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No.: **ICC-02/11-01/11**

Date: **3 March 2015**

TRIAL CHAMBER I

Before: Judge Geoffrey Henderson, Presiding Judge
Judge Cuno Tarfusser
Judge Olga Herrera-Carbuccia

SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE

IN THE CASE OF THE PROSECUTOR v. LAURENT GBAGBO

Public Document

Prosecution response to Defence request ICC-02/11-01/11-792

Source: Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

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1. The Prosecution hereby sets out its brief response to the “*Requête afin que soit rejetée la réplique du Procureur intitulée « Prosecution Reply to Defence Response to Joinder Request »* (ICC-02/11-01/11-781) et *Demande d’autorisation aux fins de pouvoir répondre à : - la réplique du Représentant légal intitulée « Reply of the Common Legal Representative of victims to the “Réponse de la Défense à la « Demande de jonction des affaires Le Procureur c. Laurent Gbagbo et Le Procureur c. Charles Blé Goudé »* (ICC-02/11-01/11-780) ; et à - la réplique du Procureur intitulée « Prosecution Reply to Defence Response to Joinder Request » (ICC-02/11-01/11-781), si elle n’était pas rejetée in limine” (“Defence Request”).¹ The Prosecution opposes all three requests made by the Defence.
2. First, the Prosecution objects to the Defence’s request to dismiss *in limine* the “Prosecution Reply to Defence Response to Joinder Request” (“Prosecution Reply”)². This request is unsubstantiated. Consistent with the Chamber’s ruling granting the Prosecution leave to file a reply,³ the Prosecution Reply solely addressed the issue of the “interpretation and application of article 64(5) of the Statute and rule 136 of the Rules.”⁴ It did not go beyond the proper scope of the reply granted by the Trial Chamber.
3. Second, the Prosecution objects to the Defence’s alternative request for leave to respond to the Prosecution Reply. Absent the Chamber’s invitation to make further arguments on the matter, there is no legal basis for filing additional submissions. Contrary to the Defence’s contention, regulation 24 of the Regulations of the Court does not apply,⁵ as that provision is limited to responses and replies, but does not foresee any right to file what is effectively as sur-reply. Nor should the Chamber exercise its discretion to invite further submissions from the Defence on the matter. The Defence has already made extensive factual and

¹ ICC-02/11-01/11-792.

² ICC-02/11-01/11-781.

³ ICC-02/11-01/11-775, page.6.

⁴ ICC-02/11-01/11-775, para.4.

⁵ ICC-02/11-01/11-792, para.23.

legal arguments in its response to the Prosecution's Joinder Request.⁶ As a result, the Chamber will not be assisted in its determination of the Joinder Request by allowing a further round of litigation.

4. Third, for the same reasons, the Prosecution also objects to the Defence's request to respond to the reply of the Common Legal Representative of victims to the Defence response to the Prosecution's Joinder Request.⁷ The regulations of the Court do not foresee the right to file a sur-reply in these circumstances, nor should the Chamber exercise its discretion to invite further submissions.



Fatou Bensouda, Prosecutor

Dated this 3rd day of March 2015

At The Hague, The Netherlands

⁶ ICC-02/11-01/11-765.

⁷ ICC-02/11-01/11-780.