

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 3 March 2014

PRE-TRIAL CHAMBER I

Before: Judge Silvia Fernández de Gurmendi, Single Judge

**SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE
IN THE CASE OF *THE PROSECUTOR* v. *CHARLES BLÉ GOUDÉ***

Public

**Decision on Côte d'Ivoire's request to postpone the surrender of Charles
Blé Goudé to the Court**

Decision to be notified, in accordance with Regulation 31 of the *Regulations of the Court*, to:

The Office of the Prosecutor

Fatou Bensouda

James Stewart

Counsel for the Defence

Nicholas Kaufman

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

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

States Representatives

Jean-Pierre Mignard

Jean-Paul Benoit

Amicus Curiae

REGISTRY

Registrar

Herman Von Hebel

Detention Section

Victims and Witnesses Unit

Others

**Victims Participation and Reparations
Section**

Judge Silvia Fernández de Gurmendi, Single Judge for Pre-Trial Chamber I (the “Chamber”) of the International Criminal Court (the “Court”), responsible for carrying out the functions of the Chamber in relation to the situation in the Republic of Côte d’Ivoire and the cases emanating therefrom,¹ issues the following decision on Côte d’Ivoire’s request to postpone the surrender of Charles Blé Goudé (“Mr Blé Goudé”) to the Court made in the *“Observations de la République de Côte d’Ivoire concernant la demande d’arrestation et de remise de M. Charles Blé Goudé à la Cour Pénale Internationale”* (the “Observations”).²

1. On 21 December 2011, the Chamber issued a warrant of arrest for Mr Blé Goudé, which was made public on 30 September 2013.³

2. On 12 December 2012, the Registrar transmitted to Côte d’Ivoire a request for the arrest and surrender to the Court of Mr Blé Goudé (the “Surrender Request”).⁴

3. On 18 January 2013, Mr Blé Goudé was transferred from Ghana to Côte d’Ivoire.⁵

4. On 13 January 2014, Côte d’Ivoire, upon a request of the Chamber to provide submissions as to the status of implementation of the Surrender Request,⁶ filed the Observations, whereby it requests the Chamber to “[f]aire droit au sursis à l’exécution par la République de Côte d’Ivoire de la demande d’arrestation et de remise à la Cour pénale international de M. Charles Blé Goudé,

¹ ICC-02/11-02/11-9.

² ICC-02/11-02/11-37-Conf. A public redacted version is also available (ICC-02/11-02/11-37-Red).

³ ICC-02/11-02/11-1.

⁴ See ICC-02/11-02/11-34, para. 2; see also ICC-02/11-02/11-19.

⁵ See ICC-02/11-02/11-37-Conf, para. 9.

⁶ “Decision requesting Côte d’Ivoire to provide observations concerning the Court’s request for arrest and surrender of Charles Blé Goudé”, ICC-02/11-02/11-36, 2 December 2013.

conformément à l'article 94 du Statut de Rome" and to "[f]ixer au 13 avril 2014 la date de clôture du sursis à exécution" (the "Request").⁷

5. On 14 January 2014, the Defence of Mr Blé Goudé provided its response to the Request,⁸ submitting that "Article 94 of the Rome Statute does not permit a State Party to postpone compliance with a request for surrender"⁹ and "[a]ccordingly, Côte d'Ivoire's present application for a postponement must fail".¹⁰

6. As recalled above, Côte d'Ivoire invokes article 94(1) of the Rome Statute (the "Statute") as the legal basis allowing it to postpone the execution of the Surrender Request. The Single Judge notes that pursuant to this provision a requested State may postpone the execution of a cooperation request for a period of time agreed upon with the Court "[i]f the immediate execution of a request would interfere with an ongoing investigation or prosecution of a case different from that to which the request relates". By contrast, article 89(4) of the Statute, which is part of the article entitled "Surrender of persons to the Court", provides that "[i]f the person sought is being proceeded against or is serving a sentence in the requested State for a crime different from that for which surrender to the Court is sought, the requested State, after making its decision to grant the request, shall consult with the Court".

7. The Single Judge recalls that this Chamber – previously confronted with a similar request to postpone the execution of a request for arrest and surrender as an exercise of the right provided for in article 94(1) of the Statute – already determined that the relationship between article 94(1) and 89(4) of the Statute is as follows:

⁷ ICC-02/11-02/11-37-Conf, p. 9.

⁸ ICC-02/11-02/11-38.

⁹ *Ibid.*, para. 7.

¹⁰ *Ibid.*, para. 8.

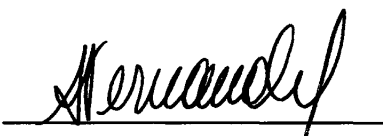
(i) both articles relate to situations where a cooperation request creates interference with the requested State's domestic legal process, (ii) article 89(4) of the Statute is a *lex specialis* provision that specifically relates to surrender requests and, without any mention of a possibility for postponement, requires the requested State to grant the request and then consult with the Court and (iii) article 94(1) allows for postponement of the request when such a situation arises, but only for requests *other* than requests for surrender.¹¹

8. The same considerations apply in this case. Given that the present cooperation request is a request for surrender, the Single Judge finds that Côte d'Ivoire is not entitled to invoke article 94(1) of the Statute. Rather, Côte d'Ivoire must first make its decision to grant the Surrender Request, and only after compliance with this duty, consult with the Court pursuant to article 89(4) of the Statute if Mr Blé Goudé is being proceeded against in Côte d'Ivoire for a crime different from that for which surrender to the Court is sought.

FOR THESE REASONS, THE SINGLE JUDGE

REJECTS Côte d'Ivoire's request to postpone the surrender of Charles Blé Goudé to the Court.

Done in both English and French, the English version being authoritative.


Judge Silvia Fernández de Gurmendi
Single Judge

Dated this 3 March 2014

At The Hague, The Netherlands

¹¹ Pre-Trial Chamber I, "Decision on Libya's Submissions Regarding the Arrest of Saif Al-Islam Gaddafi", 7 March 2012, ICC-01/11-01/11-72, para. 15.