

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 20 April 2020

THE APPEALS CHAMBER

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

SITUATION IN CÔTE D'IVOIRE

IN THE CASE OF

THE PROSECUTOR v. LAURENT GBAGBO AND CHARLES BLÉ GOUDÉ

Public

CLR V Response to the “Prosecution’s application to postpone or cancel the appeal hearing scheduled for 11-13 May 2020 and to consider alternative proposals to expedite the appeal”

Source: Office of Public Counsel for Victims

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

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Ms Paolina Massidda

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

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Detention Section

**Victims Participation and Reparations
Section**

Other

I. BACKGROUND

1. On 20 March 2020, the Appeals Chamber issued an Order scheduling, *inter alia*, a hearing between 11 and 13 May 2020 to receive submissions in the present appeal.¹
2. On 17 April 2020, the Prosecution filed an application to postpone or cancel the scheduled hearing in light of the current situation linked to the COVID-19 pandemic in The Netherlands and its impact, *inter alia*, on the possibility to properly prepare for the hearing (the “Prosecution’s Application”).²
3. The Common Legal Representative of the Victims authorised to participate in the appeal (the “CLR”)³ hereby files her response to the Prosecution’s Application.

II. SUBMISSIONS

4. The Common Legal Representative underlines that Victims consider that appellate proceedings should proceed expeditiously and that it is in the interests of all parties and participants that the matter is adjudicated without undue delay.
5. The Common Legal Representative shares the Prosecution’s arguments as detailed in its Application, in particular the concern that holding a hearing in May has the potential of endangering unnecessarily the health of the persons attending said hearing.⁴

¹ See the “Order scheduling a hearing before the Appeals Chamber and setting a time limit for any request for leave to reply” (Appeals Chamber), [No. ICC-02/11-01/15-1318 A](#), 20 March 2020.

² See the “Prosecution’s application to postpone or cancel the appeal hearing scheduled for 11-13 May 2020 and to consider alternative proposals to expedite the appeal”, [No. ICC-02/11-01/15-1330 A](#), dated 17 April 2020 and notified on 20 April 2020 (the “Prosecution’s Application”).

³ See the “Decision on victim participation” (Appeals Chamber), [No. ICC-02/11-01/15-1290 A](#), 26 November 2019.

⁴ See the Prosecution’s Application, *supra* note 2, paras. 3, 12-24.

6. Moreover, the difficulties identified in the Application equally apply to the Legal Representative's team.⁵ In this regard, the Common Legal Representative informs the Chamber that the situation in Abidjan is also evolving rapidly. Staff of the Court's Field Office based in Abidjan work remotely. The Government of Côte d'Ivoire has implemented measures to limit the spread of COVID-19, including i) gatherings of more than 50 people are banned; ii) social distancing is in effect; iii) all non-essential movements are discouraged; iv) the airport has suspended all regular passenger planes for an indefinite period. Some diplomatic missions have been given permission to operate repatriation flights for their citizens on a limited basis; v) a 9pm to 5am curfew remains in effect nation-wide; vi) inter-city travel, apart from certain emergency services and exceptions, is prohibited; vii) face masks/cloth face coverings are mandatory in public in the greater Abidjan area; viii) vulnerable people, including the elderly and those with chronic health conditions, should remain at home (both categories include a relevant number of the Common Legal Representative's clients).⁶ This situation renders extremely challenging the contact and meeting with the Victims and impossible for the Field Counsel based in Côte d'Ivoire to travel to attend the hearing.

7. On the proposed alternative measures, the Common Legal Representative supports the proposal of directing the parties and participants to respond to any questions by the Appeals Chamber in writing within a time-period of 21 days from the notification of the Chamber's list of questions and eventually holding a hearing later during the year, if possible and necessary.⁷ However, should the Chamber decide for this course of events, she respectfully asks that the list of questions is provided as soon as possible and that the current set deadlines are not affected.

⁵ *Idem*, paras. 25-27, 29, 36 (third bullet point).

⁶ Information on the situation linked to COVID-19 in Côte d'Ivoire is available on the official website of the Government at the following link <http://www.gouv.ci/Main2.php> (last visited on 20 March 2020).

⁷ See the Prosecution's Application, *supra* note 2, para. 36.

8. Said course of events will allow the proceedings to proceed expeditiously, will grant the fairness of the process and allow enough time for the Legal Representative to consult with the Victims she represents on the important matter on appeal.

9. Finally, the Common Legal Representative joins the Prosecution in asking for the opportunity to be heard should the Chamber envisage alternative course for the conduct of the proceedings.

Respectfully submitted.

A handwritten signature in black ink, reading "Paolina Massidda". The signature is written in a cursive style with a horizontal line underneath the name.

Paolina Massidda
Principal Counsel

Dated this 20th day of April 2020

At The Hague, The Netherlands