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**International
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TRIAL CHAMBER I

Before: Judge Geoffrey Henderson, Presiding Judge
Judge Cuno Tarfusser
Judge Olga Herrera Carbuccion

SITUATION IN CÔTE D'IVOIRE

**IN THE CASE OF
*THE PROSECUTOR v. CHARLES BLÉ GOUDÉ***

Public Document

with Confidential Annexes 1-4

**URGENT DEFENCE SUBMISSIONS ON THE NEED TO HAVE ADEQUATE
TIME AND FACILITIES TO PREPARE FOR TRIAL AND EXTENSION OF TIME
TO RESPOND TO JOINDER REQUEST**

Source: Defence of Mr Charles Blé Goudé

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

The Office of the Prosecutor

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Counsel for the Defence

Mr Geert-Jan Alexander Knoops

Mr Claver N'dry

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

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REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

1. The Defence of Mr. Charles Blé Goudé respectfully submits to Trial Chamber I (the Chamber) a request for the allocation of adequate time to prepare for trial as well as an extension of the deadline to respond to the Prosecutor's request to join the cases against Mr. Blé Goudé and Mr. Laurent Gbagbo.¹ Both requests are made to endorse the right of the accused person to a fair trial, which encompasses the equality of arms principle and having adequate time and facilities to prepare for a criminal trial.

PROCEDURAL HISTORY

2. On 21 December 2011 Pre-Trial Chamber I ('Pre-Trial Chamber') issued a warrant of arrest under seal for Mr. Charles Blé Goudé, which warrant was unsealed on 30 September 2013.²
3. On 22 March 2014 Charles Blé Goudé was surrendered to the custody of the ICC and made his first appearance before the Court on 27 March 2014.
4. From 29 September - 2 October 2014 the confirmation of charges hearing was held as a result of which the Pre-Trial Chamber issued the 'Decision on the confirmation of charges against Charles Blé Goudé ('Confirmation Decision') on 11 December 2014.³
5. On 19 December 2014, (former) lead counsel for Mr Blé Goudé, Mr Nicholas Kaufman, filed a request before the Pre-Trial Chamber to withdraw as counsel, pursuant to Regulation 78(1) of the Regulations ('Request').⁴ This request was however preceded, on 18 December 2014, by the 'Transmission to the Presidency of the Decision on the Confirmation of Charges And of the Record of the Proceedings' filed by the Registry.⁵ As a result Mr Kaufman's Request was transferred to the Presidency pending referral of the *Blé Goudé case* to a Trial Chamber.⁶

¹ Prosecution's Request to join the cases of *The Prosecutor v. Laurent GBAGBO* and *The Prosecutor v. Charles BLE GOUDÉ*, 22 December 2014, ICC-02/11-02/11-194

² ICC-02/11-02/11-1.

³ ICC-02/11-02/11-186. See also partly dissenting opinion of Judge Christine Van den Wyngaert, ICC-02/11-02/11-186-Anx.

⁴ Counsel's request to withdraw pursuant to Regulation 78(1) of the Regulations of the Court, submitted on 18 December 2014 and transmitted by the Registry on 19 December 2014, ICC-02/11-02/11-192-Anx.

⁵ ICC-02/11-02/11-191 + US-Exp-Anxs.

⁶ Registry's Transmission of the Public Filing entitled "*Counsel's request to withdraw pursuant to Regulation 78(1) of the Regulations of the Court*", 19 December 2014, ICC-02/11-02/11-192.

6. On 20 December 2014, the Presidency referred the *Blé Goudé case* to Trial Chamber I (“Chamber”) and transmitted to it the full record of the proceedings, including the Confirmation Decision.⁷
7. On 22 December 2014, the Office of the Prosecutor made a request (the Joinder Request) to the Chamber for the joinder of *The Prosecutor vs. Laurent GBAGBO* (the *Gbagbo case*) and *The Prosecutor vs. Charles BLÉ GOUDÉ* (the *Blé Goudé case*).⁸
8. On 19 December 2014, Defence counsel for Mr Gbagbo ('Gbagbo Defence') requested, inter alia, for the time limits for its response to the Joinder Request to run from the date of the French translation of the Joinder Request and of the Confirmation Decision.⁹
9. On 24 December 2014, the Pre-Trial Chamber was informed by Mr Kaufman that he and Mr Blé Goudé had ceased communication. Notwithstanding, Mr Kaufman requested that the time limit for the response to the Joinder Request commence from the date of the formal appointment of new counsel.¹⁰
10. On 6 January 2015, the Trial Chamber authorised Mr Kaufman to withdraw from the present case as lead counsel for Mr Blé Goudé and ordered the Registrar to take immediate steps to facilitate the appointment of new counsel for Mr Blé Goudé. The Chamber also extended the deadline for any response to the Joinder Request filed in the *Blé Goudé case* to 21 days from the notification of the French translation of ICC-02/11-01/11-738 and ICC-02/11-02/11-186.¹¹
11. On 6 January 2015, the Trial Chamber issued a Decision on the Defence challenge of 19 December 2014 to the Chamber’s competence to hear the Prosecution’s Joinder Request and on its request for a variation of the response deadline.¹² The Chamber dismissed the First Defence Request as moot. The Chamber granted the Second

⁷ Corrigendum to the "Decision referring the case of The Prosecutor v. Charles Blé Goudé to Trial Chamber I", ICC-02/11-02/11-193, 20 December 2014 (registered on 22 December 2014), 22 December 2014, ICC-02/11-02/11-193-Corr.

⁸ Prosecution’s Request to join the cases of *The Prosecutor v. Laurent GBAGBO* and *The Prosecutor v. Charles BLE GOUDÉ*, 22 December 2014, ICC-02/11-02/11-194.

⁹ *The Prosecutor v. Laurent Gbagbo*, 1. *Requête afin que la Chambre de première instance I se declare incompétente pour statuer sur la demande de jonction des affaires Gbagbo et Blé Goudé présentée par le Procureur* (ICC-02/11-01/11-738) 2. *Dans l'hypothèse où la Chambre se déclarerait compétente, requête portant sur la détermination de la date à partir de laquelle courent les délais fixés pour que la Défense puisse déposer une éventuelle réponse à la demande de jonction du Procureur*, 19 December 2014 (registered on 22 December 2014), ICC-02/11-01/11-742, page 18.

¹⁰ Email communication from Mr Kaufman transmitted by a Legal Officer of the Registry to Trial Chamber I on 24 December 2014 at 15:32.

¹¹ Decision on 'Counsel's request to withdraw pursuant to Regulation 78(1) of the Regulations of the Court' and extension of deadline for response, 6 January 2015, ICC-02/11-02/11-197.

¹² Decision on the Defence challenge to the Chamber's competence to hear the Prosecution's Joinder Request and on its request for a variation of the response deadline, 6 January 2015, ICC-02/11-01/11-744.

Defence Request and ordered the filing of any response to the Prosecution's Joinder Request within 21 days of notification of the French translation of this request and of the Blé Goudé Confirmation Decision.¹³

12. On 9 January 2015 the Registrar notified the Chamber of the appointment of Mr Geert-Jan Alexander Knoops as the new lead counsel for Mr Charles Blé Goudé.¹⁴ The new counsel expressed willingness to accept this task only on condition that he would have sufficient time to prepare for trial.¹⁵

13. Below is a table showing some of the important dates in relation to the constitution of the defence team for Mr Charles Blé Goudé and access to material.

Defence team appointment and access to case material	Dates
Date of appointment of Mr Knoops as associate counsel pro bono	8 September 2014
Date of appointment of Mr Knoops as counsel	7 January 2015
Date of Mr Knoops' receipt of Ringtail access code	12 January 2015
Date of appointment of Mr N'Dry as co-counsel	13 January 2015
Date of Mr N'Dry's receipt of Ringtail access code	14 January 2015
Date of contract termination for all former defence team members	15 January 2015

SUBMISSIONS

A) The right to adequate time and facilities is a right under the Rome Statute and customary law

14. The right to a fair trial is a fundamental right of an accused person and is provided for under article 67 of the Rome Statute. In particular article 67(1)(b) stipulates that the accused person has a right: "[t]o have adequate time and facilities for the preparation of the defence and to communicate freely with counsel of the accused's choosing in confidence"; while article 67(1)(f) provides for the right "to have, free of any cost, the assistance of a competent interpreter and such translations as are necessary to meet the requirements of fairness, if any of the proceedings or documents presented to the Court are not in a language which the accused fully understands and speaks."

¹³ Ibid.

¹⁴ Notification of the appointment of counsel for Mr Charles Blé Goudé, 9 January 2015, ICC-02/11-02/11-198.

¹⁵ See Annex I.

15. Moreover, the right to fair trial is also codified for in most international and regional human rights instruments such as: article 14 of the International Covenant on Civil and Political Rights (ICCPR);¹⁶ article 6 of the European Convention on Human Rights (ECHR)¹⁷; article 8 of the American Convention on Human Rights¹⁸; and article 8 of the African (Banjul) Charter on Human and Peoples' Rights.¹⁹

16. In addition, the right to fair trial is also encapsulated in the statutes of other international criminal tribunals, such as articles 21 and 20 of the Statutes of the International Criminal Tribunal for the Former Yugoslavia (ICTY)²⁰ and the International Criminal Tribunal for Rwanda (ICTR),²¹ respectively.

17. In the same vein, the equality of arms principle, which is a derivative of the right to fair trial, is widely accepted as a fundamental human right.²² The principle ensures procedural fairness between the parties in litigation so that parties should be afforded:

“ ‘equal opportunities’ in terms of production of pleadings and pieces of evidence within the same terms, of submission of the same number of briefs and comments, of allowance of equal time and means for preparation of the defence, of entitlement to reply to and comment on the other party’s allegations and supporting evidence, of equal access to judicial remedies.”²³

18. Furthermore, abundant international and domestic jurisprudence has emerged on the right to fair trial with particular regard to the right of an accused person to have adequate time to prepare a case.²⁴ Some of these cases will be discussed below (see section B).

¹⁶International Covenant on Civil and Political Rights, Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 23 March 1976.

¹⁷European Convention on Human Rights, as amended by the provisions of Protocol No. 14 (CETS no. 194) as from its entry into force on 1 June 2010.

¹⁸American Convention on Human Rights, Signed at the Inter-American Specialized Conference on Human Rights, San Jos , Costa Rica, 22 November 1969.

¹⁹African (Banjul) Charter on Human and Peoples' Rights, Adopted 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force 21 October 1986.

²⁰Updated Statute of the International Criminal Tribunal for The Former Yugoslavia, Adopted 25 May 1993 by Resolution 827, As Amended 7 July 2009 by Resolution 1877.

²¹Statute of the International Criminal Tribunal for Rwanda, adopted pursuant to Security Council resolution 955, 8 November 1994.

²²Geert-Jan Alexander Knoop “The Dichotomy between Judicial Economy and Equality of Arms within International and Internationalized Criminal Trials: A Defence Perspective” (2004-2005) 28 *Fordham International Law Journal* 1566; Geert-Jan Alexander Knoop *Theory and Practice of International and Internationalized Criminal Proceedings* (2005) at 38.

²³Stefania Negri “The Principle of “Equality of Arms” and the Evolving Law of International Criminal Procedure” (2005) 5 *International Criminal Law Review* 513.

²⁴ECHR *Moreira de Azevedo v. Portugal*, 23 October 1990, Series A no. 189 para 66; ECHR *A.B. v. Slovakia*, 4 March 2003, no. 41784/98 para 54; ECHR *Grega evi  v. Croatia*, 10 July 2012, Application no. 58331/09, Judgment para 50; See also ECHR *Nider st-Huber v. Switzerland*, 18 February 1997, Reports of Judgments and Decisions 1997-I para 24; ECHR *Mantovanelli v. France*, 18 March 1997, Reports 1997-II para 33; ECHR

19. For these reasons, the defence kindly submits three requests to the Chamber:

- i) Request for additional time to prepare for trial;
- ii) Request for additional time to respond to the Joinder Request; and
- iii) Request that all relevant documents be translated into French language for Mr. Blé Goudé.

B) The Defence respectfully submits that the Court should grant additional time to prepare for trial

i) Supporting case law

20. There is sufficient international and domestic jurisprudence that support the right of an accused person to have adequate time to prepare a case for trial.²⁵ In the case of *Gregačević v. Croatia*, the European Court of Human Rights (ECHR) held that:

“The concept of a fair hearing implies, inter alia, the right to adversarial proceedings, according to which the parties must have the opportunity not only to make known any evidence needed for their claims to succeed, but also to have knowledge of, and comment on, all evidence adduced or observations filed, with a view to influencing the court’s decision.”²⁶

21. To determine the amount of time to be allocated to the defence to prepare for trial, the defence submits that the Chamber should consider the complexity of the case; the circumstances surrounding it, i.e. the dismantling of the former defence team and the appointment of a new defence team; as well as the workload that the defence team is facing. In this regard, the ECHR held in the case of *Mattick v. Germany* that:

“The Court further reiterates that when determining the length of the preparatory time needed, it takes into account not only the complexity of the case, but also the usual workload of a legal counsel, who certainly cannot be expected to change his whole programme in order to devote all his time to one case”²⁷

Krčmář and Others v. the Czech Republic, 3 March 2000, Application no. 35376/97, para 38-46; ECHR *Mattick V. Germany*, 31 March 2005, Decision 62116/00; ICTY *Prosecutor v Duško Tadić*, Appeals Chamber Judgment, IT-94-1-A, 15 July 1999 para 44.

²⁵ ECHR *Moreira de Azevedo v. Portugal*, 23 October 1990, Series A no. 189 para 66; ECHR *A.B. v. Slovakia*, 4 March 2003, no. 41784/98 para 54.

²⁶ ECHR *Gregačević v. Croatia*, 10 July 2012, Application no. 58331/09, Judgment para 50. See also ECHR *Nideröst-Huber v. Switzerland*, 18 February 1997, Reports of Judgments and Decisions 1997-I para 24 and ECHR *Mantovanelli v. France*, 18 March 1997, Reports 1997-II para 33; ECHR *Krčmář and Others v. the Czech Republic*, 3 March 2000, Application no. 35376/97, para 38-46.

²⁷ ECHR *Mattick V. Germany*, 31 March 2005, Decision 62116/00.

22. In the *Tadić* case the ICTY Appeals Chamber elaborated upon the jurisprudence on the equality of arms principle emanating from the ECHR and concluded that the principle applied to international criminal tribunals as part of the right to fair trial.²⁸ The Appeals Chamber further advocated for a liberal interpretation of the equality of arms principle and stated in this regard that:

“...the Appeals Chamber is of the view that under the Statute of the International Tribunal the principle of equality of arms must be given a more liberal interpretation than that normally upheld with regard to proceedings before domestic courts. *This principle means that the Prosecution and the Defence must be equal before the Trial Chamber* (emphasis added). It follows that the Chamber shall provide every practicable facility it is capable of granting under the Rules and Statute when faced with a request by a party for assistance in presenting its case.”²⁹

ii) Application to the present case

23. The Defence kindly requests to be allocated at least 15-18 months to prepare for the commencement of trial together with an expanded defence team as per request to the Registry.³⁰ The defence estimates that the time frame will be utilized as follows:

- At least 6 months studying the materials in the *Blé Goudé case* and the *Gbagbo case* (in light of the joinder request), which cases comprise an amount of documents and videos specified in paragraph 29 below, including analysing all the previous filings in both cases and decisions by Pre-Trial Chamber.
- At least 30 days, counting from the completion of the above study period, to draft and file the response to the joinder request (see para 41 below).
- At least 2-3 months investigation of defence case and setting up defence strategy for trial.
- At least 2-3 months preparing defence motions to protect rights of the accused, in view of the absence of some filings of pre-trial motions by the previous defence team on fundamental issues such as the mode of acquisition of evidence abroad by the prosecution and the pre-trial detention of the accused.

²⁸ Prosecutor v Duško Tadić, Appeals Chamber Judgment, ICTY-94-1-A, 15 July 1999 para 44.

²⁹ Ibid para 52.

³⁰ See para 35 of this motion.

- At least 5-6 months to conduct investigation to prepare for cross examination including defence discovery into the five alleged incidents in depth.

iii) The new defence team is yet to be constituted and requires training

24. As shown in the table above, as per 19 December 2014 the previous defence team for Mr. Charles Blé Goudé was formally dismantled pursuant to an email from Counsel Support Section (CSS).³¹ Therefore, as of 19 December 2014 till the 7 January 2015 (see below), Mr Blé Goudé was without counsel.
25. At the moment, only two members of the Defence team have been appointed: Mr Geert-Jan Alexander Knoops as lead counsel and Mr Claver N'dry as co-counsel. Mr Geert-Jan Alexander Knoops was appointed to the defence team in the capacity of assistant pro bono counsel on 8 September 2014, just two weeks prior to the confirmation hearing. In this capacity, he had absolutely no access to the case materials except for the Document Containing the Charges (DCC). He was only officially appointed as counsel for the Accused on 7 January 2015, upon which he received access to the case material on 12 January 2015.³² Mr Claver N'dry was only appointed as co-counsel on 13 January 2015 and received a Ringtail access code on 14 January 2015.³³
26. At present, Mr Geert-Jan Alexander Knoops is in the process of reviewing applications and conducting interviews, in consultation with the Accused, with a view to recruiting members of the defence team. As the recruitment process continues, CSS organized the first training for counsel and co-counsel on 22 January 2015. This training was only on Ringtail System and Legal Craft-Transcend. The team has not yet received training on the TRIM system and the E-court system. There is also need, as the instructors of the IT told defence on 22 January 2015, for a specific training to be scheduled for the Case managers of the prospective defence team as soon as they are appointed. This implies that a new team can only effectively commence with the merits of this case at the earliest in the beginning of March 2015 after having received the requisite trainings to deal with all the Court systems.
27. In the *Ntaganda* case Trial Chamber VI of the Court granted the Ntaganda Defence a period of 10 months for trial preparation under similar circumstances as those in the *Blé Goudé* case. The Court held as follows:

³¹ See Annex 2

³² See Annex 3.

³³ See Annex 4.

“Having taken into account the submissions made by the parties and participants, and recalling that the Defence's lead counsel was replaced in August 2014, and in light of the volume of the case, as well as the state of disclosure, the Chamber considers the proposal to start the trial on the merits in June 2015 to be realistic. It therefore sets the commencement date for the trial for 2 June 2015.”³⁴

28. Based on the decision of the Court in the *Ntaganda* case delivered under similar circumstances, the defence respectfully requests to be allocated a period of 15-18 months for trial preparation.

iv) Heavy workload facing defence team

29. In view of the Joinder Request, Mr Geert-Jan Alexander Knoops and Mr Claver, currently being the only members of the new defence team, are faced with the ominous task of reviewing the case materials in both the *Blé Goudé* case and the *Gbagbo* case. Both cases are voluminous and complex. The *Blé Goudé* case contains more than 40,000 pages of documents, which includes more than 134 witness statements and more than 1200 audio and visual files.³⁵ Moreover, the number of victims authorized in the proceedings stand as a testament to the complexity of the case. In the present case, Pre-Trial Chamber I granted 469 persons the status of victims authorized to participate in the proceedings.³⁶ Similarly, *Gbagbo* case is of a considerable size, as of September 2014 there were about 34,737 pages of documents and about 99h35sec of videos.³⁷ In the *Gbagbo* case, Pre-Trial Chamber I granted 199 persons the status of victims authorized to participate in the proceedings.³⁸

30. Additionally, there is need for the defence team to conduct investigations in Ivory Coast in order to build a defence case and to prepare for cross examination of the Prosecution witnesses. The Court has previously allowed parties, especially the OTP, time to conduct investigations and prepare a case for trial. For example, on 19

³⁴ *Prosecutor v Bosco Ntaganda*, Trial Chamber VI, Corrigendum of 'Order Scheduling a Status Conference and Setting the Commencement Date for the Trial', ICC-01/04-02/06-382-Corr 2, 28 November 2014, para 8.

³⁵ *The Prosecutor v. Charles Blé Goudé*, Case Information Sheet, 22 December 2014, ICC-PIDS-CIS-CI-03-007/14_Eng.

³⁶ *Ibid.*

³⁷ *Le Procureur v. Laurent Gbagbo*, En communication aux parties de la lettre de démission du Juge Kaul, des échanges écrits portant sur l'état de santé du Juge Kaul et de tout autre document utile permettant aux parties d'évaluer l'aptitude à juger du Juge Kaul aux mois de mars, avril, mai et juin 2014, (2) En nomination d'un expert, 23 September 2014, ICC-02/11-01/11-685.

³⁸ *The Prosecutor v. Laurent Gbagbo*, Case Information Sheet, 18 November 2014, ICC-PIDS-CIS-CI-01-010/14_Eng.

December 2013, the Prosecution filed a request in the *Kenyatta* case, seeking, inter alia, a three month adjournment of the provisional trial date in order to ‘undertake additional investigative steps’.³⁹ Following this application, a status conference was held which resulted in the postponement, by Trial Chamber V (B), of the trial date from February 2014 to October 2014.⁴⁰

31. Based upon the decision of the Appeals Chamber in the *Tadić* case, discussed above, the prosecution and the defense ought to be treated equally and granted equal opportunities to conduct investigations and prepare a case. For this reason, the defence respectfully requests the Chamber to apply similar standards as were applied by the Court in the *Kenyatta* case which justifies in the instant case a time frame of 15-18 months to prepare for trial in light of the size of the case materials as set out in paragraph 29 above.
32. Moreover, an additional 15-18 months would already be justified by the fact that, unlike the new defence, the prosecution has had sufficient time to investigate the case since 2011, when a warrant of arrest was issued under seal against Mr Charles Blé Goudé. The new defence team has not even been fully constituted yet and the already appointed counsel and co-counsel have received training only on the Ringtail system, but not on TRIM, e-filing and E-court systems.
33. Moreover, Mr Blé Goudé was only transferred to the seat of the Court on 22 March 2014, less than one year ago. This time frame also exemplifies the limited preparation time for the defence in its totality when compared to other ICC cases.
34. The defence is of the view that 15-18 months to prepare for trial is essential to protect the rights of the accused to “have adequate time and facilities for the preparation of the defence” envisaged under article 67(1)(b) without occasioning undue delay, which is prohibited under article 67(1)(c).
35. Considering the workload the defence faces and the endeavour to acquaint itself with the case for trial as soon as possible, the defence has also made an application to the Registry, under article 83 of the Regulations of the Court, for additional resources. This request, if granted, will enable the defence to appoint an additional case manager and

³⁹ *Prosecutor v Kenyatta*, Notification of the removal of a witness from the Prosecution's witness list and application for an adjournment of the provisional trial date, 19 December 2013, ICC-01/09-02/11-875 para 2.

⁴⁰ *Prosecutor v Kenyatta*, Decision on Prosecution's applications for a finding of non-compliance pursuant to Article 87(7) and for an adjournment of the provisional trial date, 31 March 2014, ICC-01/09-02/11-908 para 103.

two additional legal assistants beyond the minimum resources set forth in the Registry's Single Policy Document on the Court's Legal Aid System.⁴¹

36. The defence submits that it will take at least 15-18 months together with additional resources from the registry for the defence to prepare adequately for trial.

C) The Defence respectfully submits with good cause a request for an extension of the time limit to reply to the Prosecution's Request to join the cases of *The Prosecutor v. Laurent GBAGBO* and *The Prosecutor v. Charles BLE GOUDÉ*

37. Under Regulation 35, the Chamber may extend the time limit to file a document that has been previously ordered by the Chamber if the party or participant seeking an extension can show good cause.⁴² The Appeals Chamber in *The Prosecutor v. Lubanga*, determined that:

“[a] cause is good, if founded upon reasons associated with a person's capacity to conform to the applicable procedural rule or regulation or the directions of the Court. Incapability to do so must be for sound reasons, such as would objectively provide justification for the inability of a party to comply with his/her obligations.”⁴³

38. In both Appeals Decisions in *Lubanga* and in *Katanga* dated 11 July 2006 and 27 June 2008 respectively,⁴⁴ the Appeals Chamber granted the defence request to extend time limits because of the “heavy burden of work confronting counsel in preparing for the confirmation hearing.”⁴⁵ Moreover, in *The Prosecutor v. Ruto*, the Appeals Chamber issued a decision in which it granted an extension of time, upon request of the Prosecution, arguing that the issues on appeal were complex and novel.⁴⁶

⁴¹ Registry's single policy document on the Court's legal aid system, ICC-ASP/12/3, Presented at the Twelfth Session of the Assembly of States Parties on 20-28 November 2013.

⁴² Regulation 35, Regulations of the Court, ICC-BD/01-01-04.

⁴³ *The Prosecutor v. Lubanga*, “Reasons for the “Decision of the Appeals Chamber on the request of counsel to Mr. Thomas Lubanga Dyilo for modification of the time limit pursuant to regulation 35 of the Regulations of the Court of 7 February 2007,” 21 February 2007, ICC-01/04-01/06-834.

⁴⁴ *The Prosecutor v. Lubanga*, “Reasons for the “Decision of the Appeals Chamber on the request of counsel to Mr. Thomas Lubanga Dyilo for modification of the time limit pursuant to regulation 35 of the Regulations of the Court of 7 February 2007,” 21 February 2007, ICC-01/04-01/06-834; *The Prosecutor v. Katanga*, “Reasons for the “Decision on the ‘Application for Extension of Time Limits Pursuant to Regulation 35 of the Regulations of the Court to Allow the Defence to Submit its Observations on the Prosecutor's Appeal regarding the Decision on Evidentiary Scope of the Confirmation Hearing and Preventative Relocation,” 27 June 2008, ICC-01/04-01/07-653.

⁴⁵ *The Prosecutor v. Katanga*, ICC-01/04-01/07-653, at para 5.

⁴⁶ See *The Prosecutor v. Ruto*, “Decision on the request of the Prosecutor for an extension of the time limit for her consolidated response to the documents in support of the appeals,” 5 June 2014, ICC-01/09-01/11-1346, para. 9.

39. Similar to the defence counsel in the *Lubanga* and *Katanga* case, where counsel faced the burden of the impending confirmation of charges hearing which prevented them from timely filing their responses, the Defence for Mr. Blé Goudé currently faces the time consuming burden of appointing new team members and training them. This time cannot be curtailed and is in fact necessary in order for the Defence of Mr. Charles Blé Goudé to make substantiated submissions on its reply to the Prosecution's request for joinder (as well as any other Prosecution requests in the coming months).
40. In addition to the current need to recruit, appoint, and train new members, the Defence submits that both the *Blé Goudé* case and the *Gbagbo* case are voluminous in terms of size and complexity as explained in para 29. Therefore, the Defence respectfully submits that, like in the *Ruto* case, the Court should grant the Defence request for an extension of the time limit due to the complexity of the arguments to be addressed in the response to the joinder. While the Appeals Decision in *Ruto* admittedly involved a request for a five day extension, it involved only two issues on Appeal.⁴⁷ In the instant case, the Defence faces the momentous task of familiarising itself with two cases that involve thousands of documents of evidence, hundreds of witness statements, and victim applications (see paragraph 29 above). The request for an extension of time in terms of the Joinder Request, should be posited within the larger context of the defence right to adequate time and facilities to prepare its case.
41. The Defence of Mr. Blé Goudé therefore respectfully submits a request for an extension of time to reply to the Prosecution's request for joinder for the following two reasons: (1) the heavy workload confronting Lead Counsel in composing a new team and familiarizing himself with two cases and (2) the need for time and resources to adequately respond to the Prosecution's request to join the cases of Mr. Gbagbo and Mr. Blé Goudé.
42. In the decision of 6 January 2015, the Chamber set a deadline for the defence to respond to the Joinder Request 21 days after supply of French translations of the confirmation charges decision and the Joinder Request filed in the *Gbagbo Case* to Mr Charles Blé Goudé.⁴⁸ These translations were received on 21 January 2015, and thus the time limit has already begun to run its course.
43. The Defence kindly requests an allowance of 30 days starting to run from the time the trial chamber may have granted defence with the extension of time to first study the

⁴⁷ *The Prosecutor v. Ruto*, ICC-01/09-01/11-1346, para. 4.

⁴⁸ Decision on 'Counsel's request to withdraw pursuant to Regulation 78(1) of the Regulations of the Court' and extension of deadline for response, 6 January 2015, ICC-02/11-02/11-197.

material in the *Gbagbo* and *Blé Goudé* case (see para 23 above). After all, a response to the joinder can be only be made once a new team is fully acquainted with the cases. This is because, as shown above in para 29, the two cases the Prosecutor seeks to join are too voluminous and complex to respond to in 21 days without knowing the contents of these two cases. Since the new defence team currently consists of defence counsel and co-counsel only, neither of whom had previous access to case material, the Defence respectfully submits that it is impossible to file an adequate response to the joinder request in 21 days.

44. The defence estimates that the time frame of 30 days, starting to run from the time the trial chamber may have granted defence with the extension of time to first study the material in the *Gbagbo* and *Blé Goudé* case, would be more realistic and fair for a new Defence team to be in a position to provide a well-informed and thoroughly researched response to the Prosecution's Joinder Request.

D) The Defence requests that all relevant documents for Mr Charles Blé Goudé be translated into French

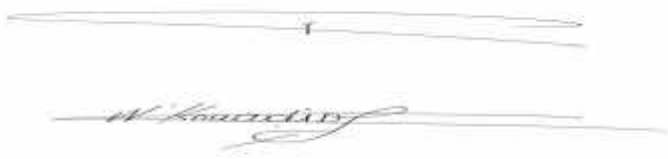
45. It is well known that Mr Charles Blé Goudé originates from Ivory Coast, a country which has been colonized by France, uses French as an official language. Therefore, the language of instruction throughout the accused person's education in Ivory Coast was French. Although Mr Charles Blé Goudé stated on record that he speaks and understands the English language, the Defence submits that French is the language better understood by the accused person especially in relation to complex legal documents.

46. For this reason, the English language, in the context of article 67(1)(f) of the Rome Statute, is "a language which is not fully understood and spoken by the defendant". Therefore, the defence kindly requests the Chamber to order that all the filings and decisions that are relevant to the *Blé Goudé* case are translated and transmitted to Mr Charles Blé Goudé in the French language.

RELIEF SOUGHT

47. For the foregoing reasons, the defence respectfully requests the honourable Chamber to grant the following requests:

- a) That the defence team be allocated 15-18 months for trial preparation to be utilised as follows:
- At least 6 months studying the materials in both *Gbagbo* and *Blé Goudé* cases, including studying all the previous filings in both cases and decisions by the Pre-trial Chamber ;
 - At least 2-3 months investigation of defence case and setting up defence strategy for trial;
 - At least 2-3 months preparing defence motions to protect rights of the accused; and
 - At least 5-6 months to conduct investigation to prepare for cross examination including defence discovery into the five alleged incidents in depth.
- b) That the defence team be allowed a period of 30 days starting to run from the time the trial chamber may have granted defence with the extension of time to first study the material in the *Gbagbo* and *Blé Goudé case* (see request sub a above) in order to respond to the Joinder Request.
- c) That all the relevant court records are translated into the French language in order to protect the rights of Mr. Blé Goudé under article 67(1) (f).
- d) That the Chamber may issue any other decisions in this regard to protect the rights of Mr. Blé Goudé in terms of having an adequate time and facilities to prepare for trial.



Geert-Jan Alexander Knoops and Claver N'dry
Counsels for Charles Blé Goudé

Dated this 26 January 2015

At The Hague, Netherlands