

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

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Date: 11 June 2014

**PRE-TRIAL CHAMBER I**

**Before: Judge Silvia Fernández de Gurmendi, Single Judge**

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

**Public**

**Decision on victims' participation in the pre-trial proceedings  
and related issues**

Decision to be notified, in accordance with Regulation 31 of the *Regulations of the Court*, to:

**The Office of the Prosecutor**

Fatou Bensouda

James Stewart

**Counsel for the Defence**

Nicholas Kaufman

**Legal Representatives of Victims**

**Legal Representatives of Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparation**

**The Office of Public Counsel for  
Victims**

Paolina Massidda

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

**States Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Herman von Hebel

**Detention Section**

**Victims and Witnesses Unit**

**Others**

**Victims Participation and Reparations  
Section**

Fiona McKay

**Judge Silvia Fernández de Gurmendi**, Single Judge for Pre-Trial Chamber I of the International Criminal Court, responsible for carrying out the functions of the Chamber in relation to the situation in the Republic of Côte d'Ivoire and the cases emanating therefrom,<sup>1</sup> issues the following decision on victims' participation in the pre-trial proceedings and related issues.

### **I. Procedural History**

1. On 4 June 2012 and 6 February 2013, the Single Judge issued decisions on victims' participation at the confirmation of charges hearing in the case *The Prosecutor v. Laurent Gbagbo* (the "Gbagbo Case") and decided to admit a total of 199 applicants as victims participating in the proceedings.<sup>2</sup>

2. On 27 March 2014, Charles Blé Goudé ("Mr Blé Goudé") made his initial appearance before the Single Judge.<sup>3</sup> On this occasion, the Single Judge set the date of the commencement of the confirmation of charges hearing at 18 August 2014.<sup>4</sup>

3. On 16 and 22 April 2014, the Registrar transmitted to the Chamber two requests from the Office of Public Counsel for Victims (the "OPCV"): "Requête aux fins d'admission dans l'affaire *Le Procureur c. Charles Blé Goudé des victimes qui participent aux procédures dans l'affaire Le Procureur c. Laurent Gbagbo*"<sup>5</sup> and "Deuxième Requête aux fins d'admission dans l'affaire

<sup>1</sup> Decision designating a single judge, 16 March 2012, ICC-02/11-02/11-9-tENG.

<sup>2</sup> *The Prosecutor v. Laurent Gbagbo*, PTC I, Corrigendum to the Second decision on victims' participation at the confirmation of charges hearing and in the related proceedings, 6 February 2013, ICC-02/11-01/11-384-Corr and annexes; *The Prosecutor v. Laurent Gbagbo*, PTC I, Decision on Victims' Participation and Victims' Common Legal Representation at the Confirmation of Charges Hearing and in the Related Proceedings, 4 June 2012, ICC-02/11-01/11-138 and annexes.

<sup>3</sup> ICC-02/11-02/11-T-3-CONF-ENG. A public redacted version is also available, see ICC-02/11-02/11-T-3-Red-ENG.

<sup>4</sup> ICC-02/11-02/11-T-3-Red-ENG, p. 12, lines 9-16.

<sup>5</sup> ICC-02/11-02/11-62-Anx1.

*Le Procureur c. Charles Blé Goudé* des victimes qui participent aux procédures dans l'affaire *Le Procureur c. Laurent Gbagbo* (the "OPCV Requests").<sup>6</sup>

4. On 5 May 2014, the Defence submitted the "Defence response to the requests for victim participation submitted by OPCV",<sup>7</sup> in which it requested the Single Judge to reject the OPCV Requests.

5. On 12 May 2014, the Single Judge received the "Defence request for a ruling on OPCV request ICC-02/11-02/11-62-Anx1".<sup>8</sup> Also on 12 May 2014, the Prosecutor submitted the "Prosecution's Response to Defence request ICC-02/11/02/11-69".<sup>9</sup>

6. On 16 May 2014, the Registrar transmitted to the Chamber a request submitted by Mayombo Kassongo ("Request for Participation of 16 May 2014"), legal representative of five individuals who submitted applications for participation in the proceedings in the situation in Côte d'Ivoire and who wished to be authorised to participate as victims in the present case.<sup>10</sup>

7. On 21 May 2014, the Single Judge received a report from the VPRS on the applications for victim's participation in the proceedings,<sup>11</sup> submitted in compliance with an order issued by the Single Judge on 13 May 2014.<sup>12</sup>

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<sup>6</sup> ICC-02/11-02/11-64-Anx1.

<sup>7</sup> ICC-02/11-02/11-66.

<sup>8</sup> ICC-02/11-02/11-69.

<sup>9</sup> ICC-02/11-02/11-70.

<sup>10</sup> Registrar, Annex 1 to : Transmission of a submission from Mr. Mayombo Kassongo received on 15 May 2014, 16 May 2014, ICC-02/11-02/11-74-Anx1.

<sup>11</sup> Registrar, Report on the applications for victim's participation in the proceedings submitted in compliance with the Single Judge's order ICC-02/11-02/11-72, 20 May 2014, ICC-02/11-02/11-75 and its annex.

<sup>12</sup> Order to the VPRS to submit information in relation to the applications for victims' participation in the proceedings, 13 May 2014, ICC-02/11-02/11-72.

## II. Applicable Law and Single Judge's Determination

8. The present decision addresses a series of issues concerning the organisation of the victims' application process in the present case and the participation of victims at the confirmation of charges hearing and in the related proceedings. The Single Judge will first entertain the OPCV Requests, addressing successively: (i) the requirements to be fulfilled by the applicants in order to be authorised to participate as victims in the present case; (ii) the common legal representation of those authorised to participate; and (iii) the participatory rights of the victims. Secondly, the Single Judge will address the Request for Participation of 16 May 2014. Finally, it will set specific time limits and guidelines for the processing of other victims' applications for participation in the proceedings.

9. For the purpose of the present decision, the Single Judge has considered articles 57(3)(c), 61, 67 and 68 of the Rome Statute (the "Statute"), rules 16, 85, 86 and 89 to 92 of the Rules of Procedure and Evidence (the "Rules") and regulation 24 and 86 of the Regulations of the Court (the "Regulations").

### A. The OPCV Requests

10. As their legal representative, the OPCV informed the Chamber that all the 199 victims authorised to participate at the confirmation of charges hearing in the *Gbagbo* Case wished to be admitted as participants in the proceedings against Mr Blé Goudé and it requested an authorisation for their participation.<sup>13</sup> The OPCV underlines that the two cases focus on the same facts and the same crimes within the same spatio-temporal parameters.<sup>14</sup>

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<sup>13</sup> Registrar, Annex 1 to: Transmission of a submission by the OPCV, 16 April 2014, ICC-02/11-02/11-62-Anx1, pages 4-5 and 9; Registrar, Annex 1 to: Registry Transmission of the second submission by the OPCV, 22 April 2014, ICC-02/11-02/11-64-Anx1, pages 4-5.

<sup>14</sup> Registrar, Annex 1 to: Transmission of a submission by the OPCV, 16 April 2014, ICC-02/11-02/11-62-Anx1, paras 11-14.

Consistent with the previous practice of this Court,<sup>15</sup> the OPCV stresses that the Single Judge's assessment of these 199 applications, even if done in the context of the *Gbagbo* Case, remains valid and should allow them to participate, as of right, in the proceedings against Mr Blé Goudé.<sup>16</sup>

11. The Defence recalls that it has not received the relevant victims' applications and not been able to submit its observations "on whether they meet the criteria for participation in the case against the Suspect".<sup>17</sup> The Defence further argues that the OPCV Requests are tardy and that they place "an unfair burden on the Defence which is focussing its energy on readying itself for the confirmation hearing on 18 August 2014".<sup>18</sup>

**(i) Whether the applicants meet the requirements of rule 85 of the Rules**

12. At the outset, the Single Judge observes that the applications for victims' participation submitted to the Court are not case specific and that, under rule 15(1)(c) of the Rules, it is for the VPRS to link them to existing situations and cases before the Court. Thus, nothing precludes victims' applications from being "relevant", as provided for under rule 89(1) of the Rules, for more than one Chamber. The Single Judge further notes that the OPCV asserted that each of the 199 individuals it represented wished to participate in the case against Mr Blé Goudé.

13. Rule 85(a) of the Rules defines victims as "natural persons who have suffered harm as a result of the commission of any crime within the

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<sup>15</sup> *The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus*, PTC I, Decision on Victims' Participation at the Hearing on the Confirmation of the Charges, 29 October 2010, ICC-02/05-03/09-89, para. 6-10.

<sup>16</sup> Registrar, Annex 1 to : Transmission of a submission by the OPCV, 16 April 2014, ICC-02/11-02/11-62-Anx1, paras 16-17 and 20.

<sup>17</sup> Defence, Defence response to the requests for victim participation submitted by OPCV, 5 May 2014, ICC-02/11-02/11-66, para. 4.

<sup>18</sup> Defence, Defence response to the requests for victim participation submitted by OPCV, 5 May 2014, ICC-02/11-02/11-66, para. 5.

jurisdiction of the Court.” Consistent with the jurisprudence of the Court,<sup>19</sup> the Single Judge recalls that an applicant qualifies as victim provided that: (i) his or her identity as natural person appears duly established; (ii) the events described in the application for participation constitute(s) one or more crimes within the jurisdiction of the Court and with which the suspect is charged; and (iii) the applicant has suffered harm as a result of the crime(s) with which the suspect is charged.

14. Concerning the establishment of the identity of the applicants, the Single Judge is satisfied, on the basis of its previous assessment<sup>20</sup> and for the purpose of the present case, that they have been duly established.

15. The Single Judge is also of the view that its previous assessment of (1) the link between the events described and the crimes charged and (2) the link between those events and the harm suffered is sufficient for the purpose of the assessment of the applicants’ status in the present case. Indeed, subject to any further modification in the charges of either case, the subject-matter of the present case appears to be the same of that of the *Gbagbo* Case as the same crimes are alleged in both cases and the same four incidents support the charges against the two suspects.<sup>21</sup> Hence, the charges against Mr Blé Goudé

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<sup>19</sup> See, *inter alia*, *The Prosecutor v. Laurent Gbagbo*, PTC I, Decision on Victims’ Participation and Victims’ Common Legal Representation at the Confirmation of Charges Hearing and in the Related Proceedings, 4 June 2012, ICC-02/11-01/11-138, para. 20; *The Prosecutor v. Jean-Pierre Bemba Gombo*, TC III, Decision on 772 applications by victims to participate in the proceedings, 18 November 2010, ICC-01/05-01/08-1017, para. 38; *The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus*, PTC I, Decision on Victims’ Participation at the Hearing on the Confirmation of the Charges, 29 October 2010, ICC-02/05-03/09-89, para. 2.

<sup>20</sup> See, *The Prosecutor v. Laurent Gbagbo*, PTC I, Decision on Victims’ Participation and Victims’ Common Legal Representation at the Confirmation of Charges Hearing and in the Related Proceedings, 4 June 2012, ICC-02/11-01/11-138, paras 25-26 and confidential annexes; *The Prosecutor v. Laurent Gbagbo*, PTC I, Corrigendum to the Second decision on victims’ participation at the confirmation of charges hearing and in the related proceedings, 6 February 2013, ICC-02/11-01/11-384-Corr, para. 8 and confidential annex.

<sup>21</sup> Pre-Trial Chamber III found that there was reasonable grounds to believe that the suspect was criminally responsible, within the meaning of article 25(3)(a) of the Statute, for the crimes against humanity of murder, rape and other forms of sexual violence, persecution and other

are so similar to the ones against Mr Gbagbo that applicants fulfilling the criteria of rule 85 in one case will in principle satisfy the criteria in the other.

16. Such an interpretation is further supported by the fact that the Prosecutor considers the two cases as if they were joint cases. Indeed, during a status conference held on 1 May 2014, she asserted that the disclosure in both cases would be undertaken exactly with the same categories<sup>22</sup>.

17. Accordingly, in the view of the Single Judge, it is not necessary to assess if (1) the events described by the applicants constitute one of the crimes charged; or if (2) there is a sufficient causal link between such events and the harm suffered because the very same assessment in respect to the same applicants was already conducted by the Single Judge in the context of the *Gbagbo* Case.

18. Therefore, after incorporation to the case at hand of its assessment carried out in the *Gbagbo* Case,<sup>23</sup> the Single Judge is satisfied that the 199 applicants fulfil the criteria set out in rule 85(a) of the Rules and grants them the status of victims of the present case.

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inhumane acts committed during the post-election crisis from 28 November 2010 onwards by the Ivorian Defence and Security Forces and the youth militias and mercenaries loyal to President Gbagbo, in Abidjan, including around the Golf Hotel and in the west of the country (PTC III, Warrant of Arrest for Charles Blé Goudé, 21 December 2011, ICC-02/11-02/11-1, paras 2 and 5). See, *inter alia*, PTC III, Decision on the Prosecutor's Application Pursuant to Article 58 for a warrant of arrest against Charles Blé Goudé, 6 January 2012, ICC-02/11-02/11-3, paras 16-17 and 19; *The Prosecutor v. Laurent Gbagbo*, PTC III, Warrant of Arrest For Laurent Koudou Gbagbo, 23 November 2011, ICC-02/11-01/11-1, para. 3; *The Prosecutor v. Laurent Gbagbo*, Prosecutor, *Document amendé de notification des charges*, 13 janvier 2014, ICC-02/11-01/11-592-Anx1, paras 99-128.

<sup>22</sup> ICC-02/11-02/11-T-4-CONF-ENG, p. 4, lines 6-12.

<sup>23</sup> *The Prosecutor v. Laurent Gbagbo*, PTC I, Corrigendum to the Second decision on victims' participation at the confirmation of charges hearing and in the related proceedings, 6 February 2013, ICC-02/11-01/11-384-Corr and annexes; *The Prosecutor v. Laurent Gbagbo*, PTC I, Decision on Victims' Participation and Victims' Common Legal Representation at the Confirmation of Charges Hearing and in the Related Proceedings, 4 June 2012, ICC-02/11-01/11-138 and annexes.



19. In light of the foregoing, the Single Judge also deems it unnecessary to require that each applicant fill, for the purpose of the present case, a second application form and it instructs the Registrar, as provided hereunder, to file the existing 199 victims' applications for participation in the record of the case.

20. Finally, the Single Judge recalls that, pursuant to rule 89(1) of the Rules, the Registrar "shall provide a copy of the application to the Prosecutor and the defence, who shall be entitled to reply within a time limit to be set by the Chamber". The Defence is entitled to examine the victims' applications for participation and express its views on the assessment of each applicant's status under rule 85 of the Rules. On the basis of their submissions and pursuant to rule 91(1) of the Rules, the Single Judge may reconsider its previous assessment of the applicants' status.

21. As for the additional burden placed on the Defence, the Single Judge is mindful that it be granted adequate time and facilities to prepare for the confirmation hearing and will take this into consideration while setting relevant time limits hereunder.

**(i) Participation of victims at the confirmation of charges hearing and in related proceedings**

*i. Common legal representation of victims admitted in the present case*

22. With a view to ensuring the meaningful participation by victims at the confirmation of charges hearing, the Single Judge considers it appropriate that common legal representation of victims be organised by the Registrar as soon as possible and in accordance with rules 16(1)(b) and 90 of the Rules.

23. The Single Judge was informed by the OPCV that the 199 applicants wish to remain represented by the OPCV in the proceedings related to the

present case.<sup>24</sup> The latter also specified that it should be chosen as representative because of the bond of trust already established with them as well as its experience of the procedure. Moreover, the OPCV asserted that if it was to be appointed for the legal representation of the victims in the present case, the same team would be affected to the *Gbagbo* Case and the *Blé Goudé* Case.<sup>25</sup>

24. The Single Judge considers that there are good reasons, as underlined by the OPCV, for the team currently representing victims in the *Gbagbo* Case to also represent victims granted status in the case at hand. In the view of the Single Judge, the appointment of a counsel from the OPCV assisted by a team member with a wide knowledge of the context and based in Côte d'Ivoire is still "the most appropriate and cost-effective system [...] to combine understanding of the local context with experience and expertise of proceedings before the Court, without causing undue delay".<sup>26</sup>

25. Subject to any further modification, the Single Judge decides to appoint the OPCV to represent the applicants granted victim's status by the present decision. It also endorses the team structure proposed by the Registrar which is comprised of: (i) a principal counsel; (ii) a team member based in the field; and (iii) a case manager.<sup>27</sup>

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<sup>24</sup> Registrar, Annex 1 to: Transmission of a submission by the OPCV, 16 April 2014, ICC-02/11-02/11-62-Anx1, para. 23

<sup>25</sup> Registrar, Annex 1 to: Transmission of a submission by the OPCV, 16 April 2014, ICC-02/11-02/11-62-Anx1, para. 24.

<sup>26</sup> *The Prosecutor v. Laurent Gbagbo*, PTC I, Corrigendum to the Second decision on victims' participation at the confirmation of charges hearing and in the related proceedings, 6 February 2013, ICC-02/11-01/11-384-Corr, para. 45; *The Prosecutor v. Laurent Gbagbo*, PTC I, Decision on Victims' Participation and Victims' Common Legal Representation at the Confirmation of Charges Hearing and in the Related Proceedings, 4 June 2012, ICC-02/11-01/11-138, para. 45.

<sup>27</sup> *The Prosecutor v. Laurent Gbagbo*, PTC I, Decision on Victims' Participation and Victims' Common Legal Representation at the Confirmation of Charges Hearing and in the Related Proceedings, 4 June 2012, ICC-02/11-01/11-138, paras 40 and 44.

*ii. Victims' participatory rights*

26. Article 68(3) of the Statute provides that:

“[w]here the personal interests of the victims are affected, the Court shall permit their views and concerns to be presented and considered at stages of the proceedings determined to be appropriate by the Court and in a manner which is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.”

As stated by the Appeals Chamber, the participation of victims within the meaning of article 68(3) of the Statute “can take place only within the context of judicial proceedings”.<sup>28</sup> An assessment thereof cannot thus be conducted in the abstract, but should be performed on a case-by-case basis, upon specific and motivated request submitted by the legal representative of victims. The language of article 68(3) of the Statute further vests the Chamber with discretion in determining the modalities of victims' participation in the proceedings, which should not result in any prejudice to the rights of the suspect and to a fair and impartial trial.

27. The Single Judge also observes that, alongside article 68(3) of the Statute, a number of other provisions explicitly grant certain rights to victims that they can exercise through their legal representative, at the confirmation of charges hearing and in the related proceedings. The Single Judge will hereunder enumerate these procedural rights, in line with the two decisions on victims' participation in the *Gbagbo Case*<sup>29</sup>. This is, however, without

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<sup>28</sup> *Situation in the Democratic Republic of the Congo*, Appeals Chamber, Judgment on victim participation in the investigation stage of the proceedings in the appeal of the OPCD against the decision of Pre-Trial Chamber I of 7 December 2007 and in the appeals of the OPCD and the Prosecutor against the decision of Pre-Trial Chamber I of 24 December 2007, 19 December 2008, ICC-01/04-556, para. 45.

<sup>29</sup> *The Prosecutor v. Laurent Gbagbo*, PTC I, Decision on Victims' Participation and Victims' Common Legal Representation at the Confirmation of Charges Hearing and in the Related Proceedings, 4 June 2012, ICC-02/11-01/11-138, paras 48-60; *The Prosecutor v. Laurent Gbagbo*, PTC I, Corrigendum to the Second decision on victims' participation at the confirmation of charges hearing and in the related proceedings, 6 February 2013, ICC-02/11-01/11-384-Corr, paras 49-59.

prejudice to any other rights that the Chamber may grant to them in the course of the proceedings either *proprio motu* or upon specific and motivated request submitted by their legal representative.

a. Attendance and participation at the confirmation of charges hearing

28. Pursuant to rule 91(2) of the Rules, the Common Legal Representative of victims has the right to attend all public sessions of the confirmation of charges hearing as well as all public hearing convened in the related proceedings. The Common Legal Representative shall also be entitled to have access to the transcripts of any such hearings.

29. In the event that the Chamber decides to hold parts of the confirmation hearing *in camera* or *ex parte*, it retains the option to decide, on a case-by-case basis, whether to authorise, *proprio motu* or upon a motivated request, the Common Legal Representative to attend those sessions. The same applies to any other *ex parte* or *in camera* hearing convened in the present case. Likewise, the Common Legal Representative shall also be given access to the transcripts of any such hearings to which she has been authorised to attend.

30. In addition, pursuant to rule 89(1) of the Rules, the Common Legal Representative is entitled to make opening and closing statements at the confirmation of charges hearing in compliance with the schedule to be issued by the Single Judge in due course.

31. The Single Judge further considers that upon a motivated request specifying why and how the victims' personal interests are affected by the issues concerned, the Common Legal Representative may be authorised to make oral submissions during the confirmation of charges hearing, subject to any direction given by the Chamber. In its determination, the Chamber will take into consideration; *inter alia*, the stage of the proceedings, the nature of

the issue(s) at stake, the rights of the suspect and the principle of fairness and expeditiousness of the proceedings.

*b. Access to the public record of the case*

32. Rule 121(10) of the Rules further states that victims or their legal representative may, subject to any restrictions concerning confidentiality and the protection of national security information, consult the record of all proceedings before the Chamber as created and maintained by the Registrar. Furthermore, according to rule 92(5) and (6) of the Rules, victims' legal representatives shall be notified of the proceedings before the Chamber.

33. Accordingly, the Common Legal Representative of the victims authorised to participate at the pre-trial stage of the present case has the right, during the confirmation hearing and in the related proceedings, to:

- (i) have access to all public filings and public decisions contained in the record of the case;
- (ii) be notified on the same basis as the Prosecutor and the Defence of all public requests, submissions, motions, responses and other procedural documents which are filed as public in the record of the case;
- (iii) be notified of the decisions of the Chamber in the proceedings;
- (iv) have access to the transcripts of hearings held in public sessions;
- (v) be notified on the same basis as the Prosecutor and the Defence of all public proceedings before the Court, including the date of hearings and any

postponements thereof, and the date of delivery of the decision; and

- (vi) have access to the public evidence filed by the Prosecutor and the Defence pursuant to rule 121 of the Rules and contained in the record of the case. Such right is, however, subject to the format (*i.e.* unredacted versions, redacted versions or summaries, as well as electronic versions with the *metadata* required by the e-Court Protocol) in which such evidence has been made available to either party.

34. The Single Judge recalls, however, that if a party to or a participant in the present proceedings wishes to notify their own filing classified as confidential to the victims' Common Legal Representative, it may do so by including in the said document the name of the Common Legal Representative to be notified. The Registrar shall notify the parties and the participants accordingly.

35. In relation to those filings that are marked confidential and are not notified to the victims' Common Legal Representative under the conditions set forth in the previous paragraph, the Chamber retains the option to decide on a case-by-case basis, either *proprio motu* or upon receipt of a specific and motivated request, whether to grant the Common Legal Representative of victims access thereto.

36. Finally, the Single Judge decides that, in order for the Common Legal Representative to discharge her duties, she shall be granted access to the redacted and unredacted copies of the applications for participation

submitted by the victims hereby admitted to participate at the confirmation of charges hearing and in the related proceedings.

*c. Filing of written submissions*

37. In accordance with regulation 24 of the Regulations, the victims' legal representatives are also entitled to file written motions, responses and replies in relation to all matters for which the Statute and the Rules do not exclude their intervention and for which the Chamber has not limited their participation either *proprio motu* or at the request of a party, the Registrar or any other participant.

38. Accordingly, the Single Judge considers that the Common Legal Representative of the victims admitted to participate by the present decision may be authorised by the Chamber to make written submissions on specific issues of law and/or fact. This right may be exercised upon the conditions that (i) the legal representative proves, by way of an application to that effect, that the victims' personal interests are affected by the issue(s) at stake; and (ii) the Chamber deems it appropriate, in light of, *inter alia*, the stage of the proceedings, the nature of the issue(s) concerned, the rights of the suspect and the principle of fairness and expeditiousness of the proceedings.

**B. The Request for Participation of 16 May 2014**

39. The Single Judge observes that the Request for Participation of 16 May 2014 concerns applications submitted to the VPRS but not transmitted to the Chamber in the context of the proceedings in the *Gbagbo* case. The Single Judge recalls that only complete application which the Registrar considers to fall "within the scope of the case" are to be transmitted to the Chamber<sup>30</sup>.

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<sup>30</sup> See, *inter alia*, *The Prosecutor v. Laurent Gbagbo*, PTC I, Second decision on issues related to the victims' application process, 5 April 2012, ICC-02/11-01/11-86, para. 37; *The Prosecutor v. Laurent Gbagbo*, Registrar, First Report to the Chamber on applications to participate in the proceedings, 16 May 2012, ICC-02/11-01/11-123, page 4 and note 7.

Hence, it is the responsibility of the Registrar to transmit the applications received, when considered complete and linked to a case before the Court, and it is for the Chamber to decide, on the basis of the information submitted, whether the applicants meet the requirements of rule 85 of the Rules.

40. Therefore, absent any transmission by the VPRS of the applications for participation submitted by applicants a/20188/12, a/20189/12, a/20190/12, a/20191/12 and a/20192/12, the Single Judge can only conclude that these applications are incomplete and/or not linked to the present case. Under these circumstances, the Single Judge is not in a position to evaluate if the applicants meet the requirements of rule 85 of the Rules and it rejects the Request for Participation of 16 May 2014<sup>31</sup>.

### **C. Transmission of complete victims' applications for participation to the Chamber and the parties**

41. The Single Judge notes that the VPRS informed her that a number of new victims' applications received were using the standard application form,<sup>32</sup> as opposed to the collective application form elaborated and adopted in the context of the *Gbagbo* Case<sup>33</sup>. For this reason, and also because it considered "it was not always easy to bring together victims for the purposes of the application process", the VPRS suggests that the standard application form be used for the confirmation of charges hearing in the present case.<sup>34</sup> Taking into

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<sup>31</sup> See also, *The Prosecutor v. Laurent Gbagbo*, PTC I, Corrigendum to the Second decision on victims' participation at the confirmation of charges hearing and in the related proceedings, 6 February 2013, ICC-02/11-01/11-384-Corr, para. 60.

<sup>32</sup> Registrar, Report on the applications for victim's participation in the proceedings submitted in compliance with the Single Judge's order ICC-02/11-02/11-72, 20 May 2014, ICC-02/11-02/11-75, para. 8.

<sup>33</sup> See, for example, *The Prosecutor v. Laurent Gbagbo*, PTC I, Decision on issues related to the victims' application process, 6 February 2012, ICC-02/11-01/11-33; *The Prosecutor v. Laurent Gbagbo*, PTC I, Second decision on issues related to the victims' application process, 5 April 2012, ICC-02/11-01/11-86.

<sup>34</sup> Registrar, Report on the applications for victim's participation in the proceedings submitted in compliance with the Single Judge's order ICC-02/11-02/11-72, 20 May 2014, ICC-02/11-02/11-75, paras 6-8.



consideration the observations of the VPRS and in light of the upcoming commencement of the confirmation hearing, the Single Judge considers that individual application forms may be accepted in the present case by the VPRS.

42. As further suggested by the VPRS,<sup>35</sup> the Single Judge considers it appropriate to set deadlines for the submission and the transmission of victims' applications for participation. These deadlines take into account the date of the confirmation of charges hearing as well as the need to allow sufficient time for the parties to make observations pursuant to rule 89(1) of the Rules.

43. In line with the jurisprudence of the Court, the Single Judge is of the view that there is no need, at this stage of the proceedings, to disclose to the Defence the identities of the applicants. The Single Judge recalls, as it has been stated before,<sup>36</sup> that such redactions are inherent in the process of adopting measures to protect the victims under articles 57(3)(c) and 68(1) of the Statute. However, bearing in mind that redaction of information is an exception to the principle of full disclosure, the Single Judge reminds the Registrar to respect the principle of proportionality enshrined in article 68(1) of the Statute. At later stages of the proceedings, the redaction of information may be revised on a case-by-case basis for those granted leave to participate.

44. The Single Judge considers that complete applications for victims' participation should be submitted to the VPRS by 30 June 2014 at the latest. This deadline will allow for the Registrar to transmit them to the Chamber

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<sup>35</sup> Registrar, Report on the applications for victim's participation in the proceedings submitted in compliance with the Single Judge's order ICC-02/11-02/11-72, 20 May 2014, ICC-02/11-02/11-75, para. 11.

<sup>36</sup> *The Prosecutor v. Laurent Gbagbo*, PTC I, Corrigendum to the Second decision on victims' participation at the confirmation of charges hearing and in the related proceedings, 6 February 2013, ICC-02/11-01/11-384-Corr, para. 34; *The Prosecutor v. Laurent Gbagbo*, PTC I, Decision on Victims' Participation and Victims' Common Legal Representation at the Confirmation of Charges Hearing and in the Related Proceedings, 4 June 2012, ICC-02/11-01/11-138, para. 32.

and the parties by no later than 11 July 2014. The Single Judge is also favourable to the adoption of intermediate deadlines for the transmission of victims' applications. The Single Judge thus orders the Registrar to transmit, to the Chamber and the Prosecutor in unredacted form and to the Defence in redacted form, copies of:

- (i) the 199 applications of victims admitted to participate in the proceedings by the present decision by no later than 18 June 2014;
- (ii) complete and relevant applications from the 148 currently in the possession of the VPRS by no later than 30 June 2014;
- (iii) any new complete and relevant applications as soon as possible and, if appropriate, on a continuous basis, by no later than 11 July 2014.

45. Furthermore, according to regulation 86(5) of the Regulations, all applications are to be transmitted to the Chamber together with a report thereon. The Single Judge is satisfied with the reporting system suggested by the VPRS in its report and annex<sup>37</sup> and considers it appropriate to adopt the Victims Application Management System for the reporting of all new complete applications. As for the first transmission on 18 June 2014, the Single Judge considers that the retransmission of the reports under 86(5), prepared when the applications were filed in the record of the *Gbagbo* Case, will suffice.

46. Under rule 89(1) of the Rules, both the Prosecutor and the Defence are entitled, as mentioned earlier, to file observations on the victims' applications for participation. As the VPRS is expected to transmit the applications

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<sup>37</sup> Registrar, Report on the applications for victim's participation in the proceedings submitted in compliance with the Single Judge's order ICC-02/11-02/11-72, 20 May 2014, ICC-02/11-02/11-75, para. 9 and annex.

received on a continuous basis, the Single Judge further invites the parties, should they wish to do so, to submit intermediary observations two weeks following each transmission, *i.e.* on 2 July and 14 July 2014. If appropriate, a consolidated submission may be filed by no later than 25 July 2014.

**FOR THESE REASONS, THE SINGLE JUDGE HEREBY**

**GRANTS** the OPCV Requests;

**DECIDES** to admit the following applicants as victims participating at the confirmation of charges hearing and in the related proceedings:

a/20006/12; a/20007/12; a/20008/12; a/20009/12; a/20010/12; a/20011/12;  
a/20012/12; a/20013/12; a/20014/12; a/20015/12; a/20016/12; a/20017/12;  
a/20018/12; a/20019/12; a/20020/12; a/20021/12; a/20031/12; a/20032/12;  
a/20033/12; a/20034/12; a/20035/12; a/20036/12; a/20037/12; a/20038/12;  
a/20039/12; a/20040/12; a/20041/12; a/20042/12; a/20043/12; a/20044/12;  
a/20045/12; a/20047/12; a/20048/12; a/20049/12; a/20050/12; a/20051/12;  
a/20052/12; a/20055/12; a/20056/12; a/20057/12; a/20059/12; a/20060/12;  
a/20061/12; a/20062/12; a/20063/12; a/20064/12; a/20065/12; a/20068/12;  
a/20069/12; a/20070/12; a/20072/12; a/20073/12; a/20074/12; a/20075/12;  
a/20076/12; a/20077/12; a/20078/12; a/20079/12; a/20080/12; a/20081/12;  
a/20082/12; a/20083/12; a/20084/12; a/20086/12; a/20087/12; a/20088/12;  
a/20090/12; a/20091/12; a/20092/12; a/20093/12; a/20095/12; a/20096/12;  
a/20097/12; a/20098/12; a/20099/12; a/20100/12; a/20105/12; a/20107/12;  
a/20108/12; a/20109/12; a/20110/12; a/20111/12; a/20112/12; a/20113/12;  
a/20114/12; a/20115/12; a/20116/12; a/20117/12; a/20118/12; a/20119/12;  
a/20120/12; a/20002/12; a/20089/12; a/20122/12; a/20124/12; a/20126/12;  
a/20127/12; a/20128/12; a/20129/12; a/20130/12; a/20131/12; a/20132/12;

a/20133/12; a/20134/12; a/20135/12; a/20136/12; a/20137/12; a/20139/12;  
a/20140/12; a/20141/12; a/20142/12; a/20143/12; a/20146/12; a/20147/12;  
a/20148/12; a/20149/12; a/20150/12; a/20151/12; a/20152/12; a/20154/12;  
a/20155/12; a/20156/12; a/20157/12; a/20158/12; a/20159/12; a/20160/12;  
a/20161/12; a/20162/12; a/20163/12; a/20164/12; a/20165/12; a/20166/12;  
a/20167/12; a/20168/12; a/20169/12; a/20170/12; a/20171/12; a/20172/12;  
a/20185/12; a/20000/13; a/20001/13; a/20002/13; a/20003/13; a/20004/13;  
a/20005/13; a/20006/13; a/20007/13; a/20008/13; a/20009/13; a/20011/13;  
a/20012/13; a/20013/13; a/20014/13; a/20015/13; a/20016/13; a/20017/13;  
a/20018/13; a/20019/13; a/20020/13; a/20021/13; a/20022/13; a/20023/13;  
a/20024/13; a/20025/13; a/20026/13; a/20027/13; a/20028/13; a/20029/13;  
a/20030/13; a/20031/13; a/20032/13; a/20033/13; a/20034/13; a/20035/13;  
a/20036/13; a/20037/13; a/20041/13; a/20042/13; a/20043/13; a/20044/13;  
a/20045/13; a/20047/13; a/20048/13; a/20049/13; a/20050/13; a/20051/13;  
a/20052/13; a/20053/13; a/20059/13; a/20061/13; a/20063/13; a/20065/13;  
a/20067/13; a/20068/13; a/20069/13; a/20125/12; a/20058/12; a/20071/12;  
a/20183/12;

**DECIDES** to appoint the OPCV as the common legal representative of all victims admitted to participate in the proceedings by the present decision;

**ORDERS** the Registrar to transmit to the Common Legal Representative of victims redacted and unredacted copies of the applications of victims admitted to participate in the proceedings by the present decision;

**GRANTS** the Common Legal Representative of victims the right to attend all public sessions of the confirmation of charges hearing as well as all public hearings convened in the related proceedings;

**GRANTS** the Common Legal Representative of victims the right to make brief opening and closing statements at the confirmation of charges hearing in accordance with the schedule thereof;

**ORDERS** the Registrar to provide the Common Legal Representative of victims with access to the public record of the case, including public evidence disclosed by the parties;

**ORDERS** the Registrar to notify the Common Legal Representative of victims of all public decisions and filings;

**REJECTS** the Request for Participation of 16 May 2014;

**DECIDES** that all victims' applications, in order to be assessed for participation at the confirmation of charges hearing and in the related proceedings, shall be received by the VPRS by no later than 30 June 2014;

**ORDERS** the Registrar to transmit copies of the 199 applications of victims admitted to participate in the proceedings by the present decision, to the Chamber and the Prosecutor in unredacted form and to the Defence in redacted form, by no later than 18 June 2014;

**ORDERS** the Registrar to transmit copies of the complete and relevant victims' applications currently in the possession of the VPRS, to the Chamber and the Prosecutor in unredacted form and to the Defence in redacted form, by no later than 30 June 2014;

**ORDERS** the Registrar to transmit copies of any new complete and relevant victims' application received, to the Chamber and the Prosecutor in

unredacted form and to the Defence in redacted form, as soon as possible and, if appropriate, on a continuous basis, by no later than 11 July 2014;

**ORDERS** the Registrar to submit to the Chamber each batch of victims' applications together with a report pursuant to regulation 86(5) of the Regulations;

**ORDERS** the Prosecutor and the Defence to submit, should they wish to do so, observations on each batch of victims' applications for participation two weeks after each transmission and in any case to file their consolidated submissions by no later than 25 July 2014;

**ORDERS** the parties and participants in the proceedings to refer to the applicants only by the numbers assigned to them by the Registrar.

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



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**Judge Silvia Fernández de Gurmendi**  
**Single Judge**

Dated this Wednesday, 11 June 2014

At The Hague, The Netherlands