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TRIAL CHAMBER I

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

SITUATION IN THE REPUBLIC OF COTE D'IVOIRE

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

Public Document

**Response of the Common Legal Representative of victims to the Prosecution's
request to join the *Gbagbo* and *Blé Goudé* cases (ICC-02/11-02/11-194)**

Source: Office of Public Counsel for Victims

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

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**Unrepresented Applicants
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I. PROCEDURAL BACKGROUND

1. On 4 June 2012, the Single Judge of Pre-Trial Chamber I (the “Single Judge”) authorized 139 victims to participate at the confirmation of charges hearing and in the related proceedings of the *Gbagbo* case, and appointed a counsel from the Office of Public Counsel for Victims (the “OPCV” or the “Office”) as the Common Legal Representative of said victims (the “Common Legal Representative”).¹

2. On 6 February 2013, the Single Judge authorized 60 victims to participate at the confirmation of charges hearing and in the related proceedings of the *Gbagbo* case, and confirmed the appointment of a counsel from the Office as Common Legal Representative of all the victims admitted to participate in the proceedings.²

3. On 1 June 2014, the Single Judge authorized the 199 victims already participating in the *Gbagbo* case to also participate at the confirmation of charges hearing and in the related proceedings in the *Blé Goudé* case, appointed a counsel from the Office as Common Legal Representative of said victims, and specified the manner of their participation in the proceedings.³

4. On 12 June 2014, Pre-Trial Chamber I, by majority, issued a decision confirming the charges against Mr. Gbagbo under article 61(7)(a) of the Rome Statute and committed him for trial (the “*Gbagbo* Confirmation Decision”).⁴

¹ See the “Decision on Victims’ Participation and Victims’ Common Legal Representation at the Confirmation of Charges Hearing and in the Related Proceedings” (Pre-Trial Chamber I, Single Judge), No. ICC-02/11-01/11-138, 4 June 2012, pp. 25-26.

² See the “Second decision on victims’ participation at the confirmation of charges hearing and in the related proceedings” (Pre-Trial Chamber I, Single Judge), No. ICC-02/11-01/11-384, 6 February 2013, pp. 22-23.

³ See the “Decision on victims’ participation in the pre-trial proceedings and related issues” (Pre-Trial Chamber I, Single Judge), No. ICC-02/11-02/11-83, 1 June 2014, pp. 22-23.

⁴ See the “Decision on the confirmation of charges against Laurent Gbagbo” (Pre-Trial Chamber I), No. ICC-02/11-01/11-656-Red, 12 June 2014, p. 131 (the “*Gbagbo* Confirmation Decision”).

5. On 1 August 2014, the Single Judge authorized further 271 victims to participate at the confirmation of charges hearing and in the related proceedings in the *Blé Goudé* case, confirmed the appointment of a counsel from the Office as Common Legal Representative of said victims, and specified the manner of their participation in the proceedings.⁵

6. On 17 September 2014, the Presidency reconstituted Trial Chamber I (the “Chamber”) and referred the case of *The Prosecutor v. Laurent Gbagbo* to it for trial.⁶

7. On 11 December 2014, Pre-Trial Chamber I, by majority, issued a decision confirming the charges against Mr. Blé Goudé under article 61(7)(a) of the Rome Statute and committed him for trial (the “*Blé Goudé* Confirmation Decision”).⁷

8. On 16 December 2014, the Prosecutor filed in the record of the *Gbagbo* proceedings a request to join the cases of *The Prosecutor v. Laurent Gbagbo* and *The Prosecutor v. Charles Blé Goudé*.⁸

9. On 20 December 2014, the Presidency referred the case of *The Prosecutor v. Charles Blé Goudé* to the Chamber for trial.⁹

10. On 22 December 2014, the Prosecutor filed in the record of the *Blé Goudé* proceedings a request to join the cases of *The Prosecutor v. Laurent Gbagbo* and *The Prosecutor v. Charles Blé Goudé* (the “Prosecution’s Request”).¹⁰

⁵ See the “Second Decision on victims’ participation in the pre-trial proceedings and related issues” (Pre-Trial Chamber I, Single Judge), No. ICC-02/01-02/01-111, 1 August 2014, pp. 13-15.

⁶ See the “Decision re-constituting Trial Chamber I and referring to it the case of *The Prosecutor v. Laurent Gbagbo*” (Presidency), No. ICC-02/11-01/11-682, 17 September 2014.

⁷ See the “Decision on the confirmation of charges against Charles Blé Goudé” (Pre-Trial Chamber I), No. ICC-02/11-02/11-186, 11 December 2014 (the “*Blé Goudé* Confirmation Decision”).

⁸ See the “Prosecution’s Request to join the cases of *The Prosecutor v. Laurent Gbagbo* and *The Prosecutor v. Charles BLE GOUDÉ*”, No. ICC-02/11-01/11-738, 16 December 2014.

⁹ See the “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)” (Presidency), No. ICC-02/11-02/11-193-Corr, 22 December 2014 (dated 20 December 2014).

¹⁰ See the “Prosecution’s Request to join the cases of *The Prosecutor v. Laurent Gbagbo* and *The Prosecutor v. Charles BLE GOUDÉ*”, No. ICC-02/11-02/11-194, 22 December 2014 (the “Prosecution’s Request”).

11. On 23 December 2014, the Registrar transmitted the full record of the proceedings related to the *Blé Goudé* case to the Chamber.¹¹

12. Pursuant to regulation 24(1) of the Regulations of the Court, the Principal Counsel of the OPCV, acting as Common Legal Representative of the victims in the *Gbagbo* and *Blé Goudé* cases,¹² submits her response to the Prosecution's Request.

II. COMMON LEGAL REPRESENTATIVE RESPONSE

The victims support the Prosecution's Request for the joinder of the cases

13. The Common Legal Representative supports the Prosecution's Request for the joinder of the two cases because a joint trial of Mr. Gbagbo and Mr. Blé Goudé will facilitate the expeditiousness of the proceedings, will increase the victims' safety during said proceedings and will contribute to ascertaining the truth of the violent events detailed in the confirmation decisions in both cases without affecting the rights of the defence. Indeed, the victims authorized to participate in the *Gbagbo* and *Blé Goudé* cases are of the view that said joinder is essential to their personal interest in the expeditiousness of the proceedings and share concerns that their appearance before the Court in successive proceedings may increase the existing risks to their security. The victims have also indicated that the joinder of the cases will allow a better understanding of the events which took place during the post-electoral crisis in Côte d'Ivoire, and in particular the extent of the victimisation and harms they suffered from.

¹¹ See the "Transmission to Trial Chamber I of the Full Record of the Proceedings, including the Decision on the Confirmation of Charges", No. ICC-02/11-02/11-195, 23 December 2014.

¹² See *supra* notes 1, 2, 3 and 5.

14. The Common Legal Representative shares the arguments put forward by the Prosecution in its Request in relation to the fact that the cases are essentially the same,¹³ and that the joinder will avoid duplication of the presentation of evidence and promotes judicial economy.¹⁴

15. Apart for the clear wording of rule 136 of the Rules of Procedure and Evidence which provides that persons accused jointly “*shall be tried together*”, in the present situation a number of reasons justify a joinder at this stage of the proceedings. A joinder will enhance the fairness as well as the judicial economy of the proceedings. A joinder will minimise the potential impact on witnesses and better facilitate their protection. A joinder will ensure that the same issues arising in both cases are dealt with consistently. A joinder will avoid the unnecessary expenses and time that the Court would face if it held two separate trials.¹⁵

16. The Common Legal Representative also notes that the Prosecution’s Request has been filed at the early stage of preparation for trial in both cases, allowing for a proper and timely discussion of all preliminary matters so as to avoid undue delays in the proceedings.

17. Finally, the Common Legal Representative contends that the joinder of the cases at this early stage of the proceedings before the Chamber would not prejudice the Accused and would not be contrary to the interests of justice.

¹³ See the Prosecution’s Request, *supra* note 10, paras. 10-16.

¹⁴ *Idem*, paras. 18-19.

¹⁵ See the “Decision on the joinder of the Cases against Germain KATANGA and Mathieu NGUDJOLO CHUI” (Pre-Trial Chamber II), No. ICC-01/04-01/07-257, 10 March 2008, page 8.

FOR THE FOREGOING REASONS, the Common Legal Representative respectfully requests the Trial Chamber to grant the Prosecution's Request and order the joinder of the *Gbagbo* and *Blé Goudé* cases.

A handwritten signature in black ink, appearing to read 'Paolina Massidda', with a horizontal line drawn underneath the name.

Paolina Massidda
Principal Counsel

Dated this 6th day of January 2015

At The Hague, The Netherlands