

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: ICC-02/11-01/15
Date: **26 January 2016**

TRIAL CHAMBER I

Before: Judge Cuno Tarfusser, Single Judge

**SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE
IN THE CASE OF
*THE PROSECUTOR v. LAURENT GBAGBO and CHARLES BLÉ GOUDÉ***

Public

Second order on public redacted versions of filings related to the 'Decision on the fitness of Laurent Gbagbo to stand trial'

Order 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 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 Cuno Tarfusser, acting as Single Judge on behalf of Trial Chamber I ('Single Judge' and 'Chamber',¹ respectively) of the International Criminal Court ('Court'), in the case of *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, having regard to Article 64(7) of the Rome Statute, and Regulation 23 *bis* of the Regulations of the Court, issues the following 'Second order on public redacted versions of filings related to the "Decision on the fitness of Laurent Gbagbo to stand trial"'.

1. On 27 November 2015, the Chamber issued the 'Decision on the fitness of Laurent Gbagbo to stand trial'.²
2. On 18 December 2015, the Chamber issued an order instructing the parties and participants to file public redacted versions of certain filings related to the fitness proceedings ('Order').³
3. On 15 January 2016, in accordance with the Order, the defence team for Mr Gbagbo ('Gbagbo Defence') filed public redacted versions of its filings.
4. Having reviewed the redactions applied thereto, the Single Judge finds that the Defence shall refile certain filings after having lifted the redactions identified hereunder.
5. In ICC-02/11-01/15-133-Red3, the following shall be lifted:
 - the second and third redactions at paragraph 4;
 - the redactions at paragraph 5;
 - the redactions at paragraph 29 (5) until '*d'avancer*';⁴
 - the redactions at paragraph 29 (6) until '*débat*';⁵ and

¹ Where 'Chamber' is used in this decision it refers to both Trial Chamber I as composed by the Presidency's 'Decision replacing a judge in Trial Chamber I', 21 December 2015, ICC-02/11-01/15-372, and to the chamber in its previous composition.

² ICC-02/11-01/15-349.

³ Order instructing the parties and participants to file public versions of their respective filings related to the 'Decision on the fitness of Laurent Gbagbo to stand trial', ICC-02/11-01/15-368.

⁴ These redactions shall also be lifted from ICC-02/11-01/15-133-Conf-Red3.

- the redactions on '*Docteur An CHUC*' and '*Alain DUMEZ*' at paragraph 95.
6. In ICC-02/11-01/15-221-Red, the redactions at paragraphs 2 and 48-49 shall be lifted.
 7. In ICC-02/11-01/15-221-Anx2-Red2, at paragraph 1, the redactions until '*détermination de l'aptitude à être jugé de Laurent Gbagbo*' shall be lifted.
 8. In ICC-02/11-01/15-221-Anx3-Red, the redactions at paragraph 3 shall be lifted.
 9. In ICC-02/11-01/15-266-Red all redactions shall be lifted except for those at paragraph 3.
 10. In ICC-02/11-01/15-274-Red, the following shall be implemented:
 - paragraphs 5, 16, 18-23, 29, 31 and 41 shall be left entirely unredacted;
 - paragraph 15 shall be left unredacted except for the words comprised between '*son rôle essentiel*' and '*faisait d'elle*';
 - paragraph 27 shall be left unredacted except for the words comprised between '*moindre connaissance du dossier que*' and '*les Juges ne mettent pas en place*'; and
 - paragraph 28 shall be left unredacted except for the words comprised between '*connaissance des interventions devant la CPI*' and '*au profit d'un expert ignorant*'.
 11. In ICC-02/11-01/15-280-Red2, the redactions at paragraphs 2-3 and 5 shall be lifted.
 12. In ICC-02/11-01/15-315-Red, the redactions at paragraphs 3 and 5 shall be lifted.

⁵ These redactions shall also be lifted from ICC-02/11-01/15-133-Conf-Red3.

13. In ICC-02/11-01/15-327-Conf-Red, all redactions at paragraphs 9-10 and 24 shall be lifted.
14. Moreover, having reviewed ICC-02/11-01/15-330-Conf, the Chamber finds that it can be reclassified as public.
15. Further, noting that they are already in the public domain and that they pertain to information already known to the public, the Chamber dismisses the Gbagbo Defence's request⁶ that ICC-02/11-01/15-341-Conf-Exp-Anx4 and ICC-02/11-01/15-341-Conf-Exp-Anx5 remain confidential. Accordingly, the Registrar is instructed to reclassify them as public.
16. With regard to the Gbagbo Defence's proposals for redactions of filings ICC-02/11-01/15-84-Conf-Exp-Anx1, ICC-02/11-01/15-T-2-CONF-EXP-FRA ET and ICC-02/11-01/15-T-7-CONF-FRA ET,⁷ the Single Judge differs his ruling until receipt of the Prosecutor's response thereto.⁸
17. Finally, in light of the redacted versions filed so far by the Gbagbo Defence, the Single Judge has reviewed the Chamber's decisions pertaining to the fitness proceedings and considers that the basis for their classification as confidential no longer exists. Accordingly, the Registrar is instructed to reclassify ICC-02/11-01/15-206-Conf, ICC-02/11-01/15-253-Conf, ICC-02/11-01/15-281-Conf, ICC-02/11-01/15-302-Conf and ICC-02/11-01/15-329-Conf as public.

⁶ Email from Gbagbo Defence on 15 January 2016 at 14:24. See also, Email from Legal Representative of Victims on 15 January 2016 at 15:54, responding to the request.

⁷ *Communication des propositions d'expurgation portant sur les transcrits ICC-02/11-01/15-T-2-CONF-EXP-FRA et ICC-02/11-01/15-T-7-CONF-FRA et sur le document ICC-02/11-01/15-84-Conf-Exp-Anx1*, 15 January 2016, ICC-02/11-01/15-392.

⁸ Email from Prosecution's team on 18 January 2016 at 11:46 indicating that it intends to respond to the Defence's proposal by 1 February 2016.

FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY

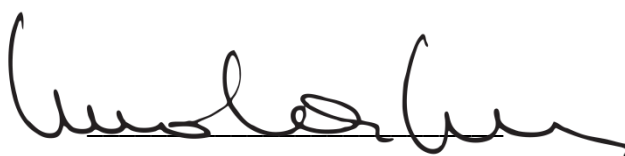
ORDERS the Gbagbo Defence to file lesser redacted versions of the filings identified in paragraphs 5-13 above, in accordance with the guidelines set out therein, by 22 February 2016;

DIRECTS the Registrar to reclassify ICC-02/11-01/15-330-Conf, ICC-02/11-01/15-341-Conf-Exp-Anx4 and ICC-02/11-01/15-341-Conf-Exp-Anx5 as public;

DIRECTS the Registrar to reclassify Chamber's decisions ICC-02/11-01/15-206-Conf, ICC-02/11-01/15-253-Conf, ICC-02/11-01/15-281-Conf, ICC-02/11-01/15-302-Conf, ICC-02/11-01/15-329-Conf, and corresponding translations if applicable, as public; and

DIRECTS the Prosecutor to respond to ICC-02/11-01/15-392 by 1 February 2016.

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

A handwritten signature in black ink, appearing to read 'Cuno Tarfusser', written over a horizontal line.

Judge Cuno Tarfusser, Single Judge

Dated 26 January 2016

At The Hague, The Netherlands