

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 17 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 AND
CHARLES BLÉ GOUDÉ***

Public

Order setting deadlines for submissions on certain pending matters

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 Mr Laurent Gbagbo

Mr Emmanuel Altit

Ms Agathe Bahi Baroan

Counsel for Mr Charles Blé Goudé

Mr Geert-Jan Alexander Knoops

Mr Claver N'dry

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

Mr Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Others

Judge Geoffrey Henderson, acting as Single Judge on behalf of Trial Chamber I ('Single Judge' and 'Chamber', respectively) of the International Criminal Court, in the case of *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, having regard to Articles 64(3)(a), (6)(e) and 68(1) of the Rome Statute, and Regulation 34 of the Regulations of the Court, issues the following 'Order setting deadlines for submissions on certain pending matters'.

1. On 11 March 2015, the Chamber issued a decision granting, *inter alia*, the Prosecution requests to join the cases of *The Prosecutor v. Laurent Gbagbo* ('Gbagbo case') and *The Prosecutor v. Charles Blé Goudé* ('Blé Goudé case') ('Decision on joinder').¹
2. The following matters, filed in the *Gbagbo* and *Blé Goudé* cases, are pending before the Chamber.

Protocols

3. On 4 December 2014, in the former *Gbagbo* case, the Single Judge held a status conference during which the following protocols were discussed:²
 - (i) Protocols concerning the disclosure of the identity of witnesses of the other party, the handling of confidential information in the course of investigation and on contacts with witnesses of the opposing party ('Protocol on handling of confidential information');³

¹ Decision on Prosecution requests to join the cases of *The Prosecutor v. Laurent Gbagbo* and *The Prosecutor v. Charles Blé Goudé* and related matters, with public Annex A, 11 March 2015, ICC-02/11-01/15-1 (see also ICC-02/11-01/11-810 and ICC-02/11-02/11-222).

² Transcript of Hearing dated 4 December 2014, ICC-02/11-01/11-T-27-CONF-ENG ET, pages 14-51.

³ *Protocole régissant la divulgation de l'identité des témoins de la partie adverse et Protocole régissant l'utilisation de matériel confidentiel par les parties pendant les enquêtes*, 6 March 2012, ICC-02/11-01/11-49-Anx.

- (ii) Unified protocol on the practices used to prepare and familiarise witnesses for giving testimony ('Familiarisation Protocol') together with the possibility for the parties to request the authorisation to prepare witnesses and to submit a corresponding protocol on that matter ('Witness Preparation Protocol');⁴
- (iii) Protocol on the vulnerability assessment and support procedure used to facilitate the testimony of vulnerable witnesses ('Protocol on vulnerable witnesses');⁵ and
- (iv) Proposed mechanism for exchange of information on individuals enjoying dual status ('Protocol on dual status witnesses').⁶

4. On 18 December 2014, the Single Judge directed the Office of the Prosecutor ('Prosecution'), the defence team for Mr Gbagbo ('Gbagbo Defence'), the Legal Representative of Victims ('LRV') and the Victims and Witnesses Unit ('VWU') to expeditiously conclude discussions on the abovementioned protocols, to make any further submissions with regard to the Protocol on handling of confidential information by 20 February 2015 and with regard to the other protocols by 27 February 2015.⁷

5. On 20 February 2015, the Prosecution,⁸ the Gbagbo Defence⁹ and the LRV¹⁰ filed their respective submissions on the Protocol on handling of confidential information. The VWU filed its submissions on 2 March 2015.¹¹

⁴ Unified Protocol on the practices used to prepare and familiarise witnesses for giving testimony, 16 April 2012, ICC-02/11-01/11-93-Anx1.

⁵ Protocol on the vulnerability assessment and support procedure used to facilitate the testimony of vulnerable witnesses, 16 April 2012, ICC-02/11-01/11-93-Anx2.

⁶ Proposed mechanisms for exchange of information on individuals enjoying dual status, 28 November 2014, ICC-02/11-01/11-731-Anx1.

⁷ Order setting deadlines for the filing of submissions on outstanding protocols, 18 December 2014, ICC-02/11-01/11-739.

⁸ Prosecution's Proposed Protocol on the « *divulgence de l'identité des témoins lors des enquêtes, l'utilisation de matériel confidentiel pendant les enquêtes, la divulgation d'information par inadvertance et les contacts entre une partie et un témoin de la partie adverse* », 20 February 2015, ICC-02/11-01/11-777-Conf, with public Annex A.

6. On 26 February 2015, the Prosecution and the Gbagbo Defence filed their joint submissions on the Witness Preparation Protocol.¹² With regard to the Familiarisation Protocol, on 26 February 2015, the Prosecution and the LRV filed joint submissions.¹³ On 27 February 2015, the Gbagbo Defence¹⁴ and the VWU¹⁵ submitted their respective submissions. The VWU requested leave to make additional submissions on the amendments to the Familiarisation Protocol proposed in the Gbagbo Defence's submissions.¹⁶ The request was granted and the VWU filed its further submissions on 13 March 2015,¹⁷ as instructed by the Chamber.¹⁸
7. With regard to the Protocol on dual status witnesses and the Protocol on vulnerable witnesses, the Prosecution and the LRV submitted a joint request for an extension of time to file their submissions until 6 March 2015.¹⁹ The

⁹ *Soumissions de la Défense relative à l'adoption des : 1. Protocole régissant la divulgation de l'identité des témoins de la partie adverse ou du représentant légal des victimes ; 2. Protocole régissant l'utilisation de matériel confidentiel par les parties et le représentant légal des victimes pendant les enquêtes, 3. Protocole portant sur la divulgation de matériel qui ne devait pas être divulgué ou qui aurait dû être divulgué dans une version expurgée 4. Protocole régissant les contacts entre une partie et un témoin de la partie adverse*, 20 February 2015, ICC-02/11-01/11-778-Conf, with confidential annex.

¹⁰ Submissions of the Common Legal Representative of victims pursuant to the order setting deadlines for the filing of submissions on outstanding protocols (ICC-02/11-01/11-739), 20 February 2015, ICC-02/11-01/11-776.

¹¹ Victims and Witnesses Unit's observations on the « *divulgation de l'identité des témoins lors des enquêtes, l'utilisation de matériel confidentiel pendant les enquêtes, la divulgation d'information par inadvertance et les contacts entre une partie et un témoin de la partie adverse* » pursuant to Order ICC-02/11-01/11-739, 2 March 2015, ICC-02/11-01/11-788.

¹² *Soumissions de l'Accusation et de la Défense relatives à l'adoption du protocole de préparation des témoins*, 26 February 2015, ICC-02/11-01/11-784-Conf, with confidential annex.

¹³ Joint submissions of the Prosecution and the Legal Representative of Victims on the proposed familiarisation protocol, 26 February 2015, ICC-02/11-01/11-783.

¹⁴ *Soumissions de la Défense relatives à l'adoption du Protocole « pratique de familiarisation des témoins en vue de leur déposition »*, ICC-02/11-01/11-786, with confidential annex.

¹⁵ Victims and Witnesses Unit's submission on the Protocol on the practices to be used to familiarise witnesses for giving testimony pursuant to Order ICC-02/11-01/11-739, 27 February 2015 (notified on 2 March 2015), ICC-02/11-01/11-791, with public annex.

¹⁶ Email communication from VWU, 2 March 2015, 15:46. Upon instruction of the Chamber, this request was filed in the record on 6 March 2015. See respectively, Decision on Requests for an extension of time to submit observations on the outstanding protocols, 4 March 2015, ICC-02/11-01/11-796 and Victims and Witnesses Unit's submission pursuant to Order ICC-02/11-01/11-796, 6 March 2015, ICC-02/11-01/11-799.

¹⁷ Victims and Witnesses Unit's submission pursuant to Order ICC-02/11-01/11-807, 13 March 2015, ICC-02/11-01/15-2.

¹⁸ Decision authorising the VWU to make additional observations on the Familiarisation Protocol, 10 March 2015, ICC-02/11-01/11-807.

¹⁹ Joint request of the Common Legal Representative of victims and the Prosecution for an extension of time to file their submissions on the outstanding protocols, ICC-02/11-01/11-785-Conf (a public redacted version was filed on 12 March 2015, t ICC-02/11-01/11-785-Red).

Gbagbo Defence responded to the request, indicating that it did not oppose as long as it was also granted the same extension of time.²⁰ With leave from the Chamber,²¹ the Prosecution,²² the Gbagbo Defence²³ and the LRV²⁴ filed their submissions on 6 March 2015. The VWU filed its submissions on 2 March 2015.²⁵

Prosecution's requests concerning redactions

8. The Prosecution filed in the *Gbagbo* case, (i) a request for non-standard redactions to documents related to Witness P-0114, on 27 February 2015;²⁶ and (ii) a request for authorisation to maintain redactions to documents related to P-0316 and P-0402, on 5 March 2015 ('Prosecution's requests on redactions').²⁷ The deadline for responses has not yet expired.

²⁰ Email from the Defence to the Chamber, 27 February 2015, 11:37. On that same date, the Single Judge had informed the Defence that if it wished to respond to the request it may do so by way of email (Email from Chamber to Defence, 27 February 2015, 10:54).

²¹ Decision on Requests for an extension of time to submit observations on the outstanding protocols, 4 March 2015, ICC-02/11-01/11-796; *see also*, Email from the Chamber to the parties and participants, 27 February 2015, 14:44.

²² Prosecution's Submissions of the proposed mechanisms for exchange of information on individuals enjoying dual status and on the Protocol on the vulnerability assessment and support procedure used to facilitate the testimony of vulnerable witnesses, 6 February 2015, ICC-02/11-01/11-798.

²³ *Soumissions de la Défense relatives à l'adoption du Protocole portant sur « des mécanismes régulant l'échange d'informations sur les personnes possédant la double qualité de victime et de témoin »*, 6 February 2015, ICC-02/11-01/11-801-Conf, with confidential annex, ; *Soumissions de la Défense portant sur l'adoption du Protocole relatif à la procédure suivie pour évaluer la vulnérabilité des témoins et leur apporter le soutien requis pour faciliter leur déposition*, 6 February 2015, ICC-02/11-01/11-803-Conf, with confidential annex.

²⁴ Further submissions of the Common Legal Representative of victims pursuant to the order setting deadlines for the filing of submissions on outstanding protocols (ICC-02/11-01/11-739), 6 March 2015, ICC-02/11-01/11-802-Conf.

²⁵ Victims and Witnesses Unit's submission on the Protocol on the vulnerability assessment and support procedure used to facilitate the testimony of vulnerable witnesses pursuant to Order ICC-02/11-01/11-739, 2 March 2015, ICC-02/11-01/11-789; Victims and Witnesses Unit's submission of the proposed mechanisms for exchange of information on individuals enjoying dual status pursuant to Order ICC-02/11-01/11-739, with public annex, 2 March 2015, ICC-02/11-01/11-790.

²⁶ Prosecution's request for authorisation to redact two documents related to P-0114, 27 February 2015, ICC-02/11-01/11-787-Conf-Exp, with confidential *ex parte* Annex A (a redacted version was filed on the same day, ICC-02/11-01/11-787-Conf-Red).

²⁷ Prosecution's further request for authorisation to maintain redactions to documents related to P-0316 and P-0402, 5 March 2015, ICC-02/11-01/11-797-Conf-Exp, with confidential *ex parte* Annexes A and B (a redacted version was filed on the same day, ICC-02/11-01/11-797-Conf-Red). The Chamber notes that the Prosecution had initially filed a broader request for redactions, which was partly rejected by the Chamber, unless the Prosecution provided a justification for its requested redactions within seven days (*See* Prosecution's request pursuant to regulation 35 for variation of time limit to redisclose certain documents with fewer redactions and Prosecution's request for authorisation to maintain redactions, 6 February 2015, ICC-02/11-01/11-761 and

Blé Goudé Defence's request for translation of documents in French

9. In its observations in preparation for the first status conference held in the former *Blé Goudé* case, the Defence team for Mr Blé Goudé ('Blé Goudé Defence') requested to have all relevant documents in the *Blé Goudé* case translated into French.²⁸ During the status conference itself, the Blé Goudé Defence further elaborated its submission and clarified that what was requested is the translation of future decisions on substantive issues or on procedural issues directly affecting the rights of the accused.²⁹ Responses to this request for translation were made by the Prosecution³⁰ and the LRV.³¹

Conclusion

10. Before decisions are issued on the abovementioned pending matters, the Single Judge deems it appropriate to invite submissions from the Blé Goudé Defence on the protocols and on the Prosecution's requests on redactions pending in the former *Gbagbo* case, and from the Gbagbo Defence on the request concerning translation of documents pending in the former *Blé Goudé* case. For this purpose, the Single Judge grants the Blé Goudé Defence and Gbagbo Defence access to the relevant 'confidential' submissions.
11. Considering that other pending matters have been included in the provisional agenda of the status conference to be held on 21 April 2015,³² and that the parties and participants will have an opportunity to address

Decision on the Prosecution request pursuant to Regulation 35 of the Regulations and on the maintenance of redactions, 25 February 2015, ICC-02/11-01/11-782-Conf Exp [a public redacted version was filed on the same day: ICC-02/11-01/11-782-Red]). The Prosecution did so in relation to documents related to P-0316 and P-0402.

²⁸ Urgent Defence Submissions on the need to have adequate time and facilities to prepare for trial and extension of time to respond to Joinder Request, 26 January 2015, ICC-02/11-02/11-201, paras 45-46 and 47(c).

²⁹ Transcript of hearing dated 13 February 2015, ICC-02/11-02/11-T-9-CONF-ENG ET, page 56, line 19 to page 59, line 5.

³⁰ ICC-02/11-02/11-T-9-CONF-ENG ET, page 59, line 8 to page 60, line 20.

³¹ Submissions in accordance with the "Order scheduling a status conference and setting a provision agenda" issued on 23 January 2015, ICC-02/11-02/11-210, paras 35-37; *See also* ICC-02/11-02/11-T-9-CONF-ENG ET, page 60, line 24 to page 61 line 13.

³² Annex A to Decision on Joinder, ICC-02/11-01/15-1-AnxA.

them in their submissions prior to and during the status conference, the Single Judge emphasises that the Gbagbo Defence and the Blé Goudé Defence are to focus their submissions only on the matters identified above.

FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY

ORDERS the Blé Goudé Defence to file any observations on the Protocol on handling of confidential information and on the Protocol on dual status witnesses by 9 April 2015;

ORDERS the Blé Goudé Defence to file any observations on the Witness Preparation Protocol, on the Familiarisation Protocol and on the Protocol on vulnerable witnesses by 30 April 2015;

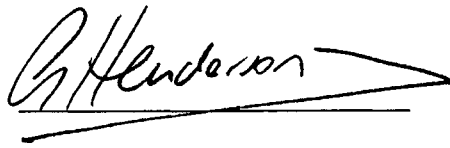
ORDERS the Blé Goudé Defence to file any observations on the Prosecution's requests on redactions identified in paragraph 8 by 2 April 2015;

ORDERS the Gbagbo Defence to make observations, if any, on the Request for translation of documents into French, identified in paragraph 9, by 2 April 2015;

INSTRUCTS the Registry to notify the Gbagbo Defence of the public portions of ICC-02/11-02/11-T-9-CONF-ENG ET;

INSTRUCTS the Registry to notify the Blé Goudé Defence of the following filings: ICC-02/11-01/11-777-Conf; ICC-02/11-02/11-778-Conf; ICC-02/11-02/11-778-Conf-Anx; ICC-02/11-01/11-784-Conf; ICC-02/11-01/11-784-Conf-Anx; ICC-02/11-01/11-785-Conf; ICC-02/11-01/11-786-Conf-Anx; ICC-02/11-01/11-801-Conf; ICC-02/11-01/11-802-Conf; ICC-02/11-01/11-803-Conf; ICC-02/11-01/11-803-Conf-Anx; ICC-02/11-01/11-787-Conf-Red; ICC-02/11-01/11-797-Conf-Red; the public portions of ICC-02/11-01/11-T-25-CONF-ENG CT ; and the public portions of ICC-02/11-01/11-T-27-CONF-ENG ET.

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 line extending to the right from the end of the signature.

Judge Geoffrey Henderson, Single Judge

Dated 17 March 2015

At The Hague, The Netherlands