

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 6 July 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**

**Decision on 'Prosecution's request in relation to potentially privileged material  
seized by the Office of the Prosecutor'**

Decision 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**

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

**States' Representatives**

*Amicus Curiae*

**REGISTRY**

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**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' and 'Chamber', respectively) of the International Criminal Court, in the case of *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, having regard to Rule 73 of the Rules of Procedure and Evidence ('Rules') and Regulation 23 *bis* of the Regulations of the Court ('Regulations'), issues the following 'Decision on "Prosecution's request in relation to potentially privileged material seized by the Office of the Prosecutor"'.<sup>1</sup>

1. On 19 May 2015, the Office of the Prosecutor ('Prosecution') requested that the Chamber review certain material ('Material') and determine whether it contains privileged information with respect to Mr Blé Goudé ('Prosecution Request').<sup>1</sup> On 29 June 2015, pursuant to the Single Judge's order,<sup>2</sup> the defence for Mr Blé Goudé ('Blé Goudé Defence') submitted, *inter alia*, that it 'is unable to sustain the argument that the Material or any part thereof is protected by any privilege' and leaves it to the discretion of the Chamber to determine whether it is subject to disclosure ('Blé Goudé Defence Submissions').<sup>3</sup> The Prosecution responded on 30 June 2015 concerning the ambit of Rule 73(1) of the Rules ('Prosecution Response').<sup>4</sup>
2. At the outset, the Single Judge considers that nothing in the Prosecution Response warrants 'confidential' classification. Accordingly, pursuant to Regulation 23 *bis*(3) of the Regulations, the Single Judge decides to reclassify the Prosecution Response as 'public'.

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<sup>1</sup> Prosecution's request in relation to potentially privileged material seized by the Office of the Prosecutor, ICC-02/11-01/15-69-Conf-Exp, with two confidential, *ex parte* annexes. On 20 May 2015, the Chamber instructed the Registry to notify the Prosecution Request and the Material to the defence for Mr Blé Goudé. Email communication from Legal Officer of the Trial Chamber to Registry on 20 May 2015 at 12:50.

<sup>2</sup> Order for submissions by the defence for Mr Blé Goudé concerning potentially privileged material, 25 June 2015 (notified on 26 June 2015), ICC-02/11-01/15-104.

<sup>3</sup> Defence submissions concerning potentially privileged material, ICC-02/11-01/15-110-Conf, para. 7.

<sup>4</sup> Prosecution's response to Defence submissions concerning potentially privileged material, ICC-02/11-01/15-112-Conf.

3. Turning to the merits of the Prosecution Request, the Single Judge notes that there is no indication that any person other than Mr Blé Goudé is a potential privilege-holder with respect to the Material. The Blé Goudé Defence does not claim any privilege on behalf of Mr Blé Goudé and leaves it to the discretion of the Chamber as to whether the Material is to be disclosed. Under these circumstances and on the basis of the Blé Goudé Defence Submissions, the Single Judge decides that the Prosecution may proceed with its review of the Material in light of its disclosure obligations.

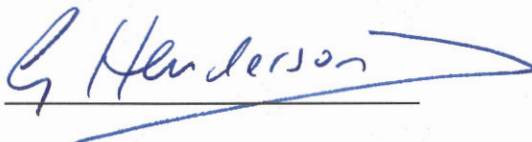
**FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY**

**AUTHORISES** the Prosecution to review the Material in light of its disclosure obligations;

**ORDERS** the Prosecution and Blé Goudé Defence to file, within five days of notification of this decision, public redacted versions of the Prosecution Request and Blé Goudé Defence Submissions, respectively, or indicate to the Chamber that they may be reclassified as 'public' without redactions; and

**INSTRUCTS** the Registry to reclassify the Prosecution Response as 'public'.

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

A handwritten signature in blue ink that reads "G Henderson". The signature is written in a cursive style and is positioned above a horizontal line.

**Judge Geoffrey Henderson, Single Judge**

Dated 6 July 2015

At The Hague, The Netherlands