

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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Date: 7 July 2015

TRIAL CHAMBER I

Before: Judge Geoffrey Henderson, Presiding Judge
Judge Olga Herrera Carbuccion
Judge Bertram Schmitt

SITUATION IN CÔTE D'IVOIRE

IN THE CASE OF
THE PROSECUTOR v. LAURENT GBAGBO AND CHARLES BLÉ GOUDÉ

Public Document
with a Confidential *EX PARTE* Annex,
available only to the LRV and the Prosecution

**Second request to maintain redactions to the identifying and contact information
of the intermediaries mentioned in the applications
of dual status individuals**

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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I. PROCEDURAL BACKGROUND

1. On 15 December 2014, the Single Judge of Trial Chamber I (the “Single Judge”) adopted the redaction regime to be followed in the case of *The Prosecutor v. Laurent Gbagbo*, and set it out in a redaction protocol (the “Redaction Protocol”).¹

2. On 6 March 2015, Trial Chamber I (the “Chamber”) confirmed the status of victims already authorised to participate at the pre-trial stage of the case and of the ones authorised to participate in the case of *The Prosecutor v. Charles Blé Goudé*.²

3. On 11 March 2015, the Chamber ordered the joinder of the cases of *The Prosecutor v. Laurent Gbagbo* and *The Prosecutor v. Charles Blé Goudé*, deciding *inter alia* that all decisions and orders issued in both cases shall continue to apply, as appropriate and until ordered otherwise, in the joint case.³

4. On 7 May 2015, the Chamber issued the “Order setting the commencement date for trial”, directing the Prosecution *inter alia* to disclose all incriminatory material in the form of witness statements and any other material to be relied on at trial, as well as all article 67(2) and rule 77 material in its possession for inspection to the two Defence teams on a rolling basis and no later than 30 June 2015.⁴

5. On 8 June 2015, the Principal Counsel of the Office of Public Counsel for Victims, acting as Common Legal Representative of the victims admitted to participate in the proceedings (the “Common Legal Representative”),⁵ filed a request

¹ See the “Protocol establishing a redaction regime in the case of *The Prosecutor v. Laurent Gbagbo*” (Pre-Trial Chamber I), No. ICC-02/11-01/11-737-AnxA, 15 December 2014 (the “Redaction Protocol”).

² See the “Decision on victim participation” (Trial Chamber I), No. ICC-02/11-01/11-800, 6 March 2015, para. 61.

³ See the “Decision on Prosecution requests to join the cases of *The Prosecutor v. Laurent Gbagbo* and *The Prosecutor v. Charles Blé Goudé* and related matters” (Trial-Chamber I), No. ICC-02/11-01/15-1, 11 March 2015, paras. 68 and 74.

⁴ See the “Order setting the commencement date for trial” (Trial Chamber I), No. ICC-02/11-01/15-58, 07 May 2015, para. 22.

⁵ See *supra* note 2.

to maintain redactions to the identifying and contact information of the intermediaries mentioned in 12 of the 19 applications of dual status individuals to be disclosed by the Prosecution (the “First Request”).⁶

6. On the same date, the Prosecution disclosed to the Defence teams of Mr. Gbagbo and Mr. Blé Goudé 19 items pursuant to rule 77 of the Rules of Procedure and Evidence corresponding to the applications for participation of 19 dual status individuals, with some redactions marked “B.3. LRV”.⁷

7. On 23 June 2015, the Prosecution and the Defence teams of Mr. Gbagbo and Mr. Blé Goudé filed their responses to the First Request.⁸

8. On 26 June 2015, the Common Legal Representative filed her reply to the responses submitted by the Defence teams of Mr. Gbagbo and Mr. Blé Goudé to the First Request (the “Reply”).⁹

9. On 29 June 2015, the Registrar provided his observations on the First Request (the “Registrar’s Observations”).¹⁰

⁶ See the “Request to maintain redactions to the identifying and contact information of the intermediaries mentioned in the applications of dual status individuals”, No. ICC-02/11-01/15-85, 08 June 2015 (the “First Request”).

⁷ See the “Prosecution’s Communication of Evidence Disclosed to the Defence on 8 June 2015”, No. ICC-02/11-01/15-86, 09 June 2015, paras. 1 and 3.

⁸ See the “Prosecution’s Response to the Common Legal Representative’s Request to maintain redactions to the identifying and contact information of the intermediaries mentioned in the applications of dual status individuals”, No. ICC-02/11-01/15-99, 23 June 2015; the “Réponse de la Défense à la «Request to maintain redactions to the identifying and contact information of the intermediaries mentioned in the application of dual status individuals» (ICC-02/11-01/15-85) déposée par la Représentante légale des victimes le 8 juin 2015”, No. ICC-02/11-01/15-98, 23 June 2015; and the “Defence Response to the “Request to maintain redactions to the identifying and contact information of intermediaries mentioned in the applications of dual status individuals” (ICC-02/11-01/15-85)”, No. ICC-02/11-01/15-100, 23 June 2015.

⁹ See the “Public redacted Version - Reply to Defence responses ICC-02/11-01/15-98 and ICC-02/11-01/15-100”, No. ICC-02/11-01/15-106-Red, 26 June 2015 (the “Reply”).

¹⁰ See the “Registry’s observations on the ‘Request to maintain redactions to the identifying and contact information of the intermediaries mentioned in the applications of dual status individuals’ (ICC-02/11-01/15-85)”, No. ICC-02/11-01/15-107, 29 June 2015 (dated 26 June 2015) (the “Registrar’s Observations”).

10. On the same day, the Prosecution informed the Common Legal Representative of its upcoming disclosure to the Defence teams of Mr. Gbagbo and Mr. Blé Goudé of an item pursuant to rule 77 of the Rules of Procedure and Evidence corresponding to the application for participation of an additional dual status individual.

11. In light of the Redaction Protocol and pursuant to article 64(2) and (6)(e), as well as article 68(1) of the Rome Statute, and rule 81(4) of the Rules of Procedure and Evidence, the Common Legal Representative respectfully submits the following request.

12. Pursuant to regulation 23*bis* (2) of the Regulations of the Court, the Common Legal Representative files this request as public and its Annex as confidential *ex parte*, only available to the Common Legal Representative and the Prosecution, because it contains the application for participation of a dual status individual not yet transmitted in a fully unredacted format to the Defence.

II. REQUEST TO MAINTAIN REDACTIONS

13. The Common Legal Representative requests that the existing redactions to the identifying and contact information of the intermediary mentioned in the additional application for participation of a dual status individual eventually disclosed by the Prosecution pursuant to rule 77 of the Rules of Procedure and Evidence be maintained. These redactions are marked with the code “B.3. LRV” in the attached confidential *ex parte* Annex, which also contains the redactions to be made by the Prosecution pursuant to the Redaction Protocol.

14. The Common Legal Representative recalls all the arguments she made in the First Request and in the Reply supporting the maintenance of redactions to the identifying and contact information of the victims’ intermediaries.¹¹ All these

¹¹ See the First Request, *supra* note 6, paras. 21-39 and 43-59; and the Reply, *supra* note 9, paras. 10-27.

arguments, namely that the identifying and contact information of the intermediaries that assisted dual status individuals must remain redacted as they are “innocent third parties” (category B.3. of the Redaction Protocol) or that, in the alternative, this information must be subject to ongoing non-standard redactions (category C of the Redactions Protocol), are equally applicable to the information on the victim’s intermediary marked with the code “B.3. LRV” in the Annex.

15. Furthermore, the Common Legal Representative endorses the additional arguments provided in the Registrar’s Observations to maintain redacted the identifying and contact information of the victims’ intermediaries, and submits that said arguments are also applicable to the victim application contained in the Annex.¹²

16. Lastly, the Common Legal Representative informs the Chamber that she recently met with the intermediaries of the victims authorised to participate in the case, including the intermediary whose identity and contact information is redacted in the victim application annexed to this request. Said intermediaries expressed their ongoing concerns about the security situation in Côte d’Ivoire and their consequent unwillingness to have their identities disclosed to the public or the Defence for the time being. In this regard, intermediaries have expressed concerns in relation to the possibly volatile security situation in Abidjan as a result of the approaching period of elections and the start of the trial. They also indicated that - while they are willing to continue to support the activities of the Court and of the legal representative - they might reconsider their interaction with the Court and the legal representative should they be required to disclose their identities.

¹² See the Registrar’s Observations, *supra* note 10, paras. 1-4.

FOR THE FOREGOING REASONS, the Common Legal Representative respectfully requests the Chamber to rule that the identifying and contact information of the intermediary mentioned in the annexed application for participation of a dual status individual must remain redacted.

A handwritten signature in black ink, reading "Paolina Massidda". The signature is written in a cursive style with a horizontal line underneath the name.

Paolina Massidda
Principal Counsel

Dated this 7th day of July of 2015

At The Hague, The Netherlands