

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: ICC-02/11-01/15
Date: **07 October 2015**

TRIAL CHAMBER I

Before: Judge Geoffrey Henderson, Presiding Judge
Judge Olga Herrera Carbuccion
Judge Bertram Schmitt

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

Public

Decision setting time limits for submissions on Victims' Applications

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 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

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Ms Fiona McKay

Others

Trial Chamber I ('Chamber') of the International Criminal Court ('Court'), in the case of *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, with regard to Articles 64(2) and (3) and 82(1)(d) of the Rome Statute ('Statute'), Rules 85, 89, 101 and 155 of the Rules of Procedure and Evidence ('Rules') and Regulation 35(2) of the Regulations of the Court ('Regulations'), issues the following 'Decision setting time limits for submissions on Victims' Applications'.

I. Procedural History

1. On 6 March 2015, the Chamber rendered in the case of *The Prosecutor v. Laurent Gbagbo* ('Gbagbo case') the 'Decision on victim participation' ('Decision on Victim Participation'), in which it ordered, *inter alia*, the Registry to transmit copies of specific victim applications received, to the Chamber and the Office of the Prosecutor ('Prosecution') 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 60 days prior to trial.¹
2. On 11 March 2015, the Chamber joined the *Gbagbo* case and the case of *The Prosecutor v Charles Blé Goudé* ('Blé Goudé case'), and decided, *inter alia*, that 'all decisions and orders made in the *Gbagbo* and *Blé Goudé* cases shall continue to apply, as appropriate and until ordered otherwise, in the joint case' ('Joinder Decision').²
3. On 7 May 2015, the Chamber set the commencement date for trial as 10 November 2015.³
4. On 10 September 2015, the Registry transmitted to the Chamber and the Prosecution the unredacted versions of 259 victims' applications for

¹ ICC-02/11-01/11-800, page 24.

² Decision on Prosecution requests to join the cases of *The Prosecutor v. Laurent Gbagbo* and *The Prosecutor v. Charles Blé Goudé* and related matters, ICC-02/11-01/15-1, page 33.

³ Order setting the commencement date for trial, ICC-02/11-01/15-58, page 12.

participation in the proceedings ('259 Applications'),⁴ while it transmitted the 259 Applications in redacted form to the defence team of Mr Gbagbo ('Gbagbo Defence') and the defence team of Mr Blé Goudé ('Blé Goudé Defence'; together with the Gbagbo Defence, 'Defence').⁵

5. On 17 September 2015, the Blé Goudé Defence filed an urgent request ('Urgent Request'), in which it requested the Chamber to set a time limit for the Blé Goudé Defence to file any observations on the aforementioned 259 Applications no later than 21 days from the Chamber's decision resolving the Urgent Request.⁶
6. On 18 September 2015, the Chamber informed the parties, in relation to the aforesaid Urgent Request, that pursuant to the Joinder Decision, the 21-day deadline established in the Decision on Victim Participation, applies to all parties in the joint case ('E-mail of 18 September 2015').⁷ Accordingly, the deadline for the Defence to file any observations on the 259 Applications was due to expire on 2 October 2015 ('Deadline').
7. On 23 September 2015, the Gbagbo Defence filed an application seeking an extension of time limit by two weeks to file its observations on the 259 Applications, until 16 October 2015 ('Gbagbo Defence Application').⁸
8. On 25 September 2015, during a status conference, the Chamber directed the parties and the Legal Representative of Victims ('LRV') to make oral

⁴ Transmission to the Trial Chamber and the Prosecutor of unredacted versions of 259 applications for participation in the proceedings, ICC-02/11-01/15-211 with 259 Conf-Exp annexes.

⁵ Transmission to the Defence of redacted versions of 259 applications for participation in the proceedings, ICC-02/11-01/15-213 with 259 Conf-Red annexes.

⁶ Urgent Defence Request for the setting of a time limit to reply to the "Transmission to the Defence of redacted versions of 259 applications for participation in the proceedings" (ICC-02/11-01/15-213), ICC-02/11-01/15-226, page 6.

⁷ E-mail from Trial Chamber I Communications to Counsel on 18 September 2015 at 12:15.

⁸ *Requête aux fins de prorogation du délai donné par la Chambre à la Défense pour déposer d'éventuelles observations sur les demandes de participation de victimes transmises par le Greffe le 10 septembre 2015* (ICC-02/11-01/15-213), ICC-02/11-01/15-235-Conf (notified on 24 September 2015). A public redacted version was notified on 24 September 2015, ICC-02/11-01/15-235-Red.

submissions on the Gbagbo Defence Application.⁹ While the Prosecution had no objection, the LRV submitted that it should be rejected as no good cause was shown.¹⁰ The Blé Goudé Defence indicated that it would file a related application later that day and requested that the Chamber defer ruling on the matter until receipt of its application.¹¹

9. On that same date, as indicated, the Blé Goudé Defence filed the 'Defence Request for Reconsideration of the Decision on Victim Participation (ICC-02/11-01/11-800) and for Extension of Time' ('Reconsideration Request'), in which it requests: (a) leave to file a request to reconsider the Decision on Victim Participation and thus present 'views and observations on victims' participation in the joint case'; or (b) alternatively, leave to appeal the Decision on Victim Participation three months after the issuance of the requested decision.¹² As a further alternative, it requests that the supporting documents to the victims' applications, even if redacted, are transmitted to the Defence and that the time-limit for observations starts running 14 days from the transmission of these supporting documents or at least is extended to 16 October 2015.¹³ The Blé Goudé Defence later also requested the suspension of the Deadline, pending the Chamber's decision on the Reconsideration Request.¹⁴
10. On 29 September 2015, the Registry informed the Chamber that it did not intend to file any observations.¹⁵
11. On 30 September 2015,¹⁶ the LRV filed its observations. The LRV opposed the Reconsideration Request, stating that the Court's legal texts do not allow for

⁹ Transcript of hearing on 25 September 2015, ICC-02/11-01/15-T-4-ENG ET, page 7, line 21 et seq.

¹⁰ ICC-02/11-01/15-T-4-ENG ET, page 9, line 25 to page 10, line 24.

¹¹ ICC-02/11-01/15-T-4-ENG ET, page 11, line 1 to page 12, line 19.

¹² Reconsideration Request, ICC-02/11-01/15-246-Conf, paras 32 and 41.

¹³ ICC-02/11-01/15-246-Conf, paras 1-2.

¹⁴ E-mail from the Blé Goudé Defence to Trial Chamber I Communications at 18:28.

¹⁵ E-mail from the Registry to Trial Chamber I Communications at 11:34.

such a remedy and because the Blé Goudé Defence fails to demonstrate those exceptional circumstances warranting reconsideration. The LRV also submits that the supporting documents to the 259 Applications should remain only available to the Chamber. It also avers that no good cause is shown to extend the Deadline.¹⁷

12. On 30 September, the Chamber notified the parties and LRV by email of the disposition of the present decision, directing the Registry to transmit the supporting documents of the 259 victims' application forms to the parties, with any necessary redactions, no later than 7 October 2015. The Chamber also indicated that parties shall make any observations to the aforesaid application forms no later than 21 October 2015, and that a written decision would follow.¹⁸

II. Analysis

13. The Chamber recalls that, as noted above, in the Joinder Decision, the Chamber decided that 'all decisions and orders made in the Gbagbo and *Blé Goudé* cases shall continue to apply, as appropriate and until ordered otherwise, in the joint case'.¹⁹ Notwithstanding, the Chamber acknowledges that the Blé Goudé Defence has subsequently elected to file a request with respect to the applicability to it of the Decision on Victim Participation.

¹⁶ The Chamber directed that any observations to the Reconsideration Request should be filed by Wednesday, 30 September 2015. *See*, e-mail from Trial Chamber I Communications to counsel on 25 September 2015 at 17:24.

¹⁷ Consolidated Response to the "Defence Request for Reconsideration of the Decision on Victim Participation (ICC-02/11-01/11-800) and for Extension of Time" (ICC-02/11-01/15-246-Conf) and to the "Requête aux fins de prorogation du délai donné par la Chambre à la Défense pour déposer d'éventuelles observations sur les demandes de participation de victimes transmises par le Greffe le 10 septembre 2015 (ICC-02/11-01/15-213)" (ICC-02/11-01/15-235-Conf), ICC-02/11-01/15-252-Conf, paras 1-3.

¹⁸ Email communication from Legal Officer of Trial Chamber I to parties and participants on 30 September 2015 at 17:23. In a further e-mail communication on 2 October 2015, the Chamber informed the Registry that in line with the Decision on Victim Participation, the Registry should transmit unredacted versions of the supporting documents to the Prosecution (E-mail from Legal Officer of Trial Chamber I to the Registry at 12:24).

¹⁹ Joinder Decision, ICC-02/11-01/15-1, page. 33.

14. The Chamber notes that, although the Blé Goudé Defence's central request is for leave for reconsideration of or leave to appeal the Decision on Victim Participation, the underlying relief sought is based on its right to be heard adequately with respect to, *inter alia*, its views and observations on individual victim applications. Noting the stage of proceedings at which the Urgent Request was brought, and in light of its duty to conduct proceedings with full respect for the rights of the accused, the Chamber considers it to be most appropriate to grant the alternative request of the Blé Goudé Defence, namely, an extension of the time-limit for observations on the 259 Applications.
15. In this regard, the Chamber also considers that the Blé Goudé Defence request for access to the supporting documents to the 259 Applications to be reasonable, noting that it submits that it is unable to make adequate submissions until it receives such documents. The Chamber considers that the supporting documents could provide further information to the Defence that may be of relevance for the preparation of their observations on the 259 Applications. Moreover, since these supporting documents have been transmitted to the Chamber, they may be used in its determination of the victims' status pursuant to Rules 85 and 89 of the Rules. Thus, their transmission to the parties, with any redactions deemed necessary, may allow the parties to make more substantive observations to the 259 Applications. However, in line with the Decision on Victim Participation, the Registry should transmit unredacted versions of the supporting documents to the Prosecution
16. In light of the above, and noting that the Gbagbo Defence also requests an extension of time, the Chamber considers that, as the parties currently do not have access to the supporting documents, an extension of time limit for all

responses, running from the transmission of these supporting documents, is warranted.

17. Accordingly, the Chamber considers that there is good cause, pursuant to Regulation 35(2) of the Regulations, to extend the Deadline to 14 days after the transmission of the supporting documents. Having granted, in part, the Blé Goudé Defence's alternative request, and having affirmed the applicability of the Decision on Victim Participation to both Defence teams in the present case, the Chamber need not address the remainder of the request made by the Blé Goudé Defence.

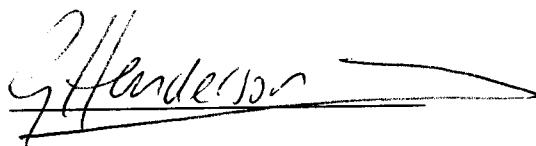
FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

ORDERS the Registry to transmit to the Prosecution, the unredacted versions, and to the Defence, with redactions if necessary, the supporting documents to the 259 Applications no later than 7 October 2015;

GRANTS an extension of deadline for the parties to file any observations to the 259 Applications and supporting documents no later than 21 October 2015; and

DISMISSES all other requests as moot.

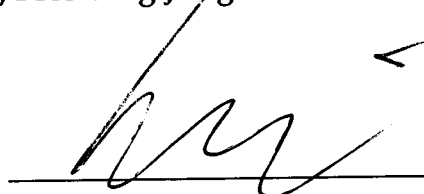
Done in both English and French, the English version being authoritative

A handwritten signature in black ink, appearing to read "G. Henderson", written over a horizontal line.

Judge Geoffrey Henderson, Presiding Judge

A handwritten signature in black ink, appearing to read "Olga C.", written over a horizontal line.

Judge Olga Herrera Carbuccion

A handwritten signature in black ink, appearing to read "B. Schmitt", written over a horizontal line.

Judge Bertram Schmitt

Dated 07 October 2015

At The Hague, The Netherlands