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No.: **ICC-02/11-01/11**
Date: **25 January 2013**

PRE-TRIAL CHAMBER I

Before: Judge Silvia Fernández de Gurmendi, Presiding Judge
Judge Hans-Peter Kaul
Judge Christine Van den Wyngaert

SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE

IN THE CASE OF THE PROSECUTOR v. LAURENT GBAGBO

Public

With annex A - Confidential

Prosecution's observations on 59 victims' applications to participate in the proceedings

Source: Office of the Prosecutor

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

The Office of the Prosecutor

Counsel for the Defence

Mr Emmanuel Altit

Ms Agathe BahiBaroan

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Defence Support Section

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Ms Fiona McKay

Other

1. The Prosecution hereby submits its observations on 59 victims' applications to participate in the proceedings as requested by the Pre-Trial Chamber.¹

Observations

2. The Prosecution recalls that according to the Appeals Chamber jurisprudence, a person has the right to participate as a victim in proceedings if a) he/she qualifies as a victim under the definition of this term provided by Rule 85(a), and b) his/her personal interests are affected by the proceedings in hand, *i.e.* by the issues, legal or factual, raised therein pursuant to Article 68(3) of the Statute.²
3. The criteria required for applicants to be granted the procedural status of victim as set out in Rule 85(a) are that (i) the applicant must be a natural person; (ii) who suffered emotional, physical or economic harm (iii) as a result of the crimes charged in the Document Containing the Charges and, (iv) a link between the harm suffered and the particular crimes charged is demonstrated.³
4. The Single Judge previously ruled that she would "assess whether each applicant has proved the above criteria on a *prima facie* basis" and that this assessment would not result in a "process of corroboration *stricto sensu* but will be based on the merits of the applications' intrinsic coherence, taking into consideration all the information available to the Chamber".⁴

¹ICC-02/11-01/11-325, p. 15.

²*Cf.*, for instance, *The Prosecutor v. Thomas Lubanga Dyilo*, Decision on victims' participation, ICC-01/04-01/06-1119, 18 January 2008, para. 86 and *Situation in the Democratic Republic of the Congo*, Judgment on victim participation in the investigation stage of the proceedings in the appeal of the OPCD against the decision of Pre-Trial Chamber I of 7 December 2007 and in the appeals of the OPCD and the Prosecutor against the decision of Pre-Trial Chamber I of 24 December 2007, ICC-01/04-556, 19 December 2008, para. 45.

³ See Appeals Chamber decision ICC-01/04-01/06-1432, 11 July 2008, at paras. 61 to 65. See ICC-02/11-01/11-138, para. 20.

⁴ICC-02/11-01/11-138, para. 21.

Description of the Annex

5. The Prosecution identified, in Annex A, 58 applications that meet all the criteria, including that the harm suffered resulted from the crimes committed as charged in the Amended Document Containing the Charges filed on 17 January 2013.⁵ The applicants who did not submit death certificates are also identified. In order to submit Annex A as Confidential, the Prosecution did not include the column identifying the specific locations of the incidents as mentioned by the applicants since these are sometimes redacted from the Defence.⁶ Nevertheless, all locations mentioned are in Abidjan.
6. In relation to applicant a/20038/13,⁷ question 14 on that application form is left blank. It appears that the applicant is seeking victim status for a sibling, but it is unclear who the surviving sibling is and who the dead sibling is. All other criteria being met, the identity of the applicant should be clarified before he/she is admitted to participate in the proceedings.



Ms Fatou Bensouda, Prosecutor

Dated this 25th day of January 2013

At The Hague, The Netherlands

⁵ICC-02/11-01/11-357-Conf-Anx1.

⁶ICC-02/11-01/11-366+ICC-02/11-01/11-364-Conf-Anxs-Red.

⁷ICC-02/11-01/11-364-Conf-Exp-Anx39.