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

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**TRIAL CHAMBER I**

**Before:** Judge Cuno Tarfusser, Presiding Judge  
Judge Olga Herrera Carbuca  
Judge Geoffrey Henderson

**SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE**

**IN THE CASE OF**

**THE PROSECUTOR**

***v. LAURENT GBAGBO and CHARLES BLÉ GOUDÉ***

**PUBLIC**

**Prosecution Response to the Gbagbo Defence *Réponse de la Défense à la "Prosecution request for the lifting of certain redactions in the victim applications of nine dual status witnesses" (ICC-02/11-01/15-465) et requête de la Défense aux fins de la levée de ces mêmes expurgations dans toutes les demandes de participation des victimes lorsqu'elles portent sur l'identité d'intermédiaires qui sont en même temps témoins de l'Accusation***

**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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**REGISTRY**

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**Detention Section**

**Victims Participation and Reparations  
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**Other**

## Introduction

1. This is a response to the request component of the Defence for Mr Gbagbo's ("Gbagbo Defence") *Réponse de la Défense à la "Prosecution request for the lifting of certain redactions in the victim applications of nine dual status witnesses"* (ICC-02/11-01/15-465) et requête de la Défense aux fins de la levée de ces mêmes expurgations dans toutes les demandes de participation des victimes lorsqu'elles portent sur l'identité d'intermédiaires qui sont en même temps témoins de l'Accusation ("Gbagbo Defence Response" and "Gbagbo Defence Request").<sup>1</sup>
2. The Prosecution hereby provides a focused response to assist the Chamber in reaching an informed decision on one of the orders sought in the Gbagbo Defence Request: *"Ordonner au Greffe de lever dans toutes les demandes de participation de victimes les expurgations portant sur l'identité des intermédiaires lorsque ceux-ci sont aussi des témoins du Procureur"* ("order sought").<sup>2</sup> As this amounts to a fresh request by the Gbagbo Defence, the present response deals only with matters arising from that request.

## Submissions

3. As previously advised in its filing on case certification,<sup>3</sup> the Prosecution has been reviewing all *unredacted* victim applications in its possession<sup>4</sup> to ascertain whether the portions redacted contain information of a potentially exculpatory nature

<sup>1</sup> ICC-02/11-01/15-474-Red; ICC-02/11-01/15-474-Conf.

<sup>2</sup> ICC-02/11-01/15-474, p. 9.

<sup>3</sup> ICC-02/11-01/15-470, para. 5.

<sup>4</sup> On 16 May 2012, 4 December 2012 and 18 January 2013, the Registry transmitted to the Gbagbo Defence (ICC-02/11-01/11-122, ICC-02/11-01/11-311 and ICC-02/11-01/11-366) redacted versions and to the Prosecution unredacted versions (ICC-02/11-01/11-121, ICC-02/11-01/11-309 and ICC-02/11-01/11-364) pursuant to Pre-Trial Chamber I's order of 5 April 2012 (ICC-02/11-01/11-86). On 18 June 2014, the Registry transmitted redactions versions to the Blé Goudé Defence (ICC-02/11-02/11-88) pursuant to Pre-Trial Chamber's I's order of 11 June 2014 (ICC-02/11-02/11-83). On 30 June 2014 and 10 July 2014, the Registry transmitted to the Blé Goudé Defence (ICC-02/11-02/11-96 and ICC-02/11-02/11-107) redacted versions and to the Prosecution unredacted versions (ICC-02/11-02/11-95 and ICC-02/11-02/11-104) pursuant to Pre-Trial Chamber's I's order of 11 June 2014 (ICC-02/11-02/11-83). On 29 June 2015 and 20 August 2015, the Registry transmitted lesser redacted versions to both Defence teams (ICC-02/11-01/15-92 and ICC-02/11-01/15-186), pursuant to the Trial Chamber's order of 6 March 2015 (ICC-02/11-01/11-800). On 10 September 2015 and 7 October 2015, the Registry transmitted to both Defence teams redacted versions (ICC-02/11-01/15-213 and ICC-02/11-01/15-278) and to the Prosecution unredacted versions (ICC-02/11-01/15-211, ICC-02/11-01/15-278) pursuant to the Trial Chamber's order of 6 March 2015 (ICC-02/11-01/11-800).

and/or material to the preparation of the Defence, such as to require disclosure by the Prosecution under article 67(2) of the Rome Statute (“the Statute”) and/or rule 77 of the Rules of Procedure and Evidence (“the Rules”). A major component of this process has been to identify all victim intermediaries – or any other persons assisting in the victim application – who are also Prosecution witnesses. As of 1 April 2016, the Prosecution has identified all potentially disclosable portions of the victim application in its possession. It is now working to collate the results of this review in order to transmit proposed lesser redacted versions of the victim applications to the Victims Participation and Reparations Section (“VPRS”) and the Legal Representative of the Victims (“LRV”). These proposals will include – but not be limited to – the lifting of redactions to victim intermediaries who are Prosecution witnesses. Depending on the outcome of this consultation, the Prosecution may seize the Chamber, if it deems it necessary to do so to discharge its obligations under article 67(2) of the Statute and/or rule 77 of the Rules.

### **Conclusion**

4. The Prosecution requests that the Chamber take note, in considering the order sought by the Gbagbo Defence, of the review process currently in progress of all victim applications in the Prosecution’s possession, and its intention to engage the VPRS and the LRV with a view to the lifting of redactions. It is submitted that

granting the Gbagbo Defence's requested relief in the terms sought will duplicate work and generate unnecessary disclosure of material that is already being processed.



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Fatou Bensouda, Prosecutor

Dated this 4<sup>th</sup> day of April 2016

At The Hague, The Netherlands