

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/11-01/15

Date: 6 July 2015

TRIAL CHAMBER I

Before: Judge Geoffrey Henderson, Single Judge

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

Public

**Decision on 'Prosecution's request in relation to potentially privileged material
seized by the Office of the Prosecutor'**

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

The Office of the Prosecutor

Ms Fatou Bensouda

Mr James Stewart

Mr Eric MacDonald

Counsel for Mr Laurent Gbagbo

Mr Emmanuel Altit

Ms Agathe Bahi Baroan

Counsel for Mr Charles Blé Goudé

Mr Geert-Jan Alexander Knoops

Mr Claver N'dry

Legal Representatives of Victims

Ms Paolina Massidda

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

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Others

Judge Geoffrey Henderson, acting as Single Judge on behalf of Trial Chamber I ('Single Judge' and 'Chamber', respectively) of the International Criminal Court, in the case of *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, having regard to Rule 73 of the Rules of Procedure and Evidence ('Rules') and Regulation 23 *bis* of the Regulations of the Court ('Regulations'), issues the following 'Decision on "Prosecution's request in relation to potentially privileged material seized by the Office of the Prosecutor"'.

1. On 19 May 2015, the Office of the Prosecutor ('Prosecution') requested that the Chamber review certain material ('Material') and determine whether it contains privileged information with respect to Mr Blé Goudé ('Prosecution Request').¹ On 29 June 2015, pursuant to the Single Judge's order,² the defence for Mr Blé Goudé ('Blé Goudé Defence') submitted, *inter alia*, that it 'is unable to sustain the argument that the Material or any part thereof is protected by any privilege' and leaves it to the discretion of the Chamber to determine whether it is subject to disclosure ('Blé Goudé Defence Submissions').³ The Prosecution responded on 30 June 2015 concerning the ambit of Rule 73(1) of the Rules ('Prosecution Response').⁴
2. At the outset, the Single Judge considers that nothing in the Prosecution Response warrants 'confidential' classification. Accordingly, pursuant to Regulation 23 *bis*(3) of the Regulations, the Single Judge decides to reclassify the Prosecution Response as 'public'.

¹ Prosecution's request in relation to potentially privileged material seized by the Office of the Prosecutor, ICC-02/11-01/15-69-Conf-Exp, with two confidential, *ex parte* annexes. On 20 May 2015, the Chamber instructed the Registry to notify the Prosecution Request and the Material to the defence for Mr Blé Goudé. Email communication from Legal Officer of the Trial Chamber to Registry on 20 May 2015 at 12:50.

² Order for submissions by the defence for Mr Blé Goudé concerning potentially privileged material, 25 June 2015 (notified on 26 June 2015), ICC-02/11-01/15-104.

³ Defence submissions concerning potentially privileged material, ICC-02/11-01/15-110-Conf, para. 7.

⁴ Prosecution's response to Defence submissions concerning potentially privileged material, ICC-02/11-01/15-112-Conf.

3. Turning to the merits of the Prosecution Request, the Single Judge notes that there is no indication that any person other than Mr Blé Goudé is a potential privilege-holder with respect to the Material. The Blé Goudé Defence does not claim any privilege on behalf of Mr Blé Goudé and leaves it to the discretion of the Chamber as to whether the Material is to be disclosed. Under these circumstances and on the basis of the Blé Goudé Defence Submissions, the Single Judge decides that the Prosecution may proceed with its review of the Material in light of its disclosure obligations.

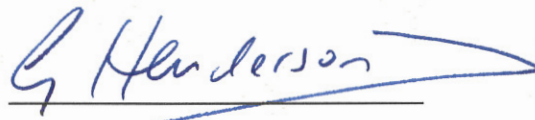
FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY

AUTHORISES the Prosecution to review the Material in light of its disclosure obligations;

ORDERS the Prosecution and Blé Goudé Defence to file, within five days of notification of this decision, public redacted versions of the Prosecution Request and Blé Goudé Defence Submissions, respectively, or indicate to the Chamber that they may be reclassified as 'public' without redactions; and

INSTRUCTS the Registry to reclassify the Prosecution Response as 'public'.

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



Judge Geoffrey Henderson, Single Judge

Dated 6 July 2015

At The Hague, The Netherlands