

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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

Date: **31 May 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

Response to the “Demande de report de la venue du témoin P-0583”

Source: Office of Public Counsel for Victims

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

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I. Introduction

1. The Common Legal Representative of the victims admitted to participate in the proceedings (the “Legal Representative”)¹ submits that the request by the Defence of Mr Gbagbo to postpone the testimony of Witness P-0583 shall be dismissed.

2. Indeed, the Defence did not express its opposition at the time the order of witnesses was discussed at the hearing held on 29 May 2017 and had already enough time to prepare Witness P-0583.

II. Confidentiality

3. Pursuant to regulation 23*bis*(2) of the Regulations of the Court, this response is filed confidentially following the classification chosen by the Defence. A public redacted version of this response will be filed in due course.

III. Background

4. On 30 May 2017, Trial Chamber I (the “Chamber”) decided that Witness P-0583 shall start his testimony on 1st June 2017.²

5. The same day the Defence of Mr Gbagbo filed a request to postpone the testimony of Witness P-0583 (the “Request”).³

¹ See the “Decision on victim participation” (Trial Chamber I), No. ICC-02/11-01/11-800, 6 March 2015; and the “Decision on victims’ participation status” (Trial Chamber I), No. ICC-02/11-01/15-379, 7 January 2016, p. 23.

² See the transcript of the hearing held on 30 May 2017, No. ICC-02/11-01/15-T-163-ENG RT (open session), p. 1, lines 18-19.

³ See the “Demande de report de la venue du témoin P-0583”, No. ICC-02/11-01/15-943-Conf, 30 May 2017 (the “Request”).

6. The same day the Legal Representative, the Prosecution and the Defence of Mr Blé Goudé indicated by e-mail to the Chamber their respective positions in the matter.⁴ In particular, the Legal Representative indicated that, given the imminence of the testimony of Witness P-0583, she communicated via e-mail her opposition to the Request, specifying that should the Chamber request a formal filing, the Legal Representative would have obliged.

7. The same day the Defence of Mr Gbagbo filed a submission requesting the Chamber to disregard the observations sent by e-mail by the Legal Representative. A courtesy copy of said submission was provided by the Defence at 19h26.⁵

8. In accordance with regulation 24(2) of the Regulations of the Court, the Legal Representative files in the record of the case her response to the Request.

IV. Submissions

9. As a preliminary remark, the Legal Representative observes that, in accordance with regulation 24(2) of the Regulations of the Court, she has the right to respond to any submission filed by the parties and other participants in the record of the case without having to demonstrate that the personal interests of the victims she represents are affected by the issue at stake.

10. Following the submission by the Defence of Mr Gbagbo to disregard her observations related to the Request, the Legal Representative has decided to file her observations, already sent by e-mail to the Chamber, in the record of the case in order to preserve the interests of the victims she represents. In this regard, she notes

⁴ See the e-mail sent by the Legal Representative to the Chamber on 30 May 2017 at 16h30; the e-mail sent by the Prosecution to the Chamber on 30 May 2017 at 16h40; and the e-mail sent by the Defence of Mr Blé Goudé on 30 May 2017 at 18h04.

⁵ See the "Demande de rejet des observations de la RLV envoyées par email en réponse à la "Demande de report de la venue du témoin P-0583" (ICC-02/11-01/15-943-Conf) déposée par la Défense de Laurent Gbagbo le 30 mai 2017", not yet notified at the time of filing of this submission.

that this course of event is necessary in order to avoid that the position of the victims is not correctly reflected in the record of the case, particularly when the submissions of the Defence of Mr Gbagbo will be eventually made public.

11. The Legal Representative opposes the Request and submits that the Defence of Mr Gbagbo did not express its opposition to the appearance of Witness P-0583 during the week of 29 May/2 June 2017 when the order of the witnesses was discussed and decided at the hearing.⁶

12. As repeatedly reminded by the Chamber, the parties and participants must always be ready to continue with the upcoming witnesses if this becomes necessary, and they must promptly inform the Chamber of any obstacle preventing them from doing so. In this regard, during the discussions on the issue of the order of witnesses held at the hearing on 29 of May 2017, the Defence of Mr Gbagbo did not raise any concern at all about starting the testimony of Witness P-0583 on 1st of June 2017.

13. Moreover, the Chamber took into account the observations of the parties and participants in relation to their preparation when it decided on the order of Witness P-0583. Indeed, during the hearing held on 29 of May 2017 the Defence of Mr Gbagbo indicated that: “[...] *P-607 is not coming. We need to know that because this is a big witness, and if that witness does not come, then we can prepare the others*”.⁷ In the afternoon session of the hearing held on 29 of May 2017, the Presiding Judge indicated that “*in the weeks from the 3rd to the 7th and from the 10th to the 14th of July we will have the following witnesses: 607 and 156*”.⁸

14. Lastly, the Legal Representative notes that four of the five reports authored or co-authored by Witness P-0583 have been available to the Defence of Mr Gbagbo

⁶ See the transcript of the hearing held on 29 May 2017, No. ICC-02/11-01/15-T-162-ENG ET (open session), p. 4, lines 3-4: “*Now, P-626 and P-583, if that is the decision of the Chamber, we will prepare ourselves to question them next week.*”

⁷ *Idem*, p. 4, lines 6-8.

⁸ *Ibid.*, p. 77, lines 22-23.

since April-July 2015, and the sixth report mentioned by the Defence of Mr Gbagbo⁹ was disclosed in March 2016. Accordingly, regardless of the number of pages of these documents, the Defence has had more time than reasonably necessary to read said documents.

15. For all the reasons explained above, the Legal Representative requests the Chamber to reject Mr Gbagbo's request to postpone the testimony of Witness P-0583.



Paolina Massidda
Principal Counsel

Dated this 31st day of May of 2017

At The Hague, The Netherlands

⁹ See the Request, *supra* note 3, para. 13.