

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **10 March 2015**

TRIAL CHAMBER I

Before: Judge Geoffrey Henderson, Single Judge

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

Public

Order reclassifying documents

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

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**

Ms Paolina Massidda

**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 Geoffrey Henderson, acting as Single Judge on behalf of Trial Chamber I ('Single Judge') of the International Criminal Court, in the case of *The Prosecutor v. Laurent Gbagbo*, having regard to Article 64(7) of the Rome Statute ('Statute') and Regulation 23 *bis* of the Regulations of the Court ('Regulations'), issues the following 'Order reclassifying documents'.

1. On 21 October 2014, the Defence team for Mr Gbagbo ('Defence') filed an urgent request for Mr Gbagbo to attend his mother's funeral ('Defence Request').¹
2. On 22 October 2014, the Defence filed a public redacted version of the Defence Request.² Pursuant to Regulation 23 *bis* of the Regulations, the Chamber instructed the Registry to urgently reclassify the filing as 'confidential'.³
3. On that same date, the Chamber filed an 'Order reducing the time limit to file a response',⁴ in which it ordered the Prosecution and the Legal Representative of victims to file their responses to the Defence Request, if any, by 24 October 2014, and instructed the Registry to file observations by the same date ('Order reducing time limit').
4. On 23 October 2014, the Chamber instructed the Registry to provide the Defence request to the relevant authorities of the Kingdom of the Netherlands ('the Netherlands') and of the Republic of Côte d'Ivoire ('Côte d'Ivoire'), and

¹ *Requête urgente, fondée sur des circonstances humanitaires exceptionnelles, déposée afin que le Président Gbagbo soit autorisé à se recueillir devant la dépouille de sa mère et à assister à son enterrement*, ICC-02/11-01/11-697-Conf and confidential annex.

² *Requête urgente, fondée sur des circonstances humanitaires exceptionnelles, déposée afin que le Président Gbagbo soit autorisé à se recueillir devant la dépouille de sa mère et à assister à son enterrement*, ICC-02/11-01/11-697-Red and confidential annex.

³ Email communication from Legal Officer of the Trial Chamber to the Registry on 22 October 2014 at 10.28 and 11.30.

⁴ Order reducing the time limit to file a response, ICC-02/11-01/11-698-Conf.

invited the relevant State authorities to submit observations on the Defence Request as soon as possible.⁵

5. On 24 October 2014, the Prosecution⁶ and the Legal Representative of victims⁷ filed their responses. On the same date, the Registry filed its submissions,⁸ to which it annexed: (i) a security assessment;⁹ (ii) the submissions of the Netherlands;¹⁰ and (iii) the submissions of Côte d'Ivoire.¹¹
6. On 29 October 2014, the Defence requested authorisation to reply to Côte d'Ivoire's submissions ('Defence Reply Request').¹²
7. Also on 29 October 2014, the Chamber issued its Decision on the urgent request of the Defence for Mr Gbagbo to attend his mother's funeral ('Decision') whereby it rejected the Defence Reply Request and the Defence Request.¹³
8. The Chamber recalls the general principle of publicity of the Court's proceedings enshrined in Article 64(7) of the Statute and its power to order the reclassification of any document where the basis for the initial classification no longer exists, in accordance with Regulation 23 *bis* of the Regulations.

⁵ Email communication from Legal Officer of the Trial Chamber to the Registry on 23 October 2014 at 13.21.

⁶ Prosecution's Response to Defence's « *Requête urgente, fondée sur des circonstances humanitaires exceptionnelles, déposée afin que le Président Gbagbo soit autorisé à se recueillir devant la dépouille de sa mère et à assister à son enterrement* », ICC-02/11-01/11-703-Conf ('Prosecution Response').

⁷ Response of the Common Legal Representative of victims to the « *Requête urgente, fondée sur des circonstances humanitaires exceptionnelles, déposée afin que le Président Gbagbo soit autorisé à se recueillir devant la dépouille de sa mère et à assister à son enterrement* », ICC-02/11-01/11-702-Conf ('LRV Response').

⁸ Registry submission pursuant to "Order reducing the time limit to file a response", ICC-02/11-01/11-704-Conf ('Registry Submissions').

⁹ Annex 1 to Registry submission pursuant to "Order reducing the time limit to file a response", ICC-02/11-01/11-704-Conf-Exp-Anx1.

¹⁰ Annex 2 to Registry submission pursuant to "Order reducing the time limit to file a response", ICC-02/11-01/11-704-Conf-Anx2.

¹¹ Annex 3 to Registry submission pursuant to "Order reducing the time limit to file a response", ICC-02/11-01/11-704-Conf-Anx3.

¹² Demande d'autorisation aux fins de pouvoir répliquer aux « observations de la République de la Côte d'Ivoire sur la requête urgente, fondée sur des circonstances humanitaires exceptionnelles, déposée afin que le Président Gbagbo soit autorisé à se recueillir devant la dépouille de sa mère et à assister à son enterrement » (ICC-02/11-01/11-704-Conf-Anx3), ICC-02/11-01/11-710-Conf.

¹³ Decision on the Urgent request of the Defence for Mr Gbagbo to attend his mother's funeral, ICC-02/11-01/11-711-Conf. A public redacted version was filed on the same day (ICC-02/11-01/11-711-Red).

9. Noting that the Defence itself filed a public redacted version of the Defence Request and considering that a public redacted version of the Decision was filed, the Single Judge considers that the justification for the following documents to be classified as confidential no longer exists:

- Defence Request : ICC-02/11-01/11-697-Red-Conf;
- Order reducing the time limit: ICC-02/11-01/11-698-Conf; and
- Defence Request Reply: ICC-02/11-01/11-710-Conf.¹⁴

They shall therefore be reclassified as public.

10. The remaining documents in this litigation are as follows :

- LRV Response: ICC-02/11-01/11-702-Conf;
- Prosecution Response: ICC-02/11-01/11-703-Conf; and
- Registry Submissions: ICC-02/11-01/11-704-Conf.

Having reviewed these documents and considering additionally that the Prosecution indicated that it will file a public redacted version of the Prosecution Response, the Single Judge considers that they may contain information that needs to be redacted from the public. Hence, the Prosecution, the LRV and the Registry are instructed to file public redacted versions of their respective filings within 5 days of notification of this order. Annex 1 to the Registry Submissions shall remain confidential *ex parte* available to the Registry only. Annexes 2 and 3 to the Registry Submissions as well as ICC-02/11-01/11-697-Conf-Anx may remain confidential.

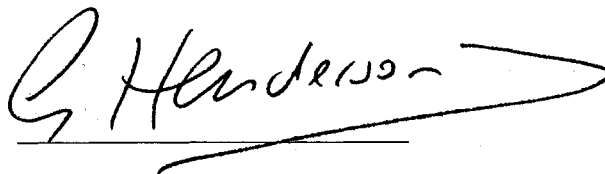
¹⁴ The Single Judge notes that the Defence itself indicated that it did not oppose this filing to be reclassified as public once the Defence Request is reclassified as public (Defence Reply Request, ICC-02/11-01/11-710-Conf, para. 2).

FOR THE FOREGOING REASONS, THE SINGLE JUDGE

INSTRUCTS the Registry to reclassify as public documents ICC-02/11-01/11-697-Red-Conf, ICC-02/11-01/11-698-Conf and ICC-02/11-01/11-710-Conf; and

INSTRUCTS the Prosecution, the LRV and the Registry to file public redacted versions of their filings in accordance with paragraph 10 above.

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

A handwritten signature in black ink, appearing to read 'G. Henderson', with a long horizontal flourish extending to the right.

Judge Geoffrey Henderson

Single Judge

Dated 10 March 2015

At The Hague, The Netherlands