

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: *English*

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

Date: **9 July 2015**

TRIAL CHAMBER I

Before: Judge Geoffrey Henderson, Presiding Judge
Judge Olga Herrera-Carbuccia
Judge Bertram Schmitt

SITUATION IN COTE D'IVOIRE

IN THE CASE OF
THE PROSECUTOR v. LAURENT GBAGBO AND CHARLES BLE GOUDE

PUBLIC

Public redacted version of "Defence submissions concerning potentially privileged material", 29 June 2015, ICC-02/11-01/15-110-Conf

Source: Defence of Mr Charles Blé Goudé

Document 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 the Defence of Mr Blé Goudé

Mr Geert-Jan Alexander Knoops
Mr Claver N'dry

Counsel for the Defence of Mr Gbagbo

Mr Emmanuel Altit
Ms Agathe Bahi Baroan

Legal Representatives of the Victims

Ms. Paolina Massidda

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

The Office of Public Counsel for Victims

Ms. Paolina Massidda
Mr. Enrique Carnero Rojo

**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**

Other

I. Introduction

1. Pursuant to the instructions of the Single Judge acting on behalf of Trial Chamber I (“Single Judge” and “Chamber” respectively), the Defence of Mr Blé Goudé (“Defence”) indicates that it cannot assert whether or not the material notified to the Defence is protected by any privilege.

II. Confidentiality

2. Pursuant to regulation 23*bis* of the Regulations of the Court, the Defence files the present submissions as confidential as they relate to potentially privileged material that may be subject to confidentiality rules.

III. Procedural history

3. On 19 May 2015, the Prosecution requested that the Chamber review certain material potentially covered by attorney-client privilege (“Material”) with respect to Mr Blé Goudé (“Prosecution Request”).¹
4. On 20 May 2015, the Chamber instructed the Registry to notify the Prosecution Request and the Material to the Defence.²
5. On 25 June 2015, the Single Judge ordered the Defence to review the Material, and to indicate by Monday 29 June 2015 whether the Defence asserts that the Material, or any part thereof, is protected by any privilege.³

¹ “Prosecution’s request in relation to potentially privileged material seized by the Office of the Prosecutor”, ICC-021 I1-01/15-69-Conf-Exp, with two confidential, *ex parte* annexes.

² Email communication from Legal Officer of the Chamber to Registry on 20 May 2015 at 12:50.

³ Trial Chamber I, “Order for submissions by the defence for Mr Blé Goudé concerning potentially privileged material”, ICC-02/11-01/15-104.

IV. Submissions

6. The Defence provided Mr Blé Goudé with the Material for his review. Given the fact that [REDACTED].
7. In the absence of [REDACTED], the Defence is not able 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 the Material contains privileged information and, consequently, whether it is subject to disclosure. The Defence would like to highlight however that the contents of the Material have [REDACTED].
8. In the event that the Chamber would hold that the Material on its face resembles counsel-client correspondence, the Defence submits that, [REDACTED],⁴ the Material, even when [REDACTED], falls within the ambit of rule 73 of the Rules and Procedure and Evidence.

⁴ See *e.g.* [REDACTED].

Respectfully submitted,




Mr. Knoop, Lead Counsel and Mr. N'Dry, Co-Counsel

Dated this

9 July 2015

At The Hague, the Netherlands