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

Date: 28 May 2012

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 annexes A to E - Confidential

Prosecution's observations on the 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

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**

Other

1. The Prosecution hereby submits its observations on the victims' applications to participate in the proceedings as requested in the "Second decision on issues related to the victims' application process".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

Description of the Annexes

4. In confidential Annexes A to E, the Prosecution submits five charts detailing its analysis of the 164 victim applications received.⁴ The Prosecution submits these annexes as confidential since they were received on a confidential redacted basis to the Defence.⁵ The Prosecution has no objection to the reclassification of these

¹ ICC-02/11-01/11-86.

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 also at the confirmation stage decisions ICC-01/04-01/07-1347, p.8. See also ICC-01/04-01/07-1347- Corr, para. 6.

⁴ Including the six collective applications.

⁵ ICC-02/11-01/11-122+121-Conf-Red-Anxs.

five annexes as public since they do not contain any identifying information that would put these victims at risk.⁶

5. The Prosecution identified in Annex A the 112 applications that meet all the criteria, including as a result of the crimes committed as charged in the Document Containing the Charges.
6. Annex B refers to 42 applications related to one of the four incidents as charged but for which certain documents are missing to complete the applications. The missing documents are also identified.
7. Annex C refers to 1 applicant whose daughter, a person over 18 years of age, was the victim of one of the incident as charged. The daughter should be the person submitting the application in person.
8. Annex D identifies 7 applications that are complete but are not related to one of the four incidents as charged.
9. Finally, Annex E refers to 2 applicants who are victims of the widespread or systematic attack directed against the civilian population during the relevant time period of the Document Containing the Charges but for which further documents are necessary to complete their applications.



Luis Moreno-Ocampo, Prosecutor

Dated this 28th day of May 2012

At The Hague, The Netherlands

⁶ The applications were received without redactions on an *ex parte* basis by the Prosecution, see ICC-02/11-01/11-121+Conf-Exp-Anxs.