



**Original: English**

**No. ICC-02/11-01/15 A**

**Date: 26 November 2019**

**THE APPEALS CHAMBER**

**Before:**

**Judge Chile Eboe-Osuji, Presiding  
Judge Howard Morrison  
Judge Piotr Hofmański  
Judge Luz del Carmen Ibáñez Carranza  
Judge Solomy Balungi Bossa**

**SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE**

**IN THE CASE OF THE PROSECUTOR v. LAURENT GBAGBO AND  
CHARLES BLÉ GOUDÉ**

**Public**

**Decision on victim participation**

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

**The Office of the Prosecutor**  
Ms Fatou Bensouda, Prosecutor  
Ms Helen Brady

**Counsel for Laurent Gbagbo**  
Mr Emmanuel Altit  
Ms Agathe Bahi Baroan

**Legal Representatives of Victims**  
Ms Paolina Massidda

**Counsel for Charles Blé Goudé**  
Mr Geert-Jan Alexander Knoops  
Mr Claver N'dry

**REGISTRY**

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**Registrar**  
Mr Peter Lewis

The Appeals Chamber of the International Criminal Court,

In the appeal of the Prosecutor against the decision of the majority of Trial Chamber I of 15 January 2019 (ICC-02/11-01/15-T-232-ENG), with reasons issued on 16 July 2019 (ICC-02/11-01/15-1263 and its annexes),

Bearing in mind the need to regulate the participation, in the Prosecutor's appeal, of victims who participated in the trial proceedings,

*Renders* the following

## DECISION

- 1) The victims who participated in the trial proceedings in the case of *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé* may, through their legal representative, participate for the purpose of presenting their views and concerns in respect of their personal interests in the issues on appeal.
- 2) The legal representative of victims may file consolidated observations, to the responses of both Mr Gbagbo and Mr Blé Goudé, within 30 days of notification of both responses to the Prosecutor's appeal brief. These observations shall not exceed 60 pages.
- 3) Mr Gbagbo, Mr Blé Goudé and the Prosecutor may each file responses within 30 days of notification of the victims' observations in accordance with the preceding paragraph. The responses to the victims' observations shall not exceed 60 pages.

## REASONS

1. On 15 January 2019, Trial Chamber I ('Trial Chamber') issued, by majority, Judge Olga Herrera Carbuccion dissenting, an oral decision<sup>1</sup> ('Trial Chamber's Oral Decision'), finding 'that the Prosecutor has failed to satisfy the burden of proof to the requisite standard as foreseen in Article 66 of the Rome Statute' and granting the motions for acquittal filed by Mr Laurent Gbagbo ('Mr Gbagbo') and Mr Charles Blé Goudé ('Mr Blé Goudé').<sup>2</sup> The Trial Chamber indicated that its full reasons would be filed as soon as possible.<sup>3</sup>
2. On 16 July 2019, the Trial Chamber issued the 'Reasons for oral decision of 15 January 2019 on the *Requête de la Défense de Laurent Gbagbo afin qu'un jugement d'acquittal portant sur toutes les charges soit prononcé en faveur de Laurent Gbagbo et que sa mise en liberté immédiate soit ordonnée*, and on the Blé Goudé Defence no case to answer motion'<sup>4</sup> ('Trial Chamber's Reasons'), which included the 'Opinion of Judge Cuno Tarfusser'<sup>5</sup> ('Judge Tarfusser's Opinion'), the 'Reasons of Judge Geoffrey Henderson'<sup>6</sup> ('Judge Henderson's Reasons') and the 'Dissenting Opinion' of Judge Herrera Carbuccion<sup>7</sup> ('Judge Herrera Carbuccion's Dissenting Opinion').
3. On 19 July 2019, the Appeals Chamber issued a decision granting an extension of time of 30 days for the filing of the Prosecutor's notice of appeal.<sup>8</sup>
4. On 16 September 2019, the Prosecutor filed a notice of appeal ('Prosecutor's Notice of Appeal')<sup>9</sup> against the entirety<sup>10</sup> of the Trial Chamber's Oral Decision and the Trial Chamber's Reasons ('Impugned Decision') and on 15 October 2019, she

<sup>1</sup> [ICC-02/11-01/15-T-232-Eng.](#)

<sup>2</sup> [Trial Chamber's Oral Decision](#), p. 4, lines 15-18.

<sup>3</sup> [Trial Chamber's Oral Decision](#), p. 3, line 18.

<sup>4</sup> [ICC-02/11-01/15-1263.](#)

<sup>5</sup> [ICC-02/11-01/15-1263-AnxA.](#)

<sup>6</sup> ICC-02/11-01/15-1263-Conf-AnxB. A public redacted version was registered the same day (ICC-02/11-01/15-1263-AnxB-Red).

<sup>7</sup> ICC-02/11-01/15-1263-Conf-AnxC. A public redacted version was registered the same day (ICC-02/11-01/15-1263-AnxC-Red).

<sup>8</sup> [Decision on the Prosecutor's request for time extension for the notice of appeal and the appeal brief](#), ICC-02/11-01/15-1268.

<sup>9</sup> [Prosecution Notice of Appeal](#), ICC-02/11-01/15-1270. A corrigendum was filed the next day ([ICC-02/11-01/15-1270-Corr](#)).

<sup>10</sup> [Prosecutor's Notice of Appeal](#), para. 2.

filed the ‘Prosecution Document in Support of Appeal’ (‘Prosecutor’s Appeal Brief’).<sup>11</sup>

5. The purpose of the present decision is to regulate the participation of victims in the appeal brought by the Prosecutor against the Impugned Decision.

6. Under article 68(3) of the Statute, ‘[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’.

7. The Appeals Chamber notes that Trial Chamber I authorised victims to participate in the trial proceedings in the case of *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé* in its decisions of 7 January 2016<sup>12</sup> and 6 March 2015.<sup>13</sup> The participating victims are represented by Ms Paolina Massidda, principal counsel in the Office of Public Counsel for Victims<sup>14</sup> (‘OPCV’).

8. Pursuant to regulation 86(8) of the Regulations of the Court, ‘[a] decision taken by a Chamber under rule 89 shall apply throughout the proceedings in the same case, subject to the powers of the relevant Chamber in accordance with rule 91, sub-rule 1’. The Appeals Chamber recalls, as stated above, that the Trial Chamber granted the motions for acquittal filed by Mr Gbagbo and Mr Blé Goudé and that the Prosecutor has filed an appeal against the Impugned Decision, appealing it in its entirety.<sup>15</sup> Therefore, the Appeals Chamber finds that the victims who participated in the trial proceedings may participate in the appeals against the Impugned Decision as, in principle, their personal interests are affected by the appeals in the same way as during trial.

9. Pursuant to rule 91(1) of the Rules of Procedure and Evidence (‘Rules’), and having regard to rules 91(2), 92(5) and (6) of the Rules, the Appeals Chamber

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<sup>11</sup> ICC-02/11-01/15-1277-Conf. A public redacted version was registered on 17 October 2019 ([ICC-02/11-01/15-1277-Red](#)).

<sup>12</sup> [Decision on victims’ participation status](#), ICC-02/11-01/15-379.

<sup>13</sup> [Decision on victim participation](#), ICC-02/11-01/11-800.

<sup>14</sup> [Directions on the conduct of the proceedings](#), 3 September 2015, ICC-02/11-01/15-205.

<sup>15</sup> [Prosecutor’s Notice of Appeal](#), para. 2.

determines that the victims may participate in the present appeals in the following manner: the legal representative of victims may file observations presenting the victims' views and concerns with respect to the issues on appeal, insofar as their personal interests are affected. The schedule and page limit for the filing of these observations is set out above.

10. Should the need arise to specify further the modalities of victims' participation in the pending appeals, the Appeals Chamber will give supplementary directions, either upon its own motion or upon application by the OPCV. In this regard, the Appeals Chamber also notes that the Registry, on 8 November 2019, filed the 'Transmission of Applications for Victim Participation in Appeal Proceedings and Related Report'.<sup>16</sup> The Appeals Chamber will deal with this filing in a separate decision.

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



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**Judge Chile Eboe-Osuji**  
**Presiding**

Dated this 26<sup>th</sup> day of November 2019

At The Hague, The Netherlands

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<sup>16</sup> [ICC-02/11-01/15-1284](#).