

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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No.: ICC-02/11-01/15
Date: 30 October 2015

TRIAL CHAMBER I

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

SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE

IN THE CASE OF

THE PROSECUTOR

v. LAURENT GBAGBO and CHARLES BLÉ GOUDÉ

Confidential redacted

Confidential redacted version of "Prosecution's Response to Laurent Gbagbo's 'Requête aux fins d'ordonner la présence des trois experts nommés par la Chambre lors de l'audience du 5 novembre 2015 (ICC-02/11-01/15-318-Conf-Exp)'" filed on 28 October 2015 (ICC-02/11-01/15-321-Conf-Exp)

Source: Office of the Prosecutor

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

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Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

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REGISTRY

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Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
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Other

Introduction

1. The Prosecution hereby files this response ("Response") to the Accused Laurent Gbagbo's *Requête aux fins d'ordonner la présence des trois experts nommés par la Chambre lors de l'audience du 5 novembre 2015* ("Request"). The Request is premature as the appointed experts have not delivered their reports yet. The Trial Chamber has the discretion to hear the experts it selected for the purposes of establishing the Accused's fitness. However, [REDACTED], if the experts were to be examined on the matter, the Accused would have to testify or otherwise make a declaration before the Chamber [REDACTED].

Confidentiality

2. This Response is filed confidentially and *ex parte* as the Request was filed under the same conditions. The Prosecution notes however that the Detention Section of the Registry was not notified in the Request, [REDACTED].¹

Submissions

3. On 30 September 2015, the Trial Chamber ordered a medical examination of the Accused and appointed three experts to undertake the examination.² It also ordered the Registry to provide these experts with the necessary documentation to assist them in their assessment of the Accused, in particular the Accused's detention and medical records ("Records"). The Accused consented to providing the Records to the experts, except to Dr Lamothe, [REDACTED].³ However, the Chamber ordered the Records be handed over to Dr Lamothe, finding that access to the Records was an "important component for ensuring that the report

¹ The Chamber's "Order to conduct an examination of Mr Gbagbo under rule 135 of the Rules", ICC-02/11-01/15-0253-Conf ("Examination Order"), was copied to the Chief of the Detention Section, the Legal Representative of Victims and the Defence of the Accused Blé Goudé.

² Examination Order, p. 9.

³ [REDACTED]. [REDACTED].

produced by Dr Lamothe can be used by the Chamber in adjudicating any matter which may arise from these proceedings.”⁴

4. The three experts were ordered by the Chamber to submit their reports by 29 October 2015, that is to say that the Parties do not yet have access to the experts’ reports or their conclusions. [REDACTED]. [REDACTED].⁵ [REDACTED]. [REDACTED];⁶ [REDACTED].
5. The Chamber convened, in its Examination Order, a hearing to be held on 5 November 2015.⁷ Based on the above-mentioned assertions, Mr Gbagbo seeks an order from the Chamber for the presence of all three experts during this hearing. It is the Chamber’s discretion to hear the experts pursuant to the powers it is vested with under article 64(6)(f) of the Rome Statute and rule 135 of the Rules of Procedure and Evidence. [REDACTED].
6. [REDACTED].

Relief Sought

7. [REDACTED]. The Prosecution leaves it to the Trial Chamber’s discretion to hear

⁴ ICC-02/11-01/15-302-Conf, para. 18.

⁵ [REDACTED].

⁶ [REDACTED].

⁷ Examination Order, p. 10.

the experts during the hearing of 5 November 2015.



Fatou Bensouda, Prosecutor

Dated this 30th day of October 2015

At The Hague, The Netherlands