

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 14 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 the Defence request on the suspension of time limits during the
judicial recess**

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 ('Court'), in the case of *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, having regard to Articles 64(2) and (6)(f) of the Rome Statute ('Statute') and Regulation 19 *bis* of the Regulations of the Court ('Regulations'), issues the following 'Decision on the Defence request on the suspension of time limits during the judicial recess'.

1. On 9 July 2015, the defence team for Mr Gbagbo ('Defence') filed the '*Requête de la Défense portant sur la suspension souhaitable des délais procéduraux pendant le temps des vacances judiciaires*' ('Request').¹ Therein, the Defence requests the Chamber to, *inter alia*, (i) suspend all time limits during the impending judicial recess, which extends from 16 July to 10 August 2015 ('Judicial Recess'); and (ii) invite parties to only file urgent requests over the Judicial Recess that require a ruling by the Chamber before the end of the Judicial Recess.²
2. The Defence argues that its Request ought to be granted on the basis, *inter alia*, that: (i) the recess period has been a particularly busy time for the Defence over the course of the proceedings so far;³ (ii) there is a considerable volume of work for the Defence to complete during this Judicial Recess, including as the Chamber has yet to rule on a number of requests from the parties, and may do so on the eve of the Judicial Recess, thus triggering leave to appeal deadlines;⁴ (iii) the Defence team, in order to ensure compliance with fundamental human rights to rest and leisure, as well as to family life,⁵ ought to enjoy the same rights as others working at the Court, including the right to leave to return to their respective homes;⁶ (iv) the Defence capacity is more limited than that of the Office of the Prosecutor ('Prosecution'), which impacts upon the Defence ability to take leave

¹ ICC-02/11-01/15-130.

² Request, ICC-02/11-01/15-130, page 18.

³ Request, ICC-02/11-01/15-130, paras 3-12.

⁴ Request, ICC-02/11-01/15-130, paras 13-18. *See in particular* para. 18.

⁵ Request, ICC-02/11-01/15-130, paras 19-26.

⁶ Request, ICC-02/11-01/15-130, paras 27-32.

over the recess and raises the issue of equality of arms;⁷ and (v) the suspension of deadlines over the recess period has occurred before at the Court, as well as at other international criminal courts and tribunals and in various national systems.⁸

3. The Single Judge notes that Regulation 19 *bis* (2) of the Regulations provides:

Unless otherwise determined by a Chamber, during the judicial recess hearings shall be limited to urgent issues and time limits shall not be suspended.

4. The Single Judge considers that, while the legal framework of the Court therefore allows for suspension of time limits during the judicial recess on an exceptional basis, Regulation 19 *bis*(2) of the Regulations clearly stipulates that *time limits shall not be suspended* unless the Chamber otherwise determines. In deciding whether or not circumstances exist that may warrant a departure from the norm, the Single Judge considers that he ought to 'take into account the particular circumstances of the case which have a bearing on the matter', including the nature of the issues alleged by the Defence, and the current stage of the proceedings.⁹
5. In so determining, the Single Judge notes that the Request does not identify any deadlines which are due to fall on a date during the Judicial Recess. Instead, the Request refers to unspecified motions filed in recent months that have yet to be ruled upon by the Chamber, and upon which decisions *may* be issued prior to the commencement of the Judicial Recess, for which the concomitant time limits for requesting leave to appeal *may* be triggered. The Defence also argues that, in light of the Chamber's deadline of 1 September 2015 for submissions on agreed facts, it

⁷ Request, ICC-02/11-01/15-130, paras 36-46.

⁸ Request, ICC-02/11-01/15-130, paras 51-60.

⁹ *See in this regard* Decision on Defence request on the suspension of time limits during judicial recess, 27 December 2013, ICC-02/11-01/11-585, ICC-02/11-01/11-585, para. 5.

is likely that the Prosecution will submit proposals on agreed facts to it before the Judicial Recess.¹⁰

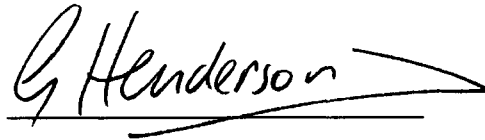
6. The Single Judge considers that these arguments are speculative and cannot therefore constitute a sound basis for departure from the norm enshrined in Regulation 19 *bis*(2) of the Regulations.
7. In terms of the present stage of proceedings, the Single Judge notes that the commencement date for trial is scheduled for 10 November 2015.¹¹ Pursuant to the Chamber's trial management powers under Article 64 of the Statute, particularly its duty under Article 64(2) of the Statute to ensure the proceedings before it are conducted expeditiously, the Single Judge does not consider it appropriate to suspend the time limits during the Judicial Recess with the trial commencing in less than four months.
8. Accordingly, on the basis that the Defence has failed to identify any material or compelling reasons in its Request that would warrant suspending deadlines over the Judicial Recess, and in light of the proximity of the trial commencement date, the Single Judge is not persuaded by the arguments raised in the Request.

¹⁰ Request, ICC-02/11-01/15-130, paras 17-18.

¹¹ Order setting the commencement date for trial, 7 May 2015, ICC-02/11-01/15-58.

**FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY
REJECTS the Request.**

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

A handwritten signature in black ink, reading "G Henderson", with a long horizontal stroke extending to the right.

Judge Geoffrey Henderson, Single Judge

Dated 14 July 2015

At The Hague, The Netherlands