

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: *English*

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

Date: **15 September  
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  
with two confidential annexes**

**Public redacted version of "Defence Notification on Security Incidents", 11  
September 2015, ICC-02/11-01/15-216-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**

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**REGISTRY**

**Registrar**

Mr Herman von Hebel

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

## **I. Introduction**

1. The Defence of Mr Blé Goudé ("Defence") hereby notifies Trial Chamber I ("Chamber") of two security incidents involving its associate counsel, Mr Claver N'Dry, that occurred in Abidjan in the past months, and respectfully submits to the Chamber the following detailed report in relation thereto.
2. As a preliminary comment, the Defence would like to highlight that the reason why it has not filed the present notification earlier is that it was waiting to receive the reports regarding the most recent security incident pertaining to the Defense team from, respectively, the Ivorian police and the ICC field security officer, in order to append them as annexes to the present notification. The Ivorian police filed its report only recently. Regarding the ICC report, the ICC field security office has not provided it to the Defense to date, despite its various requests. Hence, the Defence has taken the position not to wait for the ICC report any longer.

## **II. Confidentiality**

3. Pursuant to regulation 23*bis* (1) of the Regulations of the Court, the Defence requests that the present notification , together with its annexes, be received and marked as "confidential", as they contain certain private details which should not be released to the public. A public redacted version of the present notification will be filed in due course.

## **III. Procedural history**

4. On 19 August 2014, Mr Claver N'Dry was appointed as legal assistant on the former Defence team of Mr Blé Goudé, the lead counsel of which was, at the time, Mr Nicholas Kaufman.

5. On 11 December 2014, Pre-Trial Chamber I confirmed the charges against Mr. Blé Goudé<sup>1</sup> while on 20 December 2014, the Presidency referred the case to the Chamber.<sup>2</sup>
6. On 22 December 2014, the Prosecutor requested the Chamber to join the *Gbagbo* and the *Blé Goudé* cases.<sup>3</sup>
7. On 6 January 2015, the Chamber authorised Mr Kaufman to withdraw from the case as lead counsel for Mr Blé Goudé and ordered the Registrar to take immediate steps to facilitate the appointment of new counsel for Mr Blé Goudé.<sup>4</sup> On 9 and 12 January 2015 respectively, the Registrar notified the Chamber of the appointment of (i) Mr Geert-Jan Alexander Knoops as the new lead counsel for Mr Blé Goudé<sup>5</sup> and (ii) Mr Claver N'Dry as its new associate counsel.<sup>6</sup>
8. On 13 February 2015, a status conference was convened in the *Blé Goudé* case, prior to and during which the parties and participants made submissions on, *inter alia*, the status of disclosure and proposals for a starting date for the trial.<sup>7</sup>
9. On 11 March 2015, the Chamber decided to join the cases against Laurent Gbagbo and Charles Blé Goudé<sup>8</sup> and on 21 April 2015, the Chamber held its first status conference in the joint case.<sup>9</sup>

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<sup>1</sup> Pre-Trial Chamber I, “Decision on the confirmation of charges against Charles Blé Goudé”, dated 11 December 2014, ICC-02/11-02/11-186. *See also* “Partly Dissenting Opinion of Judge Christine Van den Wyngaert”, ICC-02/11-02/11-186-Anx.

<sup>2</sup> Presidency, “Corrigendum to the ‘Decision referring the case of *The Prosecutor v. Charles Blé Goudé* to Trial Chamber I’, ICC-02/11-02/11-193, 20 December 2014 (registered on 22 December 2014)”, dated 20 December 2014 and registered on 22 December 2014, ICC-02/11-02/11-193-Corr.

<sup>3</sup> Trial Chamber I, “Prosecution’s Request to join the cases of *The Prosecutor v. Laurent GBAGBO* and *The Prosecutor v. Charles BLE GOUDÉ*”, dated 22 December 2014, ICC-02/11-02/11-194.

<sup>4</sup> Trial Chamber I, “Decision on ‘Counsel’s request to withdraw pursuant to Regulation 78(1) of the Regulations of the Court’ and extension of deadline for response”, dated 6 January 2015, ICC-02/11-02/11-197.

<sup>5</sup> Registry, “Notification of the appointment of counsel for Mr Charles Blé Goudé”, dated 9 January 2015, ICC-02/11-02/11-198.

<sup>6</sup> Registry, Annex I to “Information on appointment of defence team members and provision of technical assistance”, dated 4 February 2015 and registered on 5 February 2015, ICC-02/11-02/11-208-Conf-AnxI.

<sup>7</sup> Transcript of hearing dated 13 February 2015, ICC-02/11-02/11-T-9-Red-ENG ET.

10. On 7 May 2015, the Chamber issued its ‘Order setting the commencement date for trial,’ and set commencement date for trial on 10 November 2015.<sup>10</sup>

#### **IV. Facts**

11. The Defence hereby notifies the Chamber of two incidents that occurred in Abidjan on 24 April 2015 and 9 June 2015 respectively.

##### ***IV.1. First incident***

12. The first incident relates to the assault of [REDACTED], the [REDACTED] of Mr Claver N’Dry. [REDACTED] reported to the Ivorian police district of Cocody that on 24 April 2015, around 6 p.m., she had taken a taxi from [REDACTED] to [REDACTED] (both being areas of Abidjan). Along the way, the taxi driver stopped while [REDACTED] was on the phone. Threatening her with a knife, he stole her mobile phone as well as a HP laptop [REDACTED]. Next, he forcibly removed her from his taxi. A copy of the related police report dated 4 May 2015 is attached hereto as Annex 1.<sup>11</sup>

##### ***IV.2. Second incident***

13. The second incident occurred last 9 June 2015 and involved Mr Claver N’ Dry directly. On Monday 9 June 2015, in the early morning, Mr Claver N’ Dry left his house and drove towards his law firm located in the center of Abidjan. While he was getting into his car parked outside, he noticed a black Hyundai SUV parked a hundred meters away from his house. On the way to his law firm, when he was slowing down at a crossroad because of the rain, the vehicle behind him accelerated to pass Mr Claver N’ Dry’s car and next

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<sup>8</sup> Trial Chamber I, “Decision on Prosecution requests to join the cases of The Prosecutor v. Laurent Gbagbo and The Prosecutor v. Charles Blé Goudé and related matters”, dated 11 March 2015, ICC-02/11-01/15-1.

<sup>9</sup> Transcript of hearing dated 21 April 2015, ICC-02/11-01/15-T-I-CONF-ENG ET.

<sup>10</sup> Trial Chamber I, “Order setting the commencement date for trial”, dated 7 May 2015, ICC-02/11-01/15-58.

<sup>11</sup> Annex 1.

blocked the road. Two men came out from the back seats of the vehicle and came towards him, one from the side of the front passenger's seat; the other directly towards Mr Claver N'Dry. The second man was armed and threatened Mr Claver N'Dry. He took Mr Claver N'Dry's smartphone from him while the other man stole an envelope containing some money. Before leaving, the armed man threatened to kill him if he ever spoke about it. When the assailants were leaving, Mr Claver N'Dry realised that their vehicle was the one he had noticed outside of his house earlier on.

14. According to Mr Claver N'Dry, it was his smartphone that was of primary interest to the assailants. However, they also seemed to be looking for documents that they were not able to find. Mr Claver N' Dry reported the incident to the police that very morning. A copy of the related police report dated 6 July 2015 is attached hereto as Annex 2.<sup>12</sup> Within two hours, he also blocked his SIM card and remotely deleted all information from his smartphone. [REDACTED].

15. The Defence reported both incidents to the Victims and Witnesses Unit of the Registry ("VWU") and the OTR Counsel Support Section ("CSS") immediately after they occurred and took all appropriate post-incident measures. Additionally, the Defence reported the second incident to the Prosecutor. Finally, following the second incident, Mr Claver N' Dry entered into contact with the relevant ICC Field Security Officer in Abidjan who, subsequently, conducted investigations and compiled his findings into a report, which, as mentioned above, has not yet been provided to the Defence.

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<sup>12</sup> Annex 2.

## V. Submissions

16. The aim of the present notification is to notify the Chamber of the above developments which could affect the security situation of the Defence team and its potential investigations in Cote d'Ivoire.
17. The Defence submits that it cannot be excluded that the two incidents reported above are related to the present case. With respect to the first incident, what the taxi driver stole from [REDACTED] was not her purse but her phone and her laptop, both items likely to contain information about the case. Regarding the second incident, if the intention of the assailants had been to steal for personal gain rather than obtaining relevant information, they would have stolen the most costly item at hand, namely Mr Claver N'Dry's car, which they did not. In addition, the fact that they were waiting in front of his house for him to leave suggests that the assailants probably knew who he was. This may suggest that the assailants targeted him specifically. It could also imply that they had found out his routine; were expecting him to leave his house to go to work at around that time; and were hoping to obtain from him file-related documents, in the form either of paper or electronic copies.
18. The scenario of the two incidents and the similar pattern of violence and conduct of the assailants therefore seem to indicate that the assailants were (i) looking for specific information about the case and/or (ii) attempting to intimidate Mr Claver N'Dry as a result of his connection with the case. [REDACTED]. Hence it seems likely that the assaults were not linked to any of the other cases Mr Claver N'Dry is working on or has been working on in the past, assuming the assaults were case-related.
19. It should be emphasized that, given the extreme gravity of the incidents, the mere risk that they may be linked to Mr Claver N'Dry's involvement in the

*Blé Goudé* case justifies that the utmost precautions be adopted in protecting the physical integrity of members of the Defence team.

20. From this perspective the present and future safety of (1) the Defence team in the field and (2) [REDACTED] remains of concern. Accordingly the impact that such serious assaults, if they were to be repeated, may have on the preparation of the Defence case, is also of concern.

### *V.1. Security of the Defence team*

21. The right of the accused to fair proceedings requires the Defence team members to be able to investigate, gather evidence and, more generally, prepare their client's case without fear of repercussions against them for these actions. Without such assurance, the Defence cannot be reasonably present its case.
22. As a result of the incidents and due to legitimate safety concerns, the Defence team [REDACTED] decided to postpone to a later date, which is yet to be determined, [REDACTED].
23. This decision was reinforced in view of the heightened tensions in Cote d'Ivoire, noted by all observers, due to the upcoming presidential elections. The Defence notes that this context creates additional risks for the preparation of the case, as noted by the Prosecutor himself during the 21 April 2015 status conference when he described what he considered to be [REDACTED].<sup>13</sup>
24. The Defence submits that assaults of this kind, if they were to occur again, would inevitably affect Defence investigations, which are fundamental to preparing and presenting a case adequately.

### *V.2. Protection of [REDACTED] confidential information*

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<sup>13</sup> ICC-02/11-01/15-T-1-CONF-ENG, pp. 86-88.

25. The Defence emphasizes that, if it were established that the two incidents that occurred are the result of a deliberate action in connection with the present case, [REDACTED] the confidentiality of certain sensitive information, could potentially be at risk. Similarly, given that such assaults vis-a-vis [REDACTED] has already occurred twice in a very short period of time, the risk of having the same type of incidents occurring again can unfortunately not be excluded.
26. Therefore, the Defence submits that the security situation of the Defence team may have a direct impact on the [REDACTED] preservation of the confidentiality of key information, which in turn, may, if the security situation were not to change, affect the preparation of the defence of Mr Blé Goudé.
27. Since the incidents, the Defence team has regularly been in contact with VWU, which has been extremely helpful in providing the Defence with numerous recommendations and security tips. However, given the seriousness of the aforementioned assaults, the Defence feels obligated to notify the Chamber of said situation in order to have these incidents on court record.
28. The present notification could serve to justify more comprehensive future discussions between the Parties and the Chamber to take place, in order to implement specific measures to ensure the protection of the Defence teams during their investigations, also depending on the security situation in Cote d'Ivoire after the elections. Without such future security assessment, the investigative capacity of the Defence to adequately prepare the trial could be jeopardized, which could only have a negative impact on the fairness of the proceedings.

Respectfully submitted,

  


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

Dated this  
15 September 2015  
At The Hague, the Netherlands