

1 International Criminal Court
2 Trial Chamber I
3 Situation: Republic of Côte d'Ivoire
4 In the case of The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé
5 ICC-02/11-01/15
6 Presiding Judge Cuno Tarfusser, Judge Olga Herrera Carbuccion and
7 Judge Geoffrey Henderson
8 Status Conference - Courtroom 1
9 Thursday, 22 November 2018
10 (The hearing starts in open session at 9.33 a.m.)
11 THE COURT USHER: [9:33:34] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE TARFUSSER: [9:33:55] Good morning. Good morning to
15 everybody in the courtroom and the public gallery.
16 Mr Knoops, I think I leave it to you, I think it's Maître Zokou whose turn it is for this
17 morning. But I give you the floor to tell me what your road map is.
18 MR KNOOPS: [9:34:27] Thank you, Mr President. Yes, thank you, Mr President,
19 your Honours.
20 Mr Zokou will address the final point of our submissions in about 30, 35 minutes,
21 after which I will conclude our submissions, and then we hope for a decision of the
22 Court to have Mr Blé Goudé either allowed or not allowed to give his unsworn
23 statement.
24 So Mr Zokou will, with your leave, take the floor.
25 PRESIDING JUDGE TARFUSSER: [9:34:59] Okay. Fine, Mr Zokou, Maître Zokou.

1 MR KNOOPS: [9:35:03] And he will address, Mr President, the topic which was
2 announced yesterday, the speeches of Mr Blé Goudé during the post-electoral crisis
3 with several examples. Thank you.

4 PRESIDING JUDGE TARFUSSER: [9:35:15] Maître Zokou, (Interpretation) you have
5 the floor.

6 MR ZOKOU: [9:35:30] (Interpretation) "The world is miserable because people do
7 not remember, and yet, yesterday is not yet far away and tomorrow is deep, a depth
8 that is full of hope. Listen to my words: they can only advance. Listen to my words:
9 history is truth."

10 Your Honours, these powerful words come from a book, Soundjata, Lion of the
11 Mandingue. The author of that epic book of African history is an African writer and
12 historian. He is in this room, and that historian is Laurent Gbagbo, Professor
13 Laurent Gbagbo.

14 Your Honours, this quotation seemed to me to be appropriate to begin my
15 presentation, because it takes us into the very core of the subject for which we are
16 here, that is words, the speeches of a man, Charles Blé Goudé, confronted in the
17 mirror of history, truth and justice.

18 Your Honours, in fact, when, like Charles Blé Goudé, we took the oath to exercise this
19 domain of speeches in order to transform one's period or era, one cannot be surprised
20 for those speeches to be scrutinised, analysed and even criticized. And Charles Blé
21 Goudé willingly accepts this.

22 However, your Honours, what is not quite admissible or acceptable is when the
23 speeches of Charles Blé Goudé, which are known and very widely known and which
24 are even in the possession of his accuser, how could these speeches have been hidden
25 from you? Sealed away from you in this Chamber and from the world; whereas, the

1 Prosecutor had announced a great deal of evidence?

2 Quite fortunately, Charles Blé Goudé for his part has nothing to hide. And this is
3 why, even though he was not compelled to do it, he expressed the wish before your
4 Chamber and for history to submit to your wisdom his speeches as bare as they were;
5 not to say in all their splendour as a witness said.

6 We are doing that so that nothing should be hidden which should be open. There
7 should be no secrets that should be made known. Nobody should remain ignorant,
8 and as the quote said: "Yesterday is not yet far away," and we cannot accept that the
9 recent history of Côte d'Ivoire and Charles Blé Goudé should be distorted.

10 So, your Honours, following the presentation done yesterday by my learned
11 colleague, Maître Kadji, I would like to submit to your Chamber other speeches made
12 by Charles Blé Goudé, but this time speeches that he made during the post-election
13 crisis.

14 Your Honours, we are going to start by showing you that it was from the very outset
15 of the post-election crisis that Charles Blé Goudé displayed this consistent attitude
16 and which he kept to the very end, and to do that, I would like to call up one first
17 video, which is CIV-OTP-0061-0535, and the time code is 18.43 to 19.14. And this is
18 evidence disclosed by the Prosecution.

19 (Viewing of the video excerpt)

20 THE INTERPRETER: [9:41:41] Sight translation by the interpreter: (Interpretation
21 of the video excerpt)

22 "I would like to ask you to continue to remain calm, to remain disciplined, because for
23 us it is out of the question for young Ivorians to go and attack other Ivorians. I do
24 not have the power and I will never have the power to issue a *mot d'ordre* to a young
25 Ivorian to go and attack another one. I do not know what our country might gain

1 from that and it is for that reason that we will never cease to call for calm and to call
2 for discipline."

3 MR ZOKOU: [9:42:26] (Interpretation) Your Honours, the person who has just
4 spoken before you is none other than Mr Charles Blé Goudé of course. And when
5 was this? During the very first days following the presidential election, and this was
6 on 6 December 2010. And why? Because he realised that the atmosphere was tense.
7 The situation was a risk of violence and this especially with the violence that had been
8 noticed in the CNO zones, centre, north, west occupied by the rebellion, and in other
9 Côte d'Ivoire towns such as Sinfra, Issia and others. And people were attacking the
10 supporters of the presidential majority.

11 And what did he do? He made a speech calling for calm, as you have just heard.

12 He called on all young people to be calm.

13 Your Honours, Charles Blé Goudé did not stop there, so let us continue to listen to
14 him from the same Prosecution video. But the timestamp here is 19.52 to 20.38.

15 (Viewing of the video excerpt)

16 THE INTERPRETER: [9:44:26] (Interpretation of the video excerpt)

17 In any case I would like to reassure you that we will do anything possible to ensure
18 that our country does not slump into violence, because you remember Rwanda, you
19 remember Liberia, you letter the countries that plunged into inter-ethnic violence. I
20 do not believe that that was good for Africa. It is because of that that we should
21 serve as examples. We should act in such a way that this will not happen in our
22 country, a political problem has to be resolved within a political framework. I do not
23 know what we will gain by going into someone's home to attack that person and then
24 later on that person and his or her relatives and loved ones would go to another
25 individual's home and attack them. Côte d'Ivoire will lose a lot of things in so doing.

1 I think that we have suffered too much together and we need to learn the lessons
2 from this war. End of quote.

3 MR ZOKOU: [9:45:47] (Interpretation) Your Honours, I do not want to speak at
4 length to carry out a lengthy analysis, but we have to say here that Charles Blé Goudé
5 did not deviate from his path. He referred to the past, to the tragedies experienced
6 by other African countries so that that should serve as a compass to guide Côte
7 d'Ivoire away from a similar fate, contrary to what people would have us believe.
8 He did not try in any way to replicate those events.

9 On the contrary, he tried to ensure that this should be avoided in Côte d'Ivoire. He
10 wanted us to draw or learn the lessons of history in order to build the future, a better
11 future. That is what Charles Blé Goudé was saying. And when he said that he was
12 repeating the words of former wise, other previous wise people, the legendary *griot*
13 such as Djeli Mamadou Kouyaté, who was mentioned by Djibril Tamsir Niane, he
14 said, "The world is old but the future comes from the past." And the recent past of
15 Charles Blé Goudé in that past, there was terrible tragedy in Liberia and Sierra Leone
16 and this led to horrible consequences that were a burden on that generation. That
17 was his obsession, the fate that he wanted to prevent from happening in his country.
18 So is this that wisdom that the Prosecutor wishes to reproach him for?

19 Mr Blé Goudé has said it emphatically, "We will do everything possible so that our
20 country should not plunge into violence." One cannot be any more clear in a call to
21 calm and non-violence.

22 Your Honours, you do also recall that Mr Charles Blé Goudé was on several occasions
23 accused of using his speeches to target foreigners, that he used xenophobic speeches,
24 and we have dealt with these issues in our written submissions. Charles Blé Goudé
25 was specifically accused of being anti-French and for attacking France and the French.

1 So please allow me to look into this issue and we will try to prove to you the contrary
2 by presenting to you the following video, CIV-OTP-0061-0581, beginning with the
3 first part, time code 00.19.41 to 00.20.26.

4 (Viewing of the video excerpt)

5 THE INTERPRETER: [9:50:03] (Interpretation of the video excerpt)

6 I would like to call on the French nationals living in Côte d'Ivoire once again.
7 Yesterday we heard that the French government was asking citizens living in Côte
8 d'Ivoire to return home. Here if it is because of us, I would like to say that we do not
9 have any problem with the French living in Côte d'Ivoire. We do not have any
10 intention of attacking whosoever, that should be clear. The information that is being
11 circulated and which indicates that the young people of Côte d'Ivoire are preparing to
12 attack French people is not founded at all. End of quote.

13 MR ZOKOU: [9:50:50] (Interpretation) Your Honours, these words are crystal clear
14 and we cannot add anything to them, except to tell you that at the same time Charles
15 Blé Goudé did not fail to issue another call relating to the people who were
16 supporters of Mr Ouattara. He was accused of targeting them, and he also
17 addressed African populations living in Côte d'Ivoire, because the Prosecution has
18 accused Charles Blé Goudé of targeting them. And this same video can be played
19 from 00.20.58 to 00.21.47.

20 (Viewing of the video excerpt)

21 THE INTERPRETER: [9:52:03] (Interpretation of the video excerpt)

22 In either case, no Ivorians close to Mr Gbagbo are preparing to attack Ivorians close to
23 Mr Ouattara because we know that it is the same scenario. They will bring us to
24 attack each other, and once the civil war begins the planes will land and evacuate
25 their citizens, they will be gone and we will remain here. Therefore, I launch an

1 appeal to all Ivorians living on this land, I launch an appeal to all Africans once again
2 to learn the lesson from the rest of the world. We want to give a lesson to the rest of
3 the world. We should avoid attacking each other and we should show in our
4 movements who has the majority with him. That is what real democracy should be
5 all about. We in the towns should refrain from attacking each other. It will be a
6 shame for Africa.

7 MR ZOKOU: [9:53:18] (Interpretation) Your Honours, I would like to remind you
8 once again that these speeches of Mr Charles Blé Goudé are part of the evidence of the
9 Prosecution, which they never wanted to show to you, and yet this umpteenth speech
10 of Charles Blé Goudé that we have presented to you shows that he relentlessly tried
11 to prevent potential violence, given that there were those people in the opposite camp
12 who were calling for the use of force, military force to solve an electoral dispute and
13 Mr Charles Blé Goudé was the one who several times said that this was not his policy.
14 He already made these speeches to the French people in Côte d'Ivoire that he was
15 never targeting French citizens, contrary to what the Prosecutor would want to have
16 us believe. Charles Blé Goudé insisted because he was tarnished in relation to his so
17 called anti-French attitude. But criticising the policy of a State which is interfering in
18 his country in an internal crisis, how can this be referred to as xenophobia? Charles
19 Blé Goudé made that call that you have just heard. He said, "Let us avoid attacking
20 each other" and then he says that for Africa, it will be a shame to do that.

21 I do not have anything else to add to such a speech, despite the tensions in Côte
22 d'Ivoire at that time. So there was a difficult climate that was provoked by threats of
23 foreign intervention, and despite that, Mr Charles Blé Goudé kept his lucidity and he
24 kept his commitment and such commitment does not need any further comments,
25 your Honours.

1 THE INTERPRETER: [9:56:37] From the interpreters, if Mr Zokou could be asked to
2 slow down, please.

3 MR ZOKOU: [9:56:45] (Interpretation) Your Honours, Charles Blé Goudé did not
4 stop there. There is more. Charles Blé Goudé, who was also being accused of
5 inciting people to violence and that he did nothing to prevent or stop that violence,
6 the same Charles Blé Goudé never hesitated to postpone at one point in his public
7 actions - and in fact that was not the first time, we are going to give you one
8 example - he did not hesitate to postpone a rally, a rally which had almost been
9 completely organised at the place de la République. And why did he do that, the
10 so-called belligerent violent Charles Blé Goudé?
11 It is because during that period, on the same date on which he wanted to organise
12 that rally, that is 29 December, the young people of the RHDP, which were the
13 opposition at that time, in an act of provocation had decided to come and
14 demonstrate at the same location, at the same place, at the same time together, but the
15 reality is that they wanted to provoke a confrontation. And given the risks created
16 by this provocation, Charles Blé Goudé preferred to call off his rally, to postpone it.
17 Now let us listen to Charles Blé Goudé. And I would like to call up video
18 CIV-OTP-0061-0586. For the first part, time code 18.58 to 20.24.
19 Charles Blé Goudé was invited to the television news studio of the RTI, and this was
20 on 28 December.

21 (Viewing of the video excerpt)

22 THE INTERPRETER: [9:59:41] (Interpretation) We called for a great demonstration
23 tomorrow, for the respect of our laws, for the respect of our constitution, for the
24 sovereignty of our country but also for the dignity of Africa.
25 Shortly after that call we heard in the media that other young people of the RHDP

1 were planning to demonstrate at the same location, on the same date and with us and
2 they said they were coming to accompany us. So what I wanted to tell my young
3 friends reminds me of the history of King Solomon, where two women claimed to be
4 the mothers of a single child and the king advised that the child should be cut in two.
5 The woman who was not the mother of the child was in favour of that solution, but
6 the true mother of the child said no, that child should be left alone. I do not want
7 Ivorians to celebrate in blood. I refuse that young Ivorians should confront other
8 young Ivorians. But why?

9 Because those who are pushing them will, to confront each other, they will come here
10 with planes and evacuate their nationals and they will go away. I cannot accept that.
11 And that is the reason why I am in this studio today, to tell the young people that it is
12 not a date that mobilises, it is a cause that mobilises. End of quote.

13 MR ZOKOU: [10:01:48] (Interpretation) Your Honours, after this postponement
14 was announced during the same interview, you will see that the journalist described
15 this call for calm issued by Charles Blé Goudé as a step backwards, and the journalist
16 stressed this point. All the same, Charles Blé Goudé once again remained faithful to
17 his own principles and remained steadfast.

18 I would like for us to listen to his words once again.

19 And these are the remarks he made, from timestamp 20.48 to 21.25 from the same
20 video footage.

21 (Viewing of the video excerpt)

22 THE INTERPRETER: [10:02:49] (Interpretation) Sight translation:

23 Journalist: This postponement, aren't you stepping backwards?

24 Charles Blé Goudé: No, no, no, I'm not talking about taking a step backwards. You
25 know, politics is something for men, you do it with men. It's not with dead bodies.

1 Some people boast and brag because they say, oh, there were a certain number of
2 deaths, 20 deaths, 100 deaths, 200 deaths, and they seem to derive some pleasure by
3 calling the foreign press and giving a death count. I am not in favour of that. That
4 is why this is not a step backwards. I am not showing a sign of weakness, because in
5 the final analysis I want the people of Côte d'Ivoire to live. In the final analysis I
6 want my country to be respected.

7 MR ZOKOU: [10:03:54] (Interpretation) Your Honours, once things are clear, I
8 don't think you need to interpret them further; or if you are to interpret them, it is to
9 set the record straight and come to the truth.

10 What Mr Charles Blé Goudé has just said is so clear that I bow to the Chamber, and I
11 think you will come to a different assessment than that of the Prosecution.

12 Your Honours, after demonstrating to you that Charles Blé Goudé remained steadfast,
13 constant, right from the very beginning of the election crisis and throughout the
14 course of this crisis, we now come to the summit of the crisis and almost the end.

15 And what do we see?

16 Even during those moments, Charles Blé Goudé remained faithful to his principles, as
17 I have mentioned earlier. This was seen in particular when you look at the message
18 that Charles Blé Goudé provided regarding the call to join the national forces. And
19 the Prosecution tried to make out that this call to arms was something that triggered
20 the violence or stepped up the violence against civilians; whereas, in actual fact, in no
21 way was this a departure from Charles Blé Goudé's philosophy or his political
22 approach, his approach of the fight with bare hands.

23 On the contrary, as you will see, Charles Blé Goudé grasped this opportunity and
24 many others to once again call for non-violence. And we have proof that this call
25 did not change his fight, his struggle in any way. Charles Blé Goudé will take the

1 trouble to remind you of the meaning. Charles Blé Goudé was a teacher, so to speak.

2 He took the time and he explained what he meant when he issued this call. He

3 spoke to the very essence of this call.

4 And thus, that very evening, the very evening of that call when he was asked to give

5 an interview to the RTI, right in the very midst of the struggle, Charles Blé Goudé

6 reminded the viewers that this was a call for those who wanted to join the army of

7 Côte d'Ivoire. He reminded them that there was a legal path towards joining the

8 army, a legal challenge.

9 What could be more in keeping with the law than such a message, particularly since

10 the message, which once again was entirely in keeping with this principle of the

11 struggle, the fight bare hands, what could be more in keeping with this than the

12 remarks Charles Blé Goudé so powerfully made?

13 He said, and I quote, "I do not want weapons to be distributed in the

14 neighbourhoods."

15 What is more, and I am particularly struck by the consistency, the consistent approach.

16 At the same time, the same opportunity, Charles Blé Goudé called once again for a

17 peaceful solution, and once again he reaffirmed his commitment to non-violence as a

18 mode of action.

19 Your Honours, Mr Charles Blé Goudé speaks to us, to you, to your Chamber in this

20 footage that we will now play, CIV-D25-0002-0033.

21 (Viewing of the video excerpt)

22 THE INTERPRETER: [10:09:31] (Interpretation) Sight translation:

23 Journalist: So just to talk about the current events of the day, you have issued

24 several *mots d'ordres* instructions, Mr Charles Blé Goudé, ever since the second round

25 of voting. And then this last *mot d'ordre*, you are calling upon young people to enrol

1 in the army. What is so special about this instruction? What has changed on the
2 ground?

3 Mr Charles Blé Goudé gives this answer: I would like to tell you that here we are
4 making a distinction, a distinction between the methods of our opponents and our
5 own methods. You see, to defend a nation, when you want to take up a weapon,
6 you have to have the right to that weapon, you have to be entitled to that weapon.
7 That means you are a police officer, or you are a gendarme, or you are a soldier.
8 But in a country that you want to lead, one cannot just hand out weapons to civilians,
9 who hide these weapons under their clothing and then go and shoot throughout the
10 entire country, who slit people's throats throughout the entire country. That is not
11 how Côte d'Ivoire is to be led.

12 That is why we, Young Patriots or the young -- inaudible -- all of those who burn with
13 the desire to liberate the country, to help take part in the liberation of their country,
14 they believe that they must take the military path, the legal path, go through the legal
15 channel, that is to say by joining the regular armed forces of Côte d'Ivoire.

16 Simply, that is why I call upon them to go to headquarters, to go see the chief of staff
17 and their team, find some way to enrol in the army of Côte d'Ivoire. That is a normal
18 thing in a country that is ruled, that is ruled by law. Otherwise, people who want to
19 turn Côte d'Ivoire into Rwanda, I say to those people: I don't want civil war in this
20 country. I don't want civil war in this country, because you will not find a country
21 where there are pro-Ouattara people and pro-Gbagbo people disappear, as you will
22 never find a country with pro-Gbagbo forces who do away with pro-Ouattara people.
23 That does not exist, because I am convinced, and this is very important then, that the
24 Ivorian crisis will be solved by the political stakeholders in Côte d'Ivoire.

25 I am sure that one day President Gbagbo, Mr Ouattara, Mr Bédié will ultimately sit

1 down, and I call upon them to do that. I call for dialogue amongst the various
2 parties within Côte d'Ivoire.

3 MR ZOKOU: [10:12:37] (Interpretation) Your Honours, the statement that you have
4 just heard, the statement made by Charles Blé Goudé, this statement was made on 20
5 March 2011, 20 March 2011. During this time, it was allegedly a period when
6 Mr Blé Goudé did not call for calm, according to the Prosecutor. The Prosecutor
7 arbitrarily set a particular time frame, 24 January, 24 March, I believe. We don't
8 know exactly what he based himself on to set this particular time frame, and said that
9 during that period of time Mr Charles Blé Goudé no longer was calling, was no longer
10 calling for violence and that it was the end of the struggle with bare hands.

11 But you have just heard what Charles Blé Goudé said. You have just heard his very
12 words, except there is one thing. Perhaps you wonder, perhaps I wonder, perhaps
13 we all wonder, in the very middle of an election crisis in Côte d'Ivoire, what could be
14 stronger than this call for a national political dialogue, this call, this call to avoid
15 division within Côte d'Ivoire with only Ouattara supporters, after doing away with
16 Gbagbo supporters, after doing away with Ouattara supporters? Perhaps that was
17 the Côte d'Ivoire that some people dreamt of, but that was not the dream of Charles
18 Blé Goudé.

19 And when Charles Blé Goudé said, when he said on 20 March -- he did not say that
20 just for the sake of the cause. And when we say this before this bench, after hearing
21 from Mr N'Dry, who spoke yesterday to a similar speech, the same kind of speech
22 given, given on 4 March, 4 March 2011, what do we see? Mr Charles Blé Goudé
23 stuck to his commitment. He did not waver. And we shall conclude by submitting
24 his final message to you, since after the speech that we have just heard, later on he
25 went on to show just how proactive he was, how active he was, and that is where the

1 Prosecution levels accusations saying that Charles Blé Goudé did nothing to put an
2 end to the violence, the violence that he was not responsible for, I reiterate.

3 This is the Charles Blé Goudé that you will now hear once again calling for an end to
4 violence, this violence that some people wanted. He issued this call and I will, in a
5 few moments, play some footage; namely, CIV-OTP-0043-0269 -- counsel corrects, 269,
6 time code 01.16 to 02.20.

7 (Viewing of the video excerpt)

8 THE INTERPRETER: [10:18:04] (Interpretation of the video excerpt)

9 I think that the Côte d'Ivoire that we want to lead is not that one. That is why I am
10 calling upon our leaders to look to their own conscience. I am convinced that sooner
11 or later they will ultimately sit down together. But sitting down and engaging in
12 dialogue after the war? I think it is better that we sit down before the war. Do you
13 see what I am driving at?

14 I am -- I have faith that all of those who come here, they will try, these people are
15 trying to gain a reputation for themselves, but to the detriment of Côte d'Ivoire, a
16 reputation for themselves within Côte d'Ivoire.

17 But we, the people of Côte d'Ivoire, what do we want? That is why I am calling for
18 an immediate halt to violence in the neighbourhoods. One ethnic group pitted
19 against another: RHDP against LMP. None of that does honour to Côte d'Ivoire.
20 Today, when we talk about Côte d'Ivoire, people's image is one of war. I am asking
21 for forgiveness.

22 The journalist then says: A very bleak picture.

23 Charles Blé Goudé: And I, I would like us to move beyond our passion so that we
24 can sit down and talk to one another. I want the violence to end in the
25 neighbourhoods. The violence has to end in the towns and cities. I think that this

1 is still possible but, well, you see, for the position of president, how many thousand
2 citizens of Côte d'Ivoire will die?

3 MR ZOKOU: [10:20:00] (Interpretation) Your Honours, we have just played five
4 pieces of video footage, five examples of the speeches given by Mr Charles Blé Goudé
5 under different circumstances, different contexts, different places. These speeches
6 are brilliant. They all shine. And why? Because there is one common theme;
7 namely, the commitment of Charles Blé Goudé to a fight, above all and exclusively, a
8 democratic fight, a democratic struggle to defend the institutions of the republic and
9 the values of peace and social cohesion because, let us not forget, the demonstrations
10 organised by Charles Blé Goudé had a simple purpose; namely, to speak out against
11 the use of weapons and force as a way to gain power, because after all, this is what it
12 is all about. Let us not lose sight of this. We have learned from history, from other
13 countries. Some people have become heroes. They are celebrated, they are called
14 resistance fighters. For example, you go to France and you speak of Guy Môquet,
15 Colonel Fabien, young Frenchmen who were not soldiers, but who took up weapons
16 to defend their motherland.

17 Yet, Charles Blé Goudé has only used his powers of oratory and quite knowingly so.
18 And what does he get in return? He is deemed to be a criminal, a criminal that he is
19 not and which he has never been.

20 Your Honours, we have explored the logos of Charles Blé Goudé. Yes, the logos.
21 The thoughts, the reasoning of Mr Charles Blé Goudé, the logos, to demonstrate to
22 you indeed that under all circumstances, Charles Blé Goudé was guided by reason to
23 find the truth, to hit upon the truth and to help you discover the true Charles Blé
24 Goudé, the Charles Blé Goudé of those years of hope, the man I knew during those
25 years of hope at the *lycée* more than 30 years ago, when we could not even dream that

1 one day someone would take up weapons and rise up against Côte d'Ivoire.
2 Such a thing was inconceivable, that this man, who was first a union leader, would
3 one day find himself thousands of kilometres away from his country; the man who
4 went to Bouaké and sought out the rebel chiefs of the time, the leaders, and rubbed
5 shoulders with them, had them come back into the country, the nation. Colonel
6 Wattao, who still says today that he is the friend of Charles Blé Goudé. The man
7 who brought Siriki Konaté, a former member of FESCI in Yopougon, "Striker" was his
8 nickname.
9 All of these people at the time were members of the rebel forces. Soro Guillaume, he
10 went and reached out to Guillaume Soro in his village in Guibéroua; they travelled all
11 of Côte d'Ivoire to speak about forgiveness.
12 Your Honours, we are at the threshold, if not the end of my remarks, and I have
13 endeavoured to demonstrate to you that the Prosecution has got it all wrong. The
14 Prosecution is incorrect about Charles Blé Goudé, and I would urge, I call upon you
15 with all due respect, I, speaking after my learned colleagues, I call upon you to
16 disregard the conjecture, the vein of conjecture of the Prosecution who would have
17 you return a finding of guilt of a man because of his apparent abilities as a speaker, a
18 public speaker, thus hiding his true intentions.
19 All in all, Charles Blé Goudé is a talented man, a charismatic man. Too talented, too
20 charismatic. He is guilty of the sin of being charismatic.
21 No, I say no. The legal threshold, and I will certainly not remind you of it, but the
22 legal threshold that we all know here in this courtroom, and we have said this during
23 the opening remarks, the threshold is not one of guesswork. No, no. You are not
24 soothsayers, you are not fortune tellers, you do not peer into crystal balls.
25 We are defending Charles Blé Goudé. And, believe me, your Honours, our defence

1 of Charles Blé Goudé, we are not trying to say that our man, our client is a perfect
2 man or a saint. This is not a process of canonisation. However, Charles Blé Goudé
3 is not, is not a devil. He is not someone who should be wearing a strait jacket. We
4 are saying that we have seen the Prosecution at work, and at times - I shall not
5 conceal this from you - sometimes we had the fear that all of a sudden in this
6 courtroom we would see once again Tomas de Torquemada, the great inquisitor of
7 the Spanish Crown of the 15th century.

8 Most fortunately, what is before this Chamber is not a sorcery trial. And thus we
9 hope that Mr Charles Blé Goudé can escape from these comparisons to
10 Mephistopheles that have been made by the Prosecution.

11 With all due respect, on behalf of Charles Blé Goudé, in the name of justice, in the
12 name of truth, please disregard the wishful thinking and the self-suggestions of the
13 Prosecution so that Charles Blé Goudé should be heard and should be acquitted on
14 behalf of truth, on behalf of justice, peace and the reconciliation that he has worked so
15 hard to achieve in fair times, in foul weather, throughout all of Côte d'Ivoire, from the
16 north to the south, the centre. He has gone to the mosques, to the churches and he
17 has preached harmony amongst communities.

18 Your Honours, allow Mr Charles Blé Goudé to return to his mission, his work with
19 his brothers and sisters in Côte d'Ivoire of all backgrounds.

20 Thus, your Honours, I thank you. And these conclude my pleadings on behalf of Mr
21 Charles Blé Goudé.

22 PRESIDING JUDGE TARFUSSER: [10:31:10] Thank you very much.

23 I give back the floor to Mr Knoops.

24 MR KNOOPS: [10:31:39] Your Honours, before I close the Defence submissions, on
25 behalf of Charles Blé Goudé's Defence team, I'm obliged to provide first the Chamber

1 with an important reference which was omitted to be given by the Defence.

2 During the submissions of Mr N'Dry on Tuesday, he referred to, as your Honours

3 might remember, a witness from Doukouré, a witness who was speaking about

4 victims in the area of Yao Séhi. And Mr N'Dry referred to the existence of an

5 association of victims in Yao Séhi, yet he didn't refer to the Chamber the exact source,

6 which is in our submission quite important and that's why I am giving it now for the

7 transcript. The reference Mr N'Dry was mentioning should be the French version,

8 transcript page 149, page 66, lines 10 till 22. Thank you.

9 Mr President, your Honours, at the end of our oral submissions, there is nothing more

10 to say. Like Mr N'Dry yesterday said, everything is clear. There is nothing more to

11 say.

12 The person or the victim Mr N'Dry referred to yesterday in his closing remarks

13 referring to our opening speech was Rubin Carter. I mentioned him indeed in my

14 opening statement, the black boxer who was wrongfully convicted in the '80s in the

15 United States, also known under the name "The Hurricane".

16 Now, we referred in our opening statement to the legacy of Mr Carter. He died a

17 few years ago after wrongful incarceration of more than 20 years. And his legacy

18 was indeed that wrongful prosecutions might occur based on willful blindness,

19 preconceived theories leading to so-called tunnel vision.

20 What we didn't answer yet, why there might be a willful blindness in this system of

21 justice, why? And my answer is, Mr President, and certainly this is the lesson I

22 learned from this trial until so far: One is not willing to listen to the accused, we are

23 not able to listen to the accused once we have a theory, and that's why unfortunately

24 willful blindness might occur leading to wrongful prosecutions.

25 And we hope that the Chamber will listen to the evidence of the Defence and of the

1 accused.

2 Mr President, your Honours, the only justifiable outcome of these proceedings in our
3 submission could be that our motion is to be granted in full. And we pray the
4 Chamber to fully acquit Mr Charles Blé Goudé with the application of Article 81(3)(c)
5 of the Rome Statute.

6 Mr President, at the end of these proceedings, we wish to thank the Bench for the way
7 it directed these proceedings and also as lead counsel want to thank the Defence team
8 for its dedication and its endeavours in this truth-finding process. And I believe that
9 the Defence has established the truth through our submissions.

10 Finally, I thank the most important person in this courtroom, the defendant, for his
11 confidence he entrusted to this Defence team. Actually, Mr Blé Goudé always told
12 me that he put the fate of his life in the hands of this team. That is quite something.
13 Now the fate of his life is in your hands, and we fully trust that it's in the hands of
14 justice. Thank you.

15 That closes our submissions, Mr President. Thank you. And we again ask the
16 Chamber to consider authorising Mr Blé Goudé to speak for about 20 minutes to the
17 Chamber.

18 PRESIDING JUDGE TARFUSSER: [10:37:44] Thank you very much, Mr Knoops.

19 I will now read out the oral ruling on the request to give an unsworn oral statement
20 pursuant to Article 67(1)(h) of the Rome Statute.

21 The decision, by majority, reads as follows:

22 On 19 November 2018, the Defence for Mr Charles Blé Goudé filed a notice pursuant
23 to paragraph 7 of the amended and supplemented directions on the conduct of the
24 proceedings to express Mr Blé Goudé's intention to make an unsworn statement at the
25 end of his Defence submissions. I refer to filing number ICC-02/11-01/15-1223.

1 According to the Defence, this would be an exercise of Mr Blé Goudé's rights under
2 Article 67(1)(h) of the Rome Statute.

3 The Prosecutor filed a response to this notice on 20 November 2018 contending that it
4 would be improper and unnecessary for Mr Blé Goudé to make statements at this
5 stage of the proceedings. And I am referring to filing number 1224.

6 The Defence for Mr Gbagbo has not made any submissions in this regard, while the
7 representative of the victims supports the Prosecutor's position.

8 The Chamber notes that although Article 67(1)(h) of the Rome Statute gives accused
9 persons the right to make oral unsworn statements, this does not mean that the
10 accused have the right to be given the floor whenever they wish.

11 Moreover, Article 67(1)(h) provides the context in which this right arises, that is, the
12 right of the accused to speak specifically in his or her defence.

13 In accordance with the way in which the Chamber has organised these proceedings,
14 and I'm referring to the direction of the conduct of the proceedings of 4 May 2016, the
15 number is 498, the phase for the presentation of the evidence for the Defence has not
16 yet started.

17 On the contrary, the Chamber is currently seized of a request by the Defence which, if
18 accepted, would put an end to this trial precisely because the accused has nothing to
19 defend himself against.

20 Accordingly, the Chamber, by majority, the Presiding Judge dissenting, is of the view
21 that an unsworn oral statement by Mr Blé Goudé in his defence at this stage of the
22 proceedings is at odds with Article 67(1)(h) and would add little to the Chamber's
23 analysis of the evidence.

24 Mr Blé Goudé through this counsel and Defence team has been given ample
25 opportunity to make all the relevant submissions, and it would certainly not be

1 appropriate for the accused to make additional factual submissions at this stage.

2 For these reasons, the Chamber, by majority, Presiding Judge dissenting, refuses to
3 grant authorisation for Mr Blé Goudé to make an unsworn oral statement in reply to
4 the Prosecutor's response as part of his no case to answer motion.

5 The dissenting opinion of the Presiding Judge reads as follows:

6 I strongly disagree from the Majority's decision not to allow Mr Blé Goudé to make a
7 statement before the Chamber. It is my firm view that addressing his or her own
8 Judge is a fundamental, inalienable right of each accused.

9 The Chamber's discretion is strictly limited to identify the appropriate moment and
10 modalities of such statement and does not extend to the power to prevent such
11 statement from being given.

12 Otherwise stated, once the accused has expressed his or her wish to exercise this right,
13 it is for the Judges only to determine the *quando* and the *quo modo*, not the *an*.

14 Article 67 of the Statute under the heading "Rights of the accused" lists under letter (h)
15 the right to make "an unsworn oral or written statement in his or her defence" among
16 those defined by its chapeau as minimum guarantees, to which "the accused shall be
17 entitled".

18 The majority's argument that the wording of Article 67(1)(h) that the statement in
19 made "in his or her defence" temporarily circumscribes the exercise of the right to the
20 stage where the Defence presents its evidence is in my opinion too narrow and
21 therefore not acceptable to me because, far from setting temporal boundaries, it
22 simply limits the scope of such right which has to be exercised within the and in
23 adherence to the subject of the charges.

24 It is significant that the directions of the conduct of the proceedings unanimously
25 adopted by the Chamber - both those adopted in 2015 and those amended in

1 2016 - provide that, and I quote, "The Chamber will rule on the appropriate moment
2 and modalities" for the statement to be made by the accused. They do not
3 contemplate at all, and rightly so, the scenario whereby the Chamber could prevent
4 *tout court* the accused from making a statement. The provision that the intention to
5 exercise this right must be announced by way of "notice", as opposed to an
6 application or a request, further confirms this idea.

7 I am even less convinced by the Prosecutor's submission that the statement should not
8 be allowed because, and I quote:

9 "[a] no case to answer motion is a purely legal proceeding to be decided on the
10 evidence currently submitted on the record of the case."

11 Leaving aside my belief - well-known at this stage - that the notion, let alone a
12 procedure of no case to answer is extraneous to the statutory texts of the Court, I find
13 this an empty formula, as such unsuitable to become the basis of a denial of the right,
14 as simple in its essence, as categorically stated in the texts.

15 I am also surprised by the vehemence with which the Prosecutor objects to the
16 statement. In light of the duty and obligation to investigate with a view to
17 determining the truth, the Prosecutor should, in my view, rather welcome the fact
18 that an accused, that an accused chooses to bring his or her own perspective to the
19 events which are the subject matter of the charges brought against him or her.

20 Furthermore, the Prosecution and the Majority seem to entertain speculation as to the
21 supposed content and breadth that this statement, if allowed, would have:

22 The Prosecution, by going so far as to attach a recent newspaper article and thus
23 relying, once again, on little else than the *strepitus fori* to validate the substance of its
24 fears;

25 The Majority, in stating that, and I quote, "it would certainly not be appropriate for

1 the accused to make additional factual submissions at this stage".

2 Finally, as to the Prosecutor's observation that Mr Blé Goudé would always have the

3 possibility to make a statement at a later stage, if his request for acquittal is rejected, I

4 observe that, should it instead be granted, Mr Blé Goudé will have been deprived of

5 one of his minimal guaranteed rights, the right to address his Judges in his defence.

6 This, in my submission, amounts to a violation of a fundamental right of the accused.

7 This is the end of the dissenting opinion and of the oral decision by the Chamber.

8 Now, I think this concludes this phase of the proceedings.

9 I can say that the Chamber has now all elements to take a decision on the requests for

10 acquittal submitted by both defence teams of the defendants, and I can add that such

11 decision will be issued in due course and, obviously, as soon as possible.

12 It is to me now to thank everybody here, the Office of the Prosecutor, Legal

13 Representative of Victims, the parties, defence counsel for Mr Blé Goudé and for

14 Mr Gbagbo; to thank the interpreters and court reporters, the court officers, our legal

15 staff, the legal staff of the judges, and my colleagues, and to adjourn the hearing.

16 Thank you very much. The hearing is adjourned

17 (The hearing ends in open session at 10.50 a.m.)