

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/11-02/11
Date: 2 December 2013

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 requesting Côte d'Ivoire to provide observations concerning the
Court's request for arrest and surrender of Charles Blé Goudé**

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

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 requesting Côte d’Ivoire to provide observations concerning the Court’s request for arrest and surrender of Charles Blé Goudé (“Mr Blé Goudé”).

1. On 21 December 2011, the Chamber issued a warrant of arrest for Mr Blé Goudé, which was made public on 30 September 2013 (the “Warrant of Arrest”).²

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”).³

3. On 11 October 2013, the Defence of Mr Blé Goudé, submitting that “[o]n 17 January 2013, the Suspect was arrested in Ghana and transferred to Côte d’Ivoire where domestic criminal proceedings were initiated against him”,⁴ requested the Chamber to order Côte d’Ivoire to: (i) facilitate a legal visit by the Defence to Mr Blé Goudé in Abidjan; (ii) “permit a team from the Registry to visit the Suspect with Counsel, in Abidjan, in order to assess the Suspect’s financial status for the purpose of legal assistance”; and (iii) notify its intentions with respect to the proceedings being conducted against Mr Blé Goudé before the Court.⁵

¹ ICC-02/11-02/11-9.

² Warrant of Arrest for Charles Blé Goudé, ICC-02/11-02/11-1.

³ See ICC-02/11-02/11-34, para. 2; see also ICC-02/11-02/11-19.

⁴ ICC-02/11-02/11-31, para. 4.

⁵ *Ibid.*, para. 19.

4. On 21 October 2013, the Prosecutor responded to this request by the Defence, submitting that she does not oppose the first order sought by the Defence and that she “makes no further submissions to the Chamber” in relation to the other orders sought.⁶

5. On the same day, the Registrar transmitted a *note verbale* to Côte d’Ivoire, requesting it, *inter alia*, to confirm Mr Blé Goudé’s detention on its territory as well as to inform the Court by 31 October 2013 about the arrangements made to execute the Surrender Request,⁷ and submitted to the Chamber that he will request cooperation of the Ivorian authorities with a view to facilitating a Registry and Defence mission as soon as Côte d’Ivoire confirms that Mr Blé Goudé is detained in Côte d’Ivoire pursuant to, and has been notified of, the Court’s Warrant of Arrest.⁸

6. On 4 November 2013, the Registrar informed the Chamber that his *note verbale* dated 21 October 2013 was received by the competent authorities of Côte d’Ivoire two days later,⁹ and that, despite the time limit set for a response, Côte d’Ivoire had not responded to the Registrar’s *note verbale*.¹⁰

7. The Single Judge notes articles 57, 67, 86, 87 and 89 of the Rome Statute (the “Statute”), and rules 20 and 176 of the Rules of Procedure and Evidence (the “Rules”).

8. It has been widely reported that, in January 2013, Mr Blé Goudé was arrested in Ghana and transferred to Côte d’Ivoire. Nevertheless, no official confirmation of this fact from the authorities of Côte d’Ivoire appears in the record of the case. Even more importantly, Côte d’Ivoire, despite its

⁶ ICC-02/11-02/11-33, para. 2.

⁷ ICC-02/11-02/11-34-Conf-Exp-Anx1.

⁸ ICC-02/11-02/11-34, paras 3-4.

⁹ ICC-02/11-02/11-35, para. 1; See also the “*Procès-Verbal de Notification*” at ICC-02/11-02/11-35-Conf-Exp-Anx1, p. 4.

¹⁰ ICC-02/11-02/11-35, para. 3.

obligation to surrender Mr Blé Goudé to the Court, has neither proceeded to his surrender nor has it undertaken any action under Part 9 of the Statute available to it in case of any legitimate impediment to the immediate execution of the Surrender Request. In addition, Côte d'Ivoire has failed to submit any communication concerning the status of implementation of the Surrender Request and to provide any reply to the Court's request for arrest and surrender of Mr Blé Goudé.

9. In these circumstances, the Single Judge finds it necessary to instruct the Registrar to reiterate to Côte d'Ivoire the request for arrest and surrender of Mr Blé Goudé and remind it of its obligation to comply with the request. Furthermore, it is appropriate that Côte d'Ivoire be again explicitly requested to inform the Chamber of the way Côte d'Ivoire intends to fulfil its duty to comply with the Surrender Request.

10. At this juncture, the Single Judge considers it appropriate to provide some clarifications in relation to the Registrar's submissions with respect to the Defence request to facilitate a legal visit to Mr Blé Goudé in Côte d'Ivoire. The Single Judge notes that the Registrar, while not opposing this request by the Defence, submits that he would make the necessary arrangements after receiving from Côte d'Ivoire a response to his *note verbale* of 21 October 2013. It therefore appears that the Registrar would promptly proceed to facilitating a visit by the Defence to Mr Blé Goudé, in accordance with his responsibility pursuant to rule 20 of the Rules, provided that he first receives official confirmation from Côte d'Ivoire of Mr Blé Goudé's presence on the Ivorian territory. However, the Single Judge sees no impediment to the Registrar addressing a request to Côte d'Ivoire to facilitate a visit to Mr Blé Goudé together with the requests by the Single Judge as specified in the present decision, without waiting for an official confirmation from Côte d'Ivoire of Mr Blé Goudé's presence on its territory. The Single Judge also notes the

Registrar's argument that, before requesting Côte d'Ivoire's cooperation for the purposes of organising a legal visit to Mr Blé Goudé, he would also need to determine whether Mr Blé Goudé has been arrested pursuant to the Court's Warrant of Arrest.¹¹ In this regard, the Single Judge wishes to emphasise that, as observed by this Chamber on several occasions,¹² the suspect's exercise of his or her statutory rights (necessarily encompassing the right to communicate freely and in confidence with counsel of his or her choosing enshrined in article 67(1)(b) of the Statute) cannot be made contingent upon the State's compliance with its obligation *vis-à-vis* the Court, including, as far as the present case is concerned, its obligations to activate the procedure under article 59 of the Statute and to surrender the suspect to the Court.

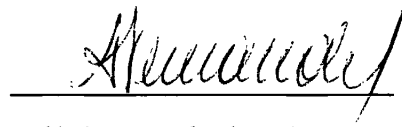
FOR THESE REASONS, THE SINGLE JUDGE

ORDERS the Registrar to reiterate to Côte d'Ivoire the request for arrest and surrender of Charles Blé Goudé and to remind it of its obligation to comply with this request; and to request it to submit, by Monday, 13 January 2014, its observations as to the status of implementation of the request for arrest and surrender.

¹¹ ICC-02/11-02/11-34, paras 3-4.

¹² See *e.g.* Pre-Trial Chamber I, Decision on OPCD Requests, ICC-01/11-01/11-129, 27 April 2012, para. 11; *id.*, Decision on "Request for Review of Registrar's Decision" by the Defence of Saif Al-Islam Gaddafi, 30 July 2012, para. 33; *id.*, Decision on the Conduct of the Proceedings Following the "Application on behalf of the Government of Libya pursuant to Article 19 of the Statute", ICC-01/11-01/11-134, para. 11; *id.*, Decision on the conduct of the proceedings following the "Application on behalf of the Government of Libya relating to Abdullah Al-Senussi pursuant to Article 19 of the ICC Statute", 26 April 2013, ICC-01/11-01/11-325, para. 8; *id.*, Corrigendum to Decision on the "Defence request for an order of disclosure", 1 August 2013, ICC-01/11-01/11-392-Red-Corr, para. 32; and *id.*, Decision on the conduct of the proceedings following Côte d'Ivoire's challenge to the admissibility of the case against Simone Gbagbo, 15 November 2013, para. 8.

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

A handwritten signature in black ink, appearing to read 'Silvia Fernández de Gurmendi', is written over a horizontal line.

Judge Silvia Fernández de Gurmendi
Single Judge

Dated this 2 December 2013

At The Hague, The Netherlands