

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

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

Date: 20 April 2017

TRIAL CHAMBER I

Before: Judge Cuno Tarfusser, Presiding Judge
Judge Olga Herrera Carbuccion
Judge Geoffrey Henderson

SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE

**IN THE CASE OF
*THE PROSECUTOR v. LAURENT GBAGBO AND CHARLES BLÉ GOUDÉ***

Confidential

Ex parte only available to the Legal Representative and the Prosecution

Application to Provide Additional Information following the Prosecution's Reply to the 'Response to the Notice of a challenge by the Legal Representative of the victims to the disclosure of an Investigator's Report' (ICC-02/11-01/15-868-Conf-Exp)"

Source: Office of Public Counsel for Victims

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 Mr Laurent Gbagbo

Counsel for Mr Blé Goudé

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

Ms Ludovica Vetrucchio

Mr Alexis Larivière

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I. Background

1. On 6 April 2017, the Prosecution filed the Notice,¹ addressing the reasons for the disclosure of the Report to the Defence.

2. On 7 April 2017, the Legal Representative filed the Response.²

3. On 13 April 2017, Trial Chamber I (the "Chamber") granted the Prosecution leave to reply to the Response.³

4. On 19 April 2017, the Prosecution filed the Reply.⁴

II. Confidentiality

5. Pursuant to regulation 23bis(2) of the Regulations of the Court, this application is filed confidential ex parte, only available to the Prosecution and the Legal Representative, following the classification chosen by the Prosecution and for the reasons indicated in the Notice.

III. Application to provide additional information

6. The Legal Representative submits that the Chamber can use its inherent powers to request any information it may consider necessary to adjudicate a matter. Moreover, pursuant to regulation 28 of the Regulations of the Court (the "Regulations"), the Chamber may not only order the parties and participants to

¹ See the "Notice of a challenge by the Legal Representative of the victims to the disclosure of an Investigator's Report", No. ICC-02/11-01/15-868-Conf-Exp, 6 April 2017 (the "Notice").

² See the "Response to the 'Notice of a challenge by the Legal Representative of the victims to the disclosure of an Investigator's Report' (ICC-02/11-01/15-868-Conf-Exp)", No. ICC-02/11-01/15-871-Conf-Exp, 10 April 2017 (the "Response").

³ See the email from the Chamber dated 13/04/2017 at sent at 09.46.

⁴ See the "Reply to the 'Response to the 'Notice of a challenge by the Legal Representative of the victims to the disclosure of an Investigator's Report' (ICC-02/11-01/15-871-Conf-Exp)", 19 April 2017 not yet formally filed (the "Reply").

clarify or provide additional details on any document, but it may also be moved by the parties or participants to issue said order.⁵

7. In this regard, the Appeals Chamber has clarified that “*a Chamber may act pursuant to regulation 28 of the Regulations upon request or upon its own motion*”.⁶ Accordingly, the Chamber may order the Legal Representative to provide further information on the issue at stake.

8. In light of the Reply, the Legal Representative contends that it is in the interests of justice that she be ordered to provide additional information on the qualifications and functions of her assistant in the field, Mr Sako, should the Chamber deem it appropriate to adjudicate the matter. Indeed, the arguments of the Prosecution in relation to privileged communication (paragraphs 15-18) are based on the wrong assumptions about the tasks and functions of the assistant to counsel in the field who plays a substantive role in the collection of views and concerns of the participating victims. In this regard, in its Reply, the Prosecution itself admits not being aware of the exact role played by Mr Sako in these proceedings.⁷

9. Allowing the Legal Representative to clarify the role played by Mr Sako in the proceedings would be in the interests of justice and would enable the Chamber to better consider the arguments presented by both the Prosecution and the Legal Representative. Said information can be provided to the Chamber by today.

IV. Conclusion

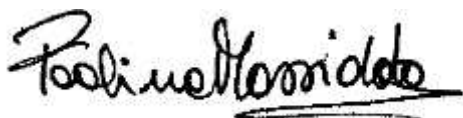
10. For the foregoing reasons, the Legal Representative respectfully requests the Chamber to exceptionally grant her leave to provide additional information on the

⁵ ICC-01/04-168 OA3, paragraph 20.

⁶ ICC-01/04-01/07-476 OA2, para. 18.

⁷ See the Reply, *supra* note 4, para. 18.

qualifications and functions of her assistant in the field, Mr Sako, should the Chamber deems it necessary for the adjudication of the matter at stake.

A handwritten signature in black ink, reading "Paolina Massidda". The signature is written in a cursive style with a horizontal line underneath the name.

Paolina Massidda
Principal Counsel

Dated this 20th day of April of 2017

At The Hague, The Netherlands