

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **16 March 2020**

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

Prosecution notice of intention to file a request for leave to reply pursuant to regulation 60

Source: Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the****Court to:*****The Office of the Prosecutor**

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**Victims Participation and Reparations
Section Other**

Introduction

1. The Prosecution hereby informs the Appeals Chamber that it intends to seek leave to reply to Mr Gbagbo's¹ and Mr Blé Goudé's² responses to the Prosecution appeal³ ("Responses") pursuant to regulation 60 of the Regulations of the Court.⁴ The Prosecution intends to file its request for leave to reply by 10 April 2020.
2. However the Prosecution also respectfully notifies the Appeals Chamber that this current intention will require continual review and reassessment based on how the situation surrounding the COVID-19 outbreak in The Netherlands unfolds in the coming weeks. This is particularly in light of the disruptions which will be caused by staff now being required to work from home in difficult circumstances, and given that some staff in the office have already become unwell and there is a real potential for others to be similarly affected based on what is known about the spread of the illness. The Prosecution believes it is prudent to now notify the Chamber that if circumstances so require, the Prosecution may need more time to prepare its request for leave to reply and may not be able to file its request for leave to reply, as currently intended, by 10 April 2020. In such case, the Prosecution will inform the Appeals Chamber accordingly.

Submissions

3. On 13 March 2020, the Management of the Court, on the advice from the Host State and the Crisis Management Team, decided to physically close the ICC Headquarters premises from 17 March 2020 until 31 March 2020. Staff

¹ ICC-02/11-01/15-1314-Conf.

² ICC-02/11-01/15-1315-Conf.

³ ICC-02/11-01/15-1277-Conf.

⁴ The Prosecution has already anticipated that it might file such a request for leave to reply shortly prior to receiving the Responses (ICC-02/11-01/15-1311, para. 9). The Appeals Chamber has taken notice of this possibility and held that it will "address any request for leave to reply [...] when and if it is affirmatively seized with one" (ICC-02/11-01/15-1313, para. 11).

members are expected to work remotely during this time, and possibly longer if the measures are extended, and only critical staff will be authorised access to the building. On 15 March 2020, the Management of the Court informed staff that the Host State authorities announced additional and stricter measures including the closure of schools and universities.

4. The Prosecution currently intends to file its request for leave to reply to the Responses pursuant to regulation 60 of the Regulations of the Court by 10 April 2020. The Prosecution has organised its internal resources to give priority to the appeal proceedings in this case and to work on the analysis of the two Responses and the request for leave to reply a timely fashion.
5. However, at this stage the Prosecution also notes the very real possibility that the ongoing events may jeopardise its current plans. The Office of the Prosecutor takes very seriously the health of its staff members who, simultaneously to their work obligations, must also now care for their children and families, especially because of school cancellation in The Netherlands until at least 6 April 2020. In addition, already several Prosecution staff members have fallen ill or are caring for ill children and/or their family and partners. Given what is known about the spread of the illness, there is a real likelihood that other staff members may likewise fall ill. Further, although Prosecution staff are expected to work remotely from tomorrow, not all staff are currently able to do so because of technical restrictions on the number of Citrix licenses available. Finally, the Prosecution reasonably anticipates that if a large number of Court staff are all working from home at the same time, this will cause disruptions in the use of servers and databases which are crucial for Prosecution staff to use to perform their work and meet the deadlines.

6. Thus, if factors such as the above detrimentally impact on the Prosecution's ability to file its request for leave to reply by the currently intended date of 10 April 2020, the Prosecution will inform the Appeals Chamber accordingly.

Conclusion

7. The Prosecution hereby informs the Appeals Chamber that it intends to seek leave to reply to the Responses by 10 April 2020 and that it is doing its best at the present time to file by this date.
8. However, the Prosecution also respectfully notifies the Appeals Chamber factors beyond its control, including the ones outlined above, may detrimentally impact on its ability to file by this date. In such event, the Prosecution will inform the Appeals Chamber accordingly.



Fatou Bensouda, Prosecutor

Dated this 16th day of March 2020

At The Hague, The Netherlands