

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: *English*

No: ICC-02/11-01/15

Date: 17 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

**Urgent Defence Request for the setting of a time limit to reply to the
“Transmission to the Defence of redacted versions of 259 applications for
participation in the proceedings” (ICC-02/11-01/15-213)**

Source: Defence of Mr Charles Blé Goudé

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

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**Unrepresented Applicants
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Introduction

1. On 11 September 2015, the Registry transmitted redacted versions of 259 victims' applications to the Defence of Charles Blé Goudé ("the Defence").¹
2. Pursuant to rule 89(1) of the Rules of Procedure and Evidence ("the Rules"), the Defence is entitled to reply to these applications. However, to proceed, the Defence must be informed of the time limit within which it should file its observations before the Chamber. To this end, and pursuant to rule 89(1) of the Rules, the Defence respectfully requests the Chamber to set a time limit for the Defence to respond to any future victim applications that the Registry will transmit and to set a specific time limit to reply to the redacted versions of 259 victims' applications transmitted to the Defence by the Registry on 11 September 2015.

I. Procedural history

3. On 11 June 2014, in the *Blé Goudé* case, Pre-Trial Chamber I issued the "Decision on victims' participation in the pre-trial proceedings and related issues".²
4. On 6 March 2015, in the *Gbagbo* case, Trial Chamber I ("the Chamber") issued the "Decision on victim participation"³ by which it ordered "*the Prosecutor and the Defence to submit any observation on each batch of victim applications for participation 21 days after each transmission*".⁴

¹ Transmission to the Defence of redacted versions of 259 applications for participation in the proceedings, 11 September 2015, ICC-02/11-01/15-213.

² ICC-02/11-02/11-83.

³ ICC-02/11-01/11-800.

⁴ *Ibid.*, p. 25.

5. On 11 March 2015, the Chamber issued 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” (“the Joinder Decision”).⁵
6. On 11 September 2015, the Registry transmitted 259 victims’ applications for participation in the proceedings.⁶

II. Applicable law

7. Pursuant to rule 89(1) of the Rules:

“In order to present their views and concerns, victims shall make written application to the Registrar, who shall transmit the application to the relevant Chamber. Subject to the provisions of the Statute, in particular article 68, paragraph 1, the Registrar shall provide a copy of the application to the Prosecutor and the defence, who shall be entitled to reply within a time limit to be set by the Chamber.”⁷

III. Submissions

8. On 6 March 2015, i.e. before the Joinder Decision, the Chamber ordered the Defence of Laurent Gbagbo to file its observation on victims’ applications within 21 days after their transmission by the Registry.⁸ No similar decision has ever been issued in the *Blé Goudé* case at the trial stage.
9. The Decision on victims’ participation during the pre-trial proceedings, issued on 11 June 2014 by Pre-Trial Chamber I,⁹ had set a deadline for the applications transmitted during the pre-trial stage of the case. Such deadline

⁵ ICC-02/11-01/15-1.

⁶ ICC-02/11-01/15-213.

⁷ Emphasis added.

⁸ ICC-02/11-01/11-800, p. 25.

⁹ ICC-02/11-02/11-83.

expired on 25 July 2014.¹⁰ It is thus impossible to consider that it would also apply to the victims' applications transmitted to the Defence during the trial stage.

10. On 11 March 2015, the Chamber decided to join the cases before the Court against Laurent Gbagbo and Charles Blé Goudé. In the Joinder Decision, the Chamber made rulings on several questions and decided that "*all other decisions and orders made in the Gbagbo and Blé Goudé cases shall continue to apply, as appropriate and until ordered otherwise, in the joint case*".¹¹ To date, no decision related to the victims' participation to the proceedings has been issued by the Chamber in the joint case.

11. At present, the defense is confronted with a situation of uncertainty as to the deadline applying to the filing of its observations on the batch of 259 victims' applications transmitted by the Registry on 11 September 2015. As the decision setting a time limit of 21 days to reply has been issued in the *Gbagbo* case, it seems not obvious considering the concise formulation of the Joinder Decision to conclude that such deadline would also apply to the Defence of Charles Blé Goudé. Indeed, "*all other decisions and orders made in the Gbagbo and Blé Goudé cases shall continue to apply, as appropriate and until ordered otherwise, in the joint case*" actually means that every decision issued in the *Gbagbo* case continues to apply to Laurent Gbagbo as an accused person whereas every decision issued in the *Blé Goudé* case continues to apply to Charles Blé Goudé as an accused person. In other words, it would be inconsistent with both the rights of the Defence and the fairness of the proceedings to implicitly apply to an Accused a decision issued in another case although it has been ruled otherwise.

¹⁰ *Ibid.* p. 22.

¹¹ ICC-02/11-01/15-1, para. 74.

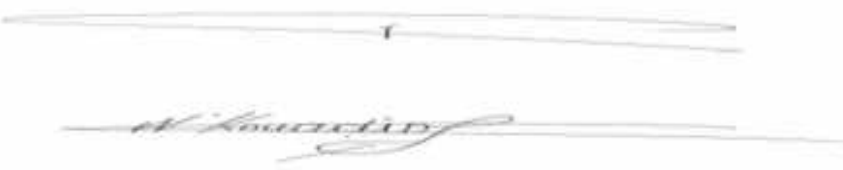
12. Moreover, the Defence holds the view that procedurally the consequence of the mentioned Joinder Decision should be that the Chamber set a single deadline for both defence teams or, at the very least, provide information on such deadline to every defence teams involved, so that the Accused will not find himself in a situation of legal uncertainty so as to the time limit within which his reply is expected.

13. For the present batch of 259 applications, the amount of work connected to the assessment of these 259 applications, combined with the non-clarity as to the deadline for the Defence, as set out above, and the prospect of a trial commencing in due course, justifies this request to the Chamber to set a specific and reasonable time limit for the Defence to adequately address the 259 applications. Moreover, for the same reasons, the Defence considers that such deadline should run from the day the Chamber decides upon it instead of the day of transmission of the 259 victims' application by the Registry.

RELIEF SOUGHT

For the foregoing reasons, the Defence respectfully requests the Chamber to:

- SET a time limit, pursuant to rule 89(1) of the Rules, within which the Defence shall file any observation on the victims' applications transmitted by the Registry.
- SET a time limit to reply to the "Transmission to the Defence of redacted versions of 259 applications for participation in the proceedings" (ICC-02/11-01/15-213) to not less than 21 days from the decision hereto.



A handwritten signature in dark ink, appearing to read 'Mr. Knoop', is centered within a rectangular box. The signature is written in a cursive style with a long horizontal flourish extending to the right.

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

Dated this 17 September 2015.

At The Hague, the Netherlands.