

*The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*

Update: 31 March 2021

ICC-02/11-01/15

## Appeals Judgment in the Gbagbo and Blé Goudé case at the ICC 31 March 2021

### WHAT DID THE APPEALS CHAMBER DECIDE REGARDING THE APPEALS?

On 31 March 2021, the judges of the Appeals Chamber of the International Criminal Court (ICC) confirmed, by majority, the [acquittal decision](#) of 15 January 2019 in the case *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*.

The trial in this case began on 28 January 2016. On 15 January 2019, Trial Chamber I, by majority, [acquitted](#) Mr Laurent Gbagbo and Mr Charles Blé Goudé from all charges of crimes against humanity allegedly committed in Côte d'Ivoire in 2010 and 2011. On 16 July 2019, Trial Chamber I filed [the written full reasons for the acquittal](#) of Mr Laurent Gbagbo and Mr Charles Blé Goudé.

### HOW AND WHY DID THE JUDGES MAKE THEIR DECISION?

On 16 September 2019, the Prosecutor filed a notice of appeal against this decision. The Chamber therefore considered each ground of appeal as well as the submissions of the parties and participants on these legal issues. From 22 to 24 June 2020, the Appeals Chamber also held hearings to hear the observations of Parties and Participants on the [Prosecutor's appeal](#).

In its judgment of 31 March 2021, the Appeals Chamber rejected, by majority, the Prosecutor's two grounds of appeal, namely that the Trial Chamber's decision to acquit Mr Gbagbo and Mr Blé Goudé (i) had violated statutory requirements and (ii) was taken without properly articulating and consistently applying a clearly defined standard of proof and its approach to assessing the sufficiency of the evidence.

The Appeals Chamber found, among other things that, whilst trial chambers should ideally deliver both the verdict and reasons concurrently, a delay between the issuance of a verdict and its reasons cannot necessarily invalidate an entire trial process. There may, on the contrary, be clear justification for such separation in the particular circumstances of a case; most obviously in this regard is when the liberty of an acquitted defendant is at stake. The Appeals Chamber also rejected the argument that the two judges of the Trial Chamber who had formed the majority had failed to articulate and consistently apply the standard of proof. The Appeals Chamber noted in this regard that both judges had found that the evidence against the two accused had been 'exceptionally weak'.

### WHAT ARE THE NEXT STEPS?

The acquittal of Mr Gbagbo and Mr Blé Goudé is now final. The Appeals Chamber revoked all conditions on the release of Mr Gbagbo and Mr Blé Goudé. The Chamber directed the ICC Registrar to make arrangements for the safe transfer of Mr Gbagbo and Mr Blé Goudé to a receiving State or States.

### CAN ACQUITTED PERSONS MAKE A CLAIM BEFORE THE ICC FOR COMPENSATION FOR THE TIME SPENT IN DETENTION?

According to Article 85 of the Rome Statute, in exceptional circumstances, where the Court finds conclusive facts showing that there has been a grave and manifest miscarriage of justice, it may in its discretion award compensation to a person who has been released from detention following a final decision of acquittal.

### WHO ARE THE JUDGES IN THIS CHAMBER?

The ICC Appeals Chamber is composed of 5 judges different from those who held trial proceedings. The Appeals Chamber in this appeal was composed of Judge Chile Eboe-Osuji, Presiding judge on this appeal, Judge Howard Morrison, Judge Piotr Hofmański, Judge Luz del Carmen Ibáñez Carranza and Judge Solomy Balungi Bossa. The ICC Judges are persons of high moral character, impartiality and integrity who possess the qualifications required in their respective States for appointment to the highest judicial offices. All have extensive experience relevant to the Court's judicial activity. The Judges are elected by the Assembly of States Parties on the basis of their established competence in criminal law and procedure and in relevant areas of international law such as international humanitarian law and the law of human rights.

## IN THESE JUDGMENTS, THE JUDGES APPENDED SEPARATE AND DISSENTING OPINIONS: WHAT DOES THIS MEAN AND WHAT IS THEIR IMPACT?

In the absence of consensus, a Chamber may adopt its decision by majority.

A judge who does not agree with the majority can attach a dissenting, or partially dissenting, opinion. A dissenting opinion lays out the position of the judge, but has no legal authority.

A separate opinion lays out the position of a judge who, while agreeing with the majority's conclusions, adopts a different and separate reasoning resulting in the same conclusion.

The Appeals Chamber's judgment of 31 March 2021 in the Gbagbo and Blé Goudé case was taken by majority, Judge Ibáñez and Judge Bossa dissenting. Judge Eboe-Osuji appended a separate concurring opinion on various aspects of the appeal. Judge Morrison and Judge Hofmański also each appended separate concurring opinions on a specific issue.

Judge Ibáñez and Judge Bossa appended dissenting opinions, in which they explained in detail why they disagree with the decision of the Appeals Chamber to confirm the Trial Chamber's decision on acquittal. They are of the view that the Trial Chamber's decision was materially affected by serious errors and therefore would have granted the Prosecutor's appeal and ordered a new trial of Mr Gbagbo and Mr Blé Goudé.

## WHY DO ICC TRIALS LAST LONGER THAN NATIONAL TRIALS?

Firstly, cases before the ICC are complex because of the nature of the crimes falling within its jurisdiction. Secondly, the Seat of the ICC is far removed from the scene of the crimes and the country of residence of the witnesses. This poses logistical challenges which lengthen the proceedings. Also, translation and interpretation are a constant feature of the ICC's work. The working languages of the ICC are English and French. But the proceedings must be held in a language that the accused person fully understands and the documents translated accordingly. During the trial, simultaneous interpretation into several languages is sometimes required depending on the language used by the witnesses and the accused. Finally, the ICC must ensure that trials are fair and impartial, and the judges guarantee that the procedure doesn't suffer from any unjustified delay.