

Situation in the Republic of Côte d'Ivoire

ICC-Q&A-CDI-04-01/19_Eng

15 January 2019

The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé
ICC-02/11-01/15

Questions and answers on Trial Chamber I's oral decision, 15 January 2019

WHAT DID TRIAL CHAMBER I DECIDE?

Today, 15 January 2019, Trial Chamber I of the International Criminal Court ("ICC" or "Court") by majority, Judge Herrera Carbuccion dissenting, decided that there is no need for the defence to submit further evidence and 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.

Judges Cuno Tarfusser (presiding), and Geoffrey Henderson, forming the Majority of the Chamber, ordered the release of Mr Gbagbo and Mr Blé Goudé. The Prosecutor may request the Trial Chamber to maintain Mr Gbagbo and/or Mr Blé Goudé in detention under exceptional circumstances.

Judges have the mandate to bring justice by ensuring the fairness of the proceedings and the full respect of the Accused's rights, including the presumption of innocence, and of the victims' rights.

WHAT ARE THE REASONS BEHIND TRIAL CHAMBER'S DECISION?

ICC Judges only apply the relevant legal rules and consider submissions and evidence presented before them in the case under their scrutiny.

The Majority considered that the Prosecutor failed to submit sufficient evidence to prove the responsibility of Mr Gbagbo and Mr Blé Goudé for the specific incidents under the Chamber's scrutiny.

Having thoroughly analysed the evidence, the Chamber concluded by majority that the Prosecutor failed to demonstrate several core constitutive elements of crimes against humanity as charged: in particular, the existence of the alleged common plan to keep Mr Gbagbo in power, which included the commission of crimes against civilians; the existence of the alleged policy to attack a civilian population" and the existence of patterns of violence from which it could be inferred that there was a "policy to attack a civilian population"; that Mr Gbagbo or Mr Blé Goudé knowingly or intentionally contributed to the commission of the alleged crimes or that their speeches constituted ordering, soliciting or inducing such crimes.

These are key elements in the crimes as charged by the Prosecutor. When they are not demonstrated, the persons charged with such crimes must be acquitted.

Thus, the Chamber considered that Mr Gbagbo's and Mr Blé Goudé's responsibility for the alleged crimes was not adequately supported by evidence.

A fully reasoned decision will be issued in writing in due course.

CAN THE PROSECUTOR APPEAL THE ACQUITTAL DECISION?

Yes. The deadline for appeal will start running from the date in which the written reasoned decision will be filed.

It would be then for the Appeals Chamber, composed of five other Judges, to make a determination on the merits of such appeal.

WHAT WILL HAPPEN TO THE VICTIMS PARTICIPATING IN THIS CASE?

Trial Chamber I noted the political conflict in the context of the presidential elections, during which several violent incidents took place in Abidjan and in other parts of the country. However, the case under the Chamber's scrutiny was limited to crimes against humanity allegedly committed during five specific incidents: a march on the RTI headquarters between 16 and 19 December 2010; on 25 February in Yopugon; a women's demonstration in Abobo, on 3 March 2011; a shelling of a densely populated area in Abobo on 17 March 2011; and on or around 12 April 2011 in Yopugon. The evidence presented by the Prosecution was not sufficient, in the majority's view, to

find that Mr Gbagbo and Mr Blé Goudé are criminally responsible for the crimes against humanity allegedly committed during these specific incidents Trial Chamber I's decision is without prejudice to national and ICC Prosecutor's investigations outside this scope.

The Prosecutor may appeal this decision. Victims, subject to the Appeals Chamber's decision, may be allowed to continue to participate in the appeals proceedings, represented by their lawyer. It would be then for the Appeals Chamber to make a determination on the merits of the appeal and decide whether the Trial-Chamber's decision to acquit Mr Gbagbo and Mr Blé Goudé is exempt of errors.

According to the Court's jurisprudence the Court can order reparations when accused persons are convicted. However, if the acquittal decision becomes final, following the appeals proceedings, that does not prevent the Trust Fund for Victims, which is a separate and independent institution within the Rome Statute system, from considering providing support to the victims under its assistance mandate even in the absence of judicially ordered reparations.

WHEN WILL M. GBAGBO AND M. BLÉ GOUDÉ BE RELEASED? WILL THEY RETURN TO CÔTE D'IVOIRE?

Trial Chamber I ordered the immediate release of Mr Gbagbo and Mr Blé Goudé. However, the Prosecutor may submit a request to Trial Chamber I to extraordinarily maintain Mr Gbagbo and/or Mr Blé Goudé in detention; Trial Chamber I will then decide on such a request. Its decision can be appealed before the Appeals Chamber.

If there is a final decision to release them, Mr Gbagbo and Mr Blé Goudé will be released in the territory of a State that accepts to receive them once necessary measures are put in place. The location of their release shall depend on their observations and on the agreement of the concerned State(s).

CAN MR GBAGBO AND MR BLÉ GOUDÉ REQUEST COMPENSATION FOR THE TIME SPENT IN DETENTION?

According to article 85(3) 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 an acquitted person who has been in detention.

Should a request to that effect be submitted, it will be for the Court to verify these criteria and to decide, at its discretion, whether or not to order compensation for the time spent in detention.

WHAT IS THE IMPACT OF THE ACQUITTAL DECISION ON THE CASE AGAINST SIMONE GBAGBO?

The two cases are independent and before different Chambers. Trial Chamber I decision is without prejudice to the determination of another Chamber.

On 11 December 2014, Pre-Trial Chamber I issued the Decision on the objection of inadmissibility raised by Côte d'Ivoire with respect to the case concerning Simone Gbagbo. The Chamber has found the case admissible before the Court. It concluded that Côte d'Ivoire had failed to demonstrate that the case as alleged in the proceedings before the Court was the subject of domestic proceedings within the meaning of Article 17 (1) (a) of the Statute. This decision was confirmed by the Appeals Chamber on 27 May 2015.

Subsequently, the press repeatedly announced that the judicial authorities of Côte d'Ivoire have made judicial decisions against Simone Gbagbo about crimes against humanity. That is why the Pre-Trial Chamber sought information regarding any act that may affect the admissibility of the case allegedly made by the Ivorian judicial authorities after 11 December 2014, the date on which the Court pronounced the admissibility of the case concerning Simone Gbagbo.

Pre-Trial Chamber therefore ordered the Registrar of the Court to request the competent national authorities of Côte d'Ivoire to provide as soon as possible to the Chamber any relevant information and documents, including copies decisions and other acts by the national authorities concerning national proceedings against Mrs. Simone Gbagbo. Pre-Trial Chamber will decide what action may be taken following receipt of these documents.

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