pro-Gbagbo forces, crimes against humanity of murder, rape, other inhumane acts (serious injury to body and great suffering) or, alternatively, attempted murder, and persecution, within the context of the attacks in Yopougon on 25-28 February 2011 and on or around 12 April 2011.

B. Article 25(3)(b) of the Statute

159. Article 25(3)(b) of the Statute provides for individual criminal responsibility if a person "orders, solicits or induces the commission" of a crime within the jurisdiction of the Court which in fact occurs or is attempted. This Chamber previously observed that "'ordering', 'soliciting' and 'inducing' in essence fall into a broader category of 'instigating' or 'prompting another person to commit a crime'".⁴⁰⁹ Recently, Pre-Trial Chamber II also took the view that 'soliciting' and "inducing" characterise the same factual situation whereby the perpetrator is prompted by another to commit a crime, and have

⁴⁰⁸ See above, paras 64-67, 89-92.

⁴⁰⁹ Pre-Trial Chamber I, "[Decision on the confirmation of charges against Laurent Gbagbo](#)", 12 June 2014, ICC-02/11-01/11-656-Red, para. 243.

the same legal requirements.⁴¹⁰ Similarly, the Chamber observes that, in the jurisprudence of the Court, the elements of “ordering” overlap with those applicable to “soliciting” and “inducing”, with the exception of the requirement of a position of authority held by the person *vis-à-vis* the perpetrator(s) of the crime, which is particular to “ordering” and is not a necessary element of “soliciting” or “inducing”.⁴¹¹

160. The Chamber considers that the evidence analysed above demonstrates that while Charles Blé Goudé may not have been a superior of the Patriotic Galaxy in the formal sense, he had the capacity to define the mobilisation activities of the youth, and through this, to compel their conduct. As such, he was in a position of authority *vis-à-vis* the youth who were among the direct perpetrators of the crimes.⁴¹² Also, in light of the evidence indicating Charles Blé Goudé’s involvement with militias, in particular in Yopougon,⁴¹³ the Chamber finds that he had also the capacity to compel or otherwise influence the conduct of the militias.

161. The Chamber further finds that Charles Blé Goudé indeed instructed or otherwise instigated the pro-Gbagbo forces to carry out certain actions in the execution of which certain charged crimes were committed and that these instructions or acts of instigation had a direct effect on the commission of such crimes. In particular, the evidence analysed above demonstrates that Charles Blé Goudé gave instructions to FESCI leader Augustin Mian to participate in the repression of the march on the RTI building on 16 December 2010, after which FESCI participated in the repression of the march, joining the other

⁴¹⁰ Pre-Trial Chamber II, “[Decision pursuant to Article 61\(7\)\(a\) and \(b\) of the Rome Statute](#)”, 11 November 2014, ICC-01/05-01/13-749, para. 34.

⁴¹¹ Pre-Trial Chamber II, “[Decision on the Prosecutor’s Application under Article 58](#)”, 13 July 2012, ICC-01/04-01/12-1-Red, para. 63; *id.*, “[Decision Pursuant to Article 61\(7\)\(a\) and \(b\) of the Rome Statute on the Charges of the Prosecutor Against Bosco Ntaganda](#)”, 9 June 2014, ICC-01/04-02/06-309, paras 145 and 153.

⁴¹² See above, paras 74-75.

⁴¹³ See above, paras 68-72.

branches of the pro-Gbagbo forces which had simultaneously been activated through other mechanisms.⁴¹⁴

162. In addition, Charles Blé Goudé engaged in a sustained effort to mobilise the youth for violence against perceived supporters of Alassane Ouattara, in particular in Yopougon.⁴¹⁵ In this regard, the Chamber finds that the available evidence sufficiently establishes that: (i) the crimes committed in the course of the attack in Yopougon on 25-28 February 2011 were committed immediately following Charles Blé Goudé's instructions to, *inter alia*, report any "*personne étrangère*", which, in the view of the Chamber, was a conscious reference to Alassane Ouattara's supporters;⁴¹⁶ and (ii) the crimes committed in the course of the attack in Yopougon on or around 12 April 2011 resulted from the sustained effort aimed at the mobilisation of the youth for violence against perceived supporters of Alassane Ouattara.⁴¹⁷

163. Conversely, the Chamber considers that the available evidence does not show any instruction or instigation on the part of Charles Blé Goudé which would have had a direct effect on the commission of the crimes in Abobo on 3 and 17 March 2011.

164. In terms of the relevant mental elements, the Chamber finds that Charles Blé Goudé: (i) meant to instruct or instigate the pro-Gbagbo forces to carry out certain actions in the execution of which the crimes charged were committed as part of the repression of the march on the RTI building on 16 December 2010 and in the course of the attacks in Yopougon on 25-28 February and on or around 12 April 2011; (ii) was aware that crimes would be committed in the ordinary course of events as a consequence of his instructions or instigation,

⁴¹⁴ See above, para. 20.

⁴¹⁵ See above, paras 93-102.

⁴¹⁶ See above, paras 26-38.

⁴¹⁷ See above, paras 44-50.

and in particular, was aware that the use of violence against civilians would lead to killings, rapes and acts causing serious injury to body and great suffering; (iii) knew that the civilians targeted would be those considered to be supporters of Alassane Ouattara; and (iv) was aware that the crimes were committed as part of a widespread and systematic attack against a civilian population, namely known or perceived supporters of Alassane Ouattara.

165. For these findings, the Chamber relies on the same evidence concerning Charles Blé Goudé's acts of instructing or otherwise instigating the pro-Gbagbo forces to commit the crimes, as well as on the evidence demonstrating that Charles Blé Goudé's relevant actions (including the instruction to FESCI to repress the march on the RTI building and the acts of mobilisation of the youth for violence) were performed as, and intended to be, part of the common effort to keep Laurent Gbagbo in power at any cost, including by attacking civilians, from which the relevant crimes ensued,⁴¹⁸ and that he engaged in other coordinated activities to this end.⁴¹⁹

166. In conclusion, the Chamber finds that there are substantial grounds to believe that Charles Blé Goudé is criminally responsible under article 25(3)(b) of the Statute for having ordered, induced or solicited crimes against humanity of murder, rape, other inhumane acts (serious injury to body and great suffering) or, alternatively, attempted murder, and persecution, committed in the context of the attacks related to the demonstration at the RTI building on 16-19 December 2010 and the attacks in Yopougon on 25-28 February 2011 and on or around 12 April 2011.

⁴¹⁸ See above, paras 17-38, 44-50.

⁴¹⁹ See above, paras 93-102, 76-88, 111-113.

C. Article 25(3)(c) of the Statute

167. Article 25(3)(c) of the Statute provides for individual criminal responsibility if a person, for the purpose of facilitating the commission of a crime within the jurisdiction of the Court, “aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission”. In essence, what is required for this form of responsibility is that the person provides assistance to the commission of a crime and that, in engaging in this conduct, he or she intends to facilitate the commission of the crime.

168. The Chamber finds that Charles Blé Goudé assisted the pro-Gbagbo forces in the commission of the crimes charged, by way of his role in the conception and participation in the common effort to keep Laurent Gbagbo in power at any cost, including through the use of violence against civilians. In particular, the Chamber recalls the evidence indicating the activities undertaken by Charles Blé Goudé in anticipation of the use of violence, such as recruitment into the FDS, recruitment, training and supplying of militias and mercenaries, as well as his instructions to FESCI to repress the march on the RTI building and his mobilisation activities, in particular in Yopougon.⁴²⁰ The Chamber also notes the related activities on the part of Charles Blé Goudé promoting the co-operation between the components of the pro-Gbagbo forces, in particular emphasising the link between the FDS and the youth.⁴²¹

169. The Chamber considers that Charles Blé Goudé’s activities had the effect of strengthening the capability of the pro-Gbagbo forces to commit the crimes that resulted from the implementation of the common effort aimed at preserving Laurent Gbagbo in power at any cost, including the crimes committed in the context of the five incidents.

⁴²⁰ See above, paras 20, 27-29, 49, 76-88, 93-102.

⁴²¹ See above, para. 102.

170. In the conclusion of the Chamber, these activities were intentional and were performed for the purpose of facilitating the commission of the crimes. In addition, they were performed in the knowledge that the crimes were committed as part of a widespread and systematic attack against the civilian population, namely known or perceived supporters of Alassane Ouattara. For these findings, the Chamber relies on the evidence relating to:

- (i) Charles Blé Goudé's role in Laurent Gbagbo's inner circle and his participation in, and knowledge of, the common plan to keep Laurent Gbagbo in power at any cost;⁴²²
- (ii) the nature of Charles Blé Goudé's activities relating to the mobilisation of the youth;⁴²³
- (iii) the fact that Charles Blé Goudé engaged in preparatory activities in anticipation of the use of violence;⁴²⁴ and
- (iv) the fact that Charles Blé Goudé was involved in the coordination of the efforts to keep Laurent Gbagbo in power at any cost.⁴²⁵

171. In light of the above, the Chamber finds that there are substantial grounds to believe that Charles Blé Goudé is criminally responsible under article 25(3)(c) of the Statute for having aided, abetted or otherwise assisted in the commission crimes against humanity of murder, rape, other inhumane acts (serious injury to body and great suffering) or, alternatively, attempted murder, and persecution, committed in the context of the five incidents specifically described in the charges.

D. Article 25(3)(d) of the Statute

172. Article 25(3)(d) of the Statute criminalises contributing "in any other way" to the commission of a crime by a group of persons acting with a

⁴²² See above, paras 57-62.

⁴²³ See above, paras 93-102.

⁴²⁴ See above, paras 76-88.

⁴²⁵ See above, paras 89-92.

common purpose. It is therefore required that: (i) the crime be committed (*i.e.* realised in its material elements) by a group of persons acting with a common purpose; and (ii) that the person charged provides a contribution to the commission of such a crime.

173. As far as the relevant mental element is concerned, this form of responsibility requires that the person: (i) meant to contribute to the commission of the crimes; and (ii) carried out his or her contribution either with the aim of furthering the purpose or the activity of the group (in case of a criminal common purpose or activity involving the commission of crimes within the jurisdiction of the Court), or in the knowledge of the intention of the group to commit the crimes.

174. The Chamber recalls that the evidence analysed above shows that the crimes charged were perpetrated by members of pro-Gbagbo forces led by Laurent Gbagbo and his inner circle (including Charles Blé Goudé)⁴²⁶ who committed the crimes acting with the common purpose of maintaining Laurent Gbagbo in power at any cost, including through the use of violence against civilians entailing the commission of crimes within the jurisdiction of the Court.

175. More specifically, the evidence shows:

- (i) Laurent Gbagbo's relations with a limited number of close associates who shared his objective of staying in power and coordinated with him the means to achieve this goal;⁴²⁷
- (ii) the mobilisation of the youth for violent acts;⁴²⁸
- (iii) the activities in anticipation of the use of violence such as securing the allegiance of the FDS, acquisition of weapons,

⁴²⁶ See above, paras 17-50.

⁴²⁷ See above, paras 57-62.

⁴²⁸ See above, paras 93-101.

recruitment into the FDS, and recruitment, training and supplying of militias and mercenaries;⁴²⁹

- (iv) the interaction between Laurent Gbagbo and members of his inner circle, and the forces under their control, including by way of meetings and instructions to units on the ground during the crisis;⁴³⁰ and
- (v) the steps undertaken by Laurent Gbagbo and members of his inner circle in reaction to the evolution of the crisis.⁴³¹

176. The Chamber considers that the evidence also sufficiently demonstrates that members of the pro-Gbagbo forces led by Laurent Gbagbo, Charles Blé Goudé and other members of the inner circle were a group within the meaning of article 25(3)(d) of the Statute,⁴³² and notes that in spite of adverse developments, the group was able to reorganise in the late stages of the crisis, and to continue the execution of its common purpose, including commission of the crimes charged, throughout the relevant period of time.⁴³³

177. The Chamber finds that Charles Blé Goudé performed a number of activities which, alone or in combination, contributed to the commission of the crimes. In particular, the Chamber recalls the evidence regarding Charles Blé Goudé's role in the activities undertaken in anticipation of the use of violence, such as recruitment into the FDS, and recruitment, training and supplying of militias and mercenaries.⁴³⁴

178. In addition, Charles Blé Goudé's instructions to FESCI to participate in the repression of the march on the RTI building on 16 December 2010

⁴²⁹ See above, paras 76-88.

⁴³⁰ See above, paras 89-102.

⁴³¹ See above, paras 103-113.

⁴³² See above, paras 57-75.

⁴³³ See above, paras 109-113.

⁴³⁴ See above, paras 76-88.

constituted a relevant immediate contribution to the crimes committed as part of this operation.⁴³⁵ Similarly, his acts of mobilisation of the youth for violence against perceived supporters of Alassane Ouattara, in particular in Yopougon, were relevant contributive acts to the attacks on 25-28 February 2011 and on or around 12 April 2011.⁴³⁶

179. The Chamber also notes the related activities aimed at strengthening the co-operation between the components of the pro-Gbagbo forces, in particular emphasising the link between the FDS and the youth, which had the effect of strengthening the capacity of the pro-Gbagbo forces.⁴³⁷

180. The Chamber finds that Charles Blé Goudé meant to contribute to the commission of the crimes and did so with the aim of furthering the criminal purpose of the group, which he shared. In addition, Charles Blé Goudé was aware that the crimes were committed as part of a widespread and systematic attack against the civilian population, namely known or perceived supporters of Alassane Ouattara. For these findings, the Chamber relies on the evidence relating to:

- (i) Charles Blé Goudé's role in Laurent Gbagbo's inner circle and his participation in, and knowledge of, the common plan to keep Laurent Gbagbo in power at any cost;⁴³⁸
- (ii) the nature of Charles Blé Goudé's activities relating to the mobilisation of the youth;⁴³⁹
- (iii) the fact that Charles Blé Goudé engaged in preparatory activities in anticipation of the use of violence;⁴⁴⁰ and

⁴³⁵ See above, para. 20.

⁴³⁶ See above, paras 27-29, 49, 93-102.

⁴³⁷ See above, para. 102.

⁴³⁸ See above, paras 57-62.

⁴³⁹ See above, paras 93-102.

⁴⁴⁰ See above, paras 76-88.

- (iv) the fact that Charles Blé Goudé was involved in the coordination of the efforts to keep Laurent Gbagbo in power at any cost.⁴⁴¹

181. In light of the above, the Chamber finds that there are substantial grounds to believe that Charles Blé Goudé is criminally responsible under article 25(3)(d) of the Statute for contributing, in any other way, to the commission of the crimes against humanity of murder, rape, other inhumane acts (serious injury to body and great suffering) or, alternatively, attempted murder, and persecution committed in the context of the five incidents specifically described in the charges.

SECTION 4. CONCLUSION: FACTS AND CIRCUMSTANCES AND THEIR LEGAL CHARACTERISATION CONFIRMED BY THE CHAMBER

182. In light of the above, the Chamber finds that there is sufficient evidence to establish substantial grounds to believe that Charles Blé Goudé, born on 1 January 1972 in Niagbrahio, Côte d'Ivoire, is individually criminally responsible for the crimes against humanity of murder, rape, other inhumane acts or – in the alternative – attempted murder, and persecution under article 7 of the Statute committed in Abidjan, Côte d'Ivoire, between 16 December 2010 and on or around 12 April 2011, as specified below.

I. Facts and circumstances described in the charges confirmed by the Chamber

183. The facts and circumstances described by the Prosecutor in the charges brought against Charles Blé Goudé (Section 9 of the DCC) confirmed by the Chamber under article 61(7)(a) of the Statute are as follows:

184. In advance of the presidential election of 2010, Charles Blé Goudé, Laurent Gbagbo and Laurent Gbagbo's inner circle jointly conceived and implemented a common plan to keep Laurent Gbagbo in office by all means, including by committing the crimes charged.

⁴⁴¹ See above, paras 89-92.

By 27 November 2010, the implementation of the common plan had developed to include a State or organisational policy whose purpose was a widespread and systematic attack against civilians considered to support Alassane Ouattara. Furtherance of the common plan and the policy was criminal in nature: the implementation of the widespread or systematic attack comprised multiple criminal acts such as murder, rape, other inhumane acts and persecution of the civilian population. The crimes charged resulted, therefore, from the implementation of the common plan.

185. During the material time, Charles Blé Goudé, Laurent Gbagbo and the other members of Laurent Gbagbo's inner circle exerted joint control and authority over the *Forces de Défense et de Sécurité* ("FDS"), the pro-Gbagbo youth, the militia members and the mercenaries – all of which formed the "pro-Gbagbo forces". Charles Blé Goudé was the "leader" of the pro-Gbagbo youth and wielded control and direct authority over them. Through him, Laurent Gbagbo controlled these youths, who were devoted to his cause.

186. The pro-Gbagbo forces constituted an organised and hierarchical apparatus of power. By virtue of their position of authority and their contributions to the common plan and the policy, Charles Blé Goudé, Laurent Gbagbo and the other members of Laurent Gbagbo's inner circle were able to make use of the forces to implement the plan and the policy by, *inter alia*, committing the crimes charged.

187. Between 16 December 2010 and on or around 12 April 2011, pro-Gbagbo forces killed at least 184 people during the following five events:

- (a) Between 16 and 19 December 2010, they killed at least 45 persons in Abidjan, during and after the pro-Ouattara march heading to the RTI headquarters;
- (b) Between 25 and 28 February 2011, they killed at least 24 persons, primarily from northern Côte d'Ivoire and neighbouring West African countries, in Yopougon *commune*, Abidjan;
- (c) On 3 March 2011, they killed seven women who had participated in a women's pro-Ouattara demonstration in Abobo *commune*, Abidjan;

(d) On 17 March 2011, they killed at least 40 persons in or near Abobo market by subjecting a densely populated area to mortar shelling;

(e) On or around 12 April 2011, in Yopougon *commune*, Abidjan, they killed at least 68 persons, mainly from northern Côte d'Ivoire and neighbouring West African countries.

188. Between 16 December 2010 and on or around 12 April 2011, pro-Gbagbo forces raped at least 38 women and girls in the following two events:

(a) Between 16 and 19 December 2010, pro-Gbagbo forces raped at least 16 women and girls in Abidjan during and after the pro-Ouattara march heading to the RTI headquarters;

(b) On or around 12 April 2011, they raped at least 22 women in Yopougon.

189. Between 16 December 2010 and on or around 12 April 2011, pro-Gbagbo forces inflicted great suffering and serious injury to body on at least 126 persons during the following five events:

(a) Between 16 and 19 December 2010, they wounded at least 54 persons in Abidjan during and after the pro-Ouattara march heading to the RTI headquarters;

(b) Between 25 and 28 February 2011, they wounded at least seven persons in Yopougon *commune*, Abidjan;

(c) On 3 March 2011, they wounded at least three persons who had participated in a pro-Ouattara women's demonstration in Abobo;

(d) On 17 March 2011, they wounded at least 60 persons in or near Abobo market by subjecting a densely-populated area to mortar shelling;

(e) On or around 12 April 2011, they wounded at least two persons in Yopougon.

190. The crimes charged were committed on political, national, ethnic or religious grounds. The victims of these crimes were targeted because they were regarded as synonymous with members of Alassane Ouattara's political groups or his supporters, or because

they lived in neighbourhoods of Abidjan perceived as Ouattara strongholds. Furthermore, they were often targeted on ethnic grounds (mainly the Dioula and the Baoulé), religious grounds (Muslims), or national grounds (citizens of West African States such as Mali, Burkina Faso and Nigeria and Ivorians of West African descent). Charles Blé Goudé, Laurent Gbagbo and the other participants in the common plan considered the members of the abovementioned political, ethnic, national and religious groups to be Alassane Ouattara supporters.

191. From 27 November 2010 until on or around 12 April 2011 in Abidjan, the pro-Gbagbo forces carried out a widespread and systematic attack on the civilian population perceived as supporting Alassane Ouattara, involving the multiple commission of criminal acts, pursuant to a policy of the pro-Gbagbo forces led by Laurent Gbagbo and his inner circle, including Charles Blé Goudé. The crimes charged were committed as part of this attack.

192. Charles Blé Goudé contributed to the commission of the crimes charged as follows:

(a) Charles Blé Goudé had a part in conceiving and implementing the common plan, which resulted in the commission of the crimes charged.

(b) Charles Blé Goudé contributed to the establishment and organisation of a structure, which allowed the execution of the common plan, occasioning the commission of the crimes. Charles Blé Goudé: (i) secured the allegiance of the youth to him and their compliance with his instructions by galvanising them; (ii) ensured, through his leadership, that the pro-Gbagbo youth groups acted in unity; (iii) acted as a vital intermediary between Laurent Gbagbo and the pro-Gbagbo youth; (iv) organised the dissemination of instructions through various channels of communication; (v) mobilised the youth to commit violent acts; (vi) contributed to the financing of the activities of the pro-Gbagbo youth; (vii) played an essential role in the recruitment and enlistment of pro-Gbagbo youth into the FDS; (viii) provided support for the military training and arming of pro-Gbagbo youth; (ix) contributed to the recruitment of pro-Gbagbo mercenaries; and (x) supported and encouraged cooperation between the pro-Gbagbo youth, the militias and the FDS.

(c) Charles Blé Goudé contributed to the implementation of the common plan which resulted in the commission of crimes. Charles Blé Goudé: (i) frequently met Laurent Gbagbo and other members of the inner circle to adapt their strategy as the crisis developed; (ii) through his speeches he conveyed the determination of the Gbagbo government to remain in power at any cost, including by the use of force; (iii) maintained close ties with FDS officers and encouraged collaboration between the FDS and the other pro-Gbagbo forces; (iv) maintained ties with the other pro-Gbagbo youth leaders and conveyed to them the decisions of Laurent Gbagbo and the inner circle; (v) held mass rallies to mobilise the pro-Gbagbo youth and to issue “mots d’ordre” to them; (vi) motivated the pro-Gbagbo youth, directed their actions and prepared them for combat; (vii) encouraged and endorsed the actions of the pro-Gbagbo forces; (viii) prompted the pro-Gbagbo youth to enlist in the FDS and contributed to the reorganisation of pro-Gbagbo forces; and (ix) created an environment conducive to the commission of crimes.

(d) Charles Blé Goudé incited the pro-Gbagbo forces and the pro-Gbagbo youth in particular to commit crimes or otherwise facilitated their commission: (i) used xenophobic rhetoric; (ii) laid responsibility for the violence during the post-election crisis on the Ouattara camp; (iii) accused Ouattara supporters and the international community of harbouring genocidal intentions against “Ivorians”; (iv) singled out civilians perceived as supporting pro-Ouattara as the targets for attacks by the perpetrators of the crimes; (v) called on the youth to erect roadblocks, keep watch in their neighbourhood and identify and report any “étrangers [strangers or foreigners]” in their neighbourhoods; (vi) commended pro-Gbagbo youth on their actions and asked them to continue fighting for Laurent Gbagbo and defend the population against the “[TRANSLATION] rebels”; (vii) legitimated the actions of the pro-Gbagbo youth; (viii) used the media and other channels of communication to propagate such messages of hate.

193. In performing these actions, Charles Blé Goudé had the requisite intent and knowledge in relation to the crimes charged. He also knew that his conduct was, or intended it to be, part of a widespread or

systematic attack against a civilian population pursuant to or in furtherance of the policy.

II. Legal characterisation of the facts

194. The legal characterisation of the facts described by the Prosecutor in the charges brought against Charles Blé Goudé (Section 9 of the DCC) confirmed by the Chamber under article 61(7)(a) of the Statute is as follows:

Count 1 – Murder constituting a crime against humanity

Having regard to the facts and circumstances set forth above, Charles Blé Goudé is responsible under article 7(1)(a) of the Statute for the crime against humanity of the murder of at least 184 persons, committed by pro-Gbagbo forces. He is responsible alternatively, as detailed below, under article 25(3)(a) (indirect co-perpetration), 25(3)(b) (ordering, soliciting or inducing), 25(3)(c) (aiding, abetting or otherwise assisting) or 25(3)(d) of the Statute:

- under article 25(3)(a), (b), (c) or (d) of the Statute for the crime against humanity of the murder of at least 92 persons committed between 25 and 28 February 2011 and on or around 12 April 2011 in Yopougon *commune*, Abidjan;
- under article 25(3)(b), (c) or (d) of the Statute for the crime against humanity of the murder of at least 45 persons committed between 16 and 19 December 2010 during and after the pro-Ouattara march heading to the RTI headquarters;
- under article 25(3)(c) or (d) of the Statute for the crime against humanity of the murder of at least 47 persons committed on 3 March 2011 in the context of a women's pro-Ouattara demonstration in Abobo *commune* and on 17 March 2011 in or near Abobo market by subjecting a densely populated area to mortar shelling.

Count 2 – Rape constituting a crime against humanity

Having regard to the facts and circumstances set forth above, Charles Blé Goudé is responsible under article 7(1)(g) of the Statute for the crime against humanity of the rape of at least 38 persons, committed by pro-Gbagbo forces. He is responsible alternatively, as detailed

below, under article 25(3)(a) (indirect co-perpetration), 25(3)(b) (ordering, soliciting or inducing), 25(3)(c) (aiding, abetting or otherwise assisting) or 25(3)(d) of the Statute:

- under article 25(3)(a), (b), (c) or (d) of the Statute for the crime against humanity of the rape of at least 22 women committed on or around 12 April 2011 in Yopougon *commune*, Abidjan;
- under article 25(3)(b), (c) or (d) of the Statute for the crime against humanity of the rape of at least 16 women and girls committed between 16 and 19 December 2010 during and after the pro-Ouattara march heading to the RTI headquarters.

Count 3 – Other inhumane acts or attempted murder constituting a crime against humanity

Having regard to the facts and circumstances set forth above, Charles Blé Goudé is responsible under article 7(1)(k) of the Statute for the crime against humanity of other inhumane acts, *viz.* acts which caused great suffering and serious injury to body to at least 126 persons, committed by the pro-Gbagbo forces; or, is responsible under articles 7(1)(a) and 25(3)(f) of the Statute for the crime against humanity of attempted murder, committed by pro-Gbagbo forces. He is responsible alternatively, as detailed below, under article 25(3)(a) (indirect co-perpetration), 25(3)(b) (ordering, soliciting or inducing), 25(3)(c) (aiding, abetting or otherwise assisting) or 25(3)(d) of the Statute:

- under article 25(3)(a), (b), (c) or (d) of the Statute for the crime against humanity of other inhumane acts or the crime against humanity of attempted murder of at least nine persons committed between 25 and 28 February 2011 and on or around 12 April 2011 in Yopougon *commune*, Abidjan;
- under article 25(3)(b), (c) or (d) of the Statute for the crime against humanity of other inhumane acts or the crime against humanity of attempted murder of at least 54 persons committed between 16 and 19 December 2010 during and after the pro-Ouattara march heading to the RTI headquarters;

- under article 25(3)(c) or (d) of the Statute for the crime against humanity of other inhumane acts or the crime against humanity of attempted murder of at least 63 persons committed on 3 March 2011 in the context of a women's pro-Ouattara demonstration in Abobo *commune* and on 17 March 2011 in or near Abobo market by subjecting a densely populated area to mortar shelling.

Count 4 – Persecution constituting a crime against humanity

Having regard to the facts and circumstances set forth above, Charles Blé Goudé is responsible under article 7(1)(h) of the Statute for the crime against humanity of the persecution of at least 348 persons on political, national, ethnic and religious grounds, committed by pro-Gbagbo forces. He is responsible alternatively, as detailed below, under article 25(3)(a) (indirect co-perpetration), 25(3)(b) (ordering, soliciting or inducing), 25(3)(c) (aiding, abetting or otherwise assisting) or 25(3)(d) of the Statute:

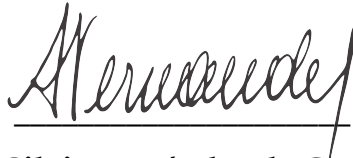
- under article 25(3)(a), (b), (c) or (d) of the Statute for the crime against humanity of the persecution of at least 123 persons committed between 25 and 28 February 2011 and on or around 12 April 2011 in Yopougon *commune*, Abidjan;
- under article 25(3)(b), (c) or (d) of the Statute for the crime against humanity of the persecution of at least 115 persons committed between 16 and 19 December 2010 during and after the pro-Ouattara march heading to the RTI headquarters;
- under article 25(3)(c) or (d) of the Statute for the crime against humanity of the persecution of at least 110 persons committed on 3 March 2011 in the context of a women's pro-Ouattara demonstration in Abobo *commune* and on 17 March 2011 in or near Abobo market by subjecting a densely populated area to mortar shelling.

FOR THESE REASONS, THE CHAMBER

CONFIRMS the charges against Charles Blé Goudé as specified in Section 4 above; and **COMMITTS** Charles Blé Goudé to a Trial Chamber for trial on the charges as confirmed.

Judge Christine Van den Wyngaert appends a partly dissenting opinion.

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



Judge Silvia Fernández de Gurmendi
Presiding Judge



Judge Ekaterina Trendafilova



Judge Christine Van den Wyngaert

Dated this 11 December 2014

At The Hague, The Netherlands

Partly Dissenting Opinion of Judge Christine Van den Wyngaert

1. I agree with my colleagues insofar as there are substantial grounds to believe that Charles Blé Goudé is criminally responsible under article 25(3)(b) and, alternatively, under article 25(3)(c) of the Rome Statute (“Statute”) for the commission of murder, rape, other inhumane acts causing great suffering and serious injury to body or, alternatively, attempted murder and persecution as crimes against humanity committed by the pro-Gbagbo youth, mercenaries and militias in the course of three out of five incidents, namely the
 - (i) events on 16-19 December 2010 related to the demonstrations at the *Radiodiffusion-Télévision Ivoirienne* building (“First Incident”);
 - (ii) events in Yopougon on 25-28 February 2011 (“Second Incident”); and
 - (iii) events in Yopougon on or around 12 April 2011 (“Fifth Incident”).¹

2. However, for the reasons set out below, I am unable to join my colleagues in their decision to confirm the charges against Charles Blé Goudé on the basis of:
 - (i) article 25(3)(a) of the Statute;
 - (ii) article 25(3)(d) of the Statute; and
 - (iii) article 25(3)(c) for the events in Abobo related to the women’s demonstration on 3 March 2011 (“Third Incident”), as well as the shelling of the Abobo market and the surrounding area on 17 March 2011 (“Fourth Incident”).

3. Before all else, I deem it important to set out my general understanding of the case as it transpires through the evidence. The following considerations have been instrumental in my analysis and appreciation of the facts, as presented

¹ Pre-Trial Chamber I, “Decision on the confirmation of charges against Charles Blé Goudé”, 11 December 2014 (hereinafter the “Confirmation Decision”), paras 166 and 171.

by the Prosecutor. My reading of the evidence shows that Charles Blé Goudé's role evolved considerably throughout the 2010-2011 post-electoral crisis. Most crucially, based on an assessment of the totality of the evidence, Charles Blé Goudé's conduct cannot be linked to the crimes committed by the "pro-Gbagbo forces" in their entirety. Rather, his involvement can only be linked to a fraction of the "pro-Gbagbo forces", namely the pro-Gbagbo youth, mercenaries and militias. Consequently, I do not believe that there is enough evidence to attribute criminal responsibility to Charles Blé Goudé for the crimes committed by the *Forces de Défense et de Sécurité* ("FDS"), comprising mainly the National Armed Forces of Côte d'Ivoire, the Gendarmerie, the Republican Guard, the Security Operations Command Centre and the Police.

4. As a result, it remains an unsupported allegation that Charles Blé Goudé can be linked to the commission of crimes in the course of the Third Incident and Fourth Incident which are, according to the Prosecutor, attributable to the FDS. The evidence does not provide any meaningful information as to Charles Blé Goudé's role or involvement in relation to these two incidents.
5. I now turn to the three points, as set out in paragraph 2, on which my disagreement with the Majority rests. The Prosecutor contends that Charles Blé Goudé be held liable as an indirect co-perpetrator under article 25(3)(a) of the Statute. I am mindful of the recent Appeals Chamber judgment in the case of the *Prosecutor v Thomas Lubanga Dyilo* ("*Lubanga Appeals Judgment*"), in particular its holdings as regards the concept of co-perpetration within the meaning of article 25(3)(a) of the Statute.² Even if I were to accept the concept of *indirect* co-perpetration under the Statute,³ and apply the principles

² Appeals Chamber, "[Judgment on the appeal of Mr Thomas Lubanga Dyilo against his conviction](#)", 1 December 2014, ICC-01/04-01/06-3121-Red, paras 459-473.

³ I note that the Appeals Chamber has not yet endorsed the notion of indirect co-perpetration. For the reasons I set out in previous opinions, I remain of the view that this notion is incompatible with

enunciated in the *Lubanga* Appeals Judgment as regards the co-perpetration component, including the normative assessment of the role of the suspect in the specific circumstances of the case, I would still consider the evidence in this case to be insufficient to confirm the charges on the basis of article 25(3)(a) of the Statute.

6. First, as I already noted in my dissenting opinion in the case of the *Prosecutor v Laurent Gbagbo* (“*Gbagbo Opinion*”),⁴ I am not persuaded by the available evidence that there are substantial grounds to believe that the alleged common plan to maintain Laurent Gbagbo in power, either explicitly or implicitly, involved the commission of crimes against civilians perceived to be supporters of Alassane Ouattara. Even if one accepts the existence of a common plan, I do not find sufficient evidence to confirm that Charles Blé Goudé was part of the inner circle, devising or agreeing to any common plan. The fact that Charles Blé Goudé was close to Laurent Gbagbo and had contact with some high commanders of the FDS at the time does not, in my view, make him part of the common plan, as portrayed by the Prosecutor and accepted by the Majority.
7. Second, I find no support in the evidence for the allegation that Charles Blé Goudé had control over or was in a position to frustrate the commission of the crimes by a conglomerate of actors, the so-called “pro-Gbagbo forces”, by

article 25(3)(a) of the Statute, see Trial Chamber II, “[Judgment pursuant to Article 74 of the Statute – Concurring Opinion of Judge Christine Van den Wyngaert](#)”, 18 December 2012, ICC-01/04-02/12-4; and Trial Chamber II, “[Minority Opinion of Judge Christine Van den Wyngaert](#)”, 7 March 2014, ICC-01/04-01/07-3436-AnxI. This does not exclude the possibility that Charles Blé Goudé and others could have jointly committed certain crimes through other persons whose will they jointly subjugated. However, this presupposes, in my view, that the Prosecutor shows, for each of the alleged incidents, how the indirect perpetrators subjugated the will of the relevant physical perpetrators. A reference to the position of authority of the suspect over the pro-Gbagbo youth, links with militias and mercenaries, and contacts with individual commanders of the FDS falls short in this regard.

⁴ Pre-Trial Chamber I, “[Dissenting Opinion of Judge Christine Van den Wyngaert](#)”, 12 June 2014, ICC-02/11-01/11-656-Anx, annexed to Pre-Trial Chamber I, “[Decision on the confirmation of charges against Laurent Gbagbo](#)”, 12 June 2014, ICC-02/11-01/11-656-Red.

virtue of an *essential* contribution.⁵ In fact, the evidence does not show that Charles Blé Goudé was at the appropriate level to control or frustrate the commission of the crimes committed by the “pro-Gbagbo forces”. At best, Charles Blé Goudé can be seen to have contributed to crimes committed by the pro-Gbagbo youth, mercenaries and militias.⁶ The available evidence does not show that Charles Blé Goudé had authority or powers over the FDS.⁷ Moreover, in my view, there is no specific evidence of any order/instruction or other contribution emanating from Charles Blé Goudé to this effect, nor can such an order/instruction or other contribution be inferred from the available evidence.

⁵ The evidence does not sufficiently show that the implementation of the common plan would not have been possible without Charles Blé Goudé’s contribution to the crimes charged. I do not believe that the relevant contributions were of such nature that the crimes could not have been committed in the absence thereof. For example, with regard to the allegation of Charles Blé Goudé’s contribution to the recruitment of new elements into the FDS, I do not believe that the evidence on the alleged “*contingent Blé Goudé*” that was created in 2003, *i.e.* well before the alleged common plan was formed, can be taken into consideration (Confirmation Decision, para. 80) without sufficient evidence about the role of this contingent during the 2010-2011 post-electoral crisis. Concerning the allegation that members of Charles Blé Goudé’s personal guard participated in training (Confirmation Decision, para. 81), the evidence does not demonstrate any obvious link to the alleged crimes against civilians. Another example is that the available evidence regarding the financing of militias can hardly be considered as an *essential* contribution, even if it was accepted that money was given for the purpose of the implementation of the common plan. More specifically, with regard to the allegation of money paid by Charles Blé Goudé to Maguy le Tocard (Confirmation Decision, para. 84), the evidence also indicates that the payment was made to reimburse the latter for speaking at “*parlements*”. Regarding the allegation of a payment made to a member of a FDS unit (Confirmation Decision, para. 85), the evidence does not allow inferring that this payment was given to the militia of Maguy le Tocard and for the purpose of committing crimes against civilians.

⁶ Notwithstanding other evidence on Charles Blé Goudé’s contribution to the distribution of weapons and the recruitment into and supplying of militias (Confirmation Decision, paras 76, and 82-85), I do not consider the evidence on Charles Blé Goudé’s contribution to the training of militias to be sufficient. I do not believe it is possible to find corroboration for the evidence linking Charles Blé Goudé to the training of militia before the election (see Confirmation Decision, footnote 251).

⁷ The Prosecutor seems to share this view: “Mr Blé Goudé was in a position of authority over the pro-Gbagbo youth. He was not in the same position of authority over other components of the pro-Gbagbo forces”, see Pre-Trial Chamber I, [Transcript of Hearing](#), 29 September 2014, ICC-02/11-02/11-T-5-Red, p. 71, lines 14-16. Even though the Prosecutor made this statement in the context of the discussion on “ordering” within the meaning of article 25(3)(b) of the Statute, this factual assessment must have a bearing on the legal assessment of all other modes of liability under article 25(3) of the Statute.

8. In this regard, I note that the Appeals Chamber appears to have endorsed that liability under article 25(3)(a) of the Statute requires a contribution to the “crime”, rather than a contribution to a common “plan”.⁸ In the context of discussing co-perpetration within the meaning of article 25(3)(a) of the Statute, the Appeals Chamber explained that: (i) “it is indeed appropriate to distinguish between liability as a perpetrator and as an accessory primarily based on the objective criterion of the accused person’s extent of contribution *to the crime*”; and (ii) “the blameworthiness of the person is directly dependent on the extent to which the person *actually contributed to the crime in question*”.⁹ The Appeals Chamber ultimately held that, when considering co-perpetration within the meaning of article 25(3)(a) of the Statute, Chambers must conduct an “evaluation of whether the accused had *control over the crime*, by virtue of his or her essential contribution *to it* and the resulting power to frustrate *its* commission”.¹⁰ Following the Appeals Chamber’s direction, my assessment of the evidence is that Charles Blé Goudé’s contribution *to the crimes charged* is not essential for article 25(3)(a) (indirect) co-perpetration liability.
9. I am therefore unable to consider Charles Blé Goudé as an indirect co-perpetrator, as alleged by the Prosecutor, within the meaning of article 25(3)(a) of the Statute and could not confirm the charges on that basis, even if I believed this form of criminal responsibility existed under the Statute.
10. The Prosecutor also alleges that Charles Blé Goudé is criminally responsible for having contributed in any other way to the commission of the crimes “by a group of persons acting with a common purpose” pursuant to article 25(3)(d) of the Statute. I understand the Document Containing the Charges (“DCC”) to

⁸ I have made the same point previously, see Trial Chamber II, “[Judgment pursuant to Article 74 of the Statute – Concurring Opinion of Judge Christine Van den Wyngaert](#)”, 18 December 2012, ICC-01/04-02/12-4, paras 34-35.

⁹ [Lubanga Appeals Judgment](#), para. 468 (emphasis added).

¹⁰ [Lubanga Appeals Judgment](#), para. 473 (emphasis added).

mean that such group consisted of the “pro-Gbagbo forces”. For the same reasons I developed previously in my *Gbagbo* Opinion, I cannot join my colleagues in confirming the charges under the mode of liability of article 25(3)(d) of the Statute.¹¹ Also in this case, the Prosecutor does not point to any specific evidence concerning the outline and composition of the alleged “group acting with a common purpose”.¹² Moreover, I do not think the evidence shows substantial grounds to believe that the physical perpetrators constituted one or more groups acting with a common purpose, because there is no evidence of a mutual agreement to commit crimes between them.

11. Accordingly, I am not in a position to confirm the charges under article 25(3)(d) of the Statute.

12. Before addressing my third point, I would like to observe the following. As regards the charges under article 25(3)(b) and (c) of the Statute, I am willing to confirm on this basis for the First Incident, Second Incident and Fifth Incident, despite having some doubts about whether there is enough evidence to satisfy the mental elements of these forms of criminal responsibility. In particular, I am not entirely convinced that there is sufficient evidence to show that it was virtually certain that Charles Blé Goudé’s conduct in relation to these three incidents had a direct effect on the physical perpetrators, as is required under articles 25(3)(b) and 30 of the Statute. I am also not entirely persuaded that the evidence demonstrates that Charles Blé Goudé made any contributions to the crimes committed during the First Incident, Second

¹¹ [Gbagbo Opinion](#), ICC-02/11-01/11-656-Anx, paras 8-10.

¹² The Prosecutor appears to consider *all* FDS members, *all* mercenaries, *all* militia members and *all* youth group members as constituting one large “group acting with a common purpose”. I repeat that such a position would lump together large numbers of individuals (many of whom defected during the crisis) who never intended to commit nor committed any crimes against civilians with a relatively small number of physical perpetrators.

Incident and Fifth Incident with the purpose of facilitating their commission, as is required by article 25(3)(c) of the Statute. However, as these questions depend almost entirely on circumstantial evidence, which can be best elicited at trial, I believe it is better to leave these matters to be resolved by the Trial Chamber.

13. Lastly, while I agree that there is sufficient evidence to warrant confirming the charges holding Charles Blé Goudé liable under article 25(3)(c) of the Statute for the commission of crimes in relation to the First Incident, Second Incident and Fifth Incident, I am unable to confirm those charges in relation to the Third Incident and Fourth Incident,¹³ for the reasons given above in paragraph 4.
14. In sum, although the evidence presented is rather thin, I agree with the Majority in part and find that the criminal responsibility of Charles Blé Goudé is best captured under the modes of liability foreseen in article 25(3)(b) and (c) of the Statute.



Judge Christine Van den Wyngaert

Dated this Thursday, 11 December 2014

At The Hague, The Netherlands

¹³ Confirmation Decision, para. 171.