

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 6 January 2015

**TRIAL CHAMBER I**

**Before: Judge Geoffrey Henderson, Single Judge**

**SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE  
IN THE CASE OF  
*THE PROSECUTOR v. LAURENT GBAGBO***

**Public**

**Decision on the Defence challenge to the Chamber's competence to hear the  
Prosecution's Joinder Request and on its request for a variation of the response  
deadline**

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

**The Office of the Prosecutor**

Ms Fatou Bensouda

Mr James Stewart

Mr Eric MacDonald

**Counsel for Laurent Gbagbo**

Mr Emmanuel Altit

Ms Agathe Bahi Baroan

**Legal Representatives of Victims**

**Legal Representatives of Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparation**

**The Office of Public Counsel for  
Victims**

Ms Paolina Massidda

**The Office of Public Counsel for the  
Defence**

**States' Representatives**

*Amicus Curiae*

**REGISTRY**

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**Registrar**

Mr Herman von Hebel

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Others**

Nicholas Kaufman

Mr Geert-Jan Alexander Knoops

**Judge Geoffrey Henderson**, acting as Single Judge on behalf of Trial Chamber I (respectively, 'Single Judge' and 'Chamber') of the International Criminal Court ('Court'), in the case of *The Prosecutor v. Laurent Gbagbo*, having regard to Article 67(1)(a) and (f) of the Rome Statute and Regulations 34(b) and 35(2) of the Regulations of the Court, issues the following 'Decision on the Defence challenge to the Chamber's competence to hear the Prosecution's Joinder Request and on its request for a variation of the response deadline'.

1. On 11 December 2014, Pre-Trial Chamber I issued its 'Decision on the confirmation of charges against Charles Blé Goudé' (*Blé Goudé Confirmation Decision*),<sup>1</sup> whereby it confirmed the charges against Charles Blé Goudé and committed him for trial.
2. On 16 December 2014, the Office of the Prosecutor ('Prosecution') filed, in the case at hand, the 'Prosecution's Request to join the cases of *The Prosecutor v. Laurent GBAGBO* and *The Prosecutor v. Charles BLE GOUDÉ* [Sic] ('Joinder Request').<sup>2</sup>
3. On 18 December 2014, the Registry transmitted to the Presidency the *Blé Goudé Confirmation Decision* and the record of the case.<sup>3</sup>
4. On 19 December 2014, the defence team for Mr Gbagbo ('Defence') filed an application challenging the Chamber's competence with regard to the Joinder Request, or, in the alternative, seeking a variation of the time limit

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<sup>1</sup> *The Prosecutor v. Charles Blé Goudé*, Pre-Trial Chamber I, Decision on the confirmation of charges against Charles Blé Goudé, 11 December 2014, ICC-02/11-02/11-186 and public annex.

<sup>2</sup> Prosecution's Request to join the cases of *The Prosecutor v. Laurent GBAGBO* and *The Prosecutor v. Charles BLE GOUDÉ*, 16 December 2014, ICC-02/11-01/11-738.

<sup>3</sup> *The Prosecutor v. Charles Blé Goudé*, Transmission to the Presidency of the Decision on the Confirmation of Charges And of the Record of the Proceedings, 18 December 2014, ICC-02/11-02/11-191 and *ex parte* annexes.

for responding to it ('Application').<sup>4</sup> The Application was notified on 22 December 2014.

5. On 20 December 2014, the Presidency referred the case of *The Prosecutor v. Charles Blé Goudé* ('Blé Goudé case') to Trial Chamber I and transmitted to it the full record of the proceedings.<sup>5</sup> This decision was notified on 22 December 2014.
6. On 22 December 2014, the Prosecution filed in the *Blé Goudé* case its 'Prosecution's Request to join the cases of *The Prosecutor v. Laurent GBAGBO* and *The Prosecutor v. Charles BLE GOUDÉ*' [Sic].<sup>6</sup>
7. In its Application, the Defence makes two requests. It primarily submits that the Chamber should declare itself incompetent to rule on the Joinder Request ('First Defence Request'). In the view of the Defence, the Joinder Request was filed prematurely as the Prosecution should have waited: i) for the time limits in relation to leave to appeal for the *Blé Goudé* Confirmation Decision to be expired; and ii) for the *Blé Goudé* case to be assigned to a trial chamber.<sup>7</sup> The Defence also questions the possibility for a Trial Chamber to decide *within the record of one case* of an eventual joinder linked to another case.<sup>8</sup> In this regard, the Defence warns the Chamber against situations

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<sup>4</sup> 1. *Requête afin que la Chambre de première instance I se déclare incompétente pour statuer sur la demande de jonction des affaires Gbagbo et Blé Goudé présentée par le Procureur* (ICC-02/11-01/11-738) 2. *Dans l'hypothèse où la Chambre se déclarerait compétente, requête portant sur la détermination de la date à partir de laquelle courent les délais fixés pour que la Défense puisse déposer une éventuelle réponse à la demande de jonction du Procureur*, 19 December 2014 (registered on 22 December 2014), ICC-02/11-01/11-742.

<sup>5</sup> *The Prosecutor v. Charles Blé Goudé*, Corrigendum to the "Decision referring the case of *The Prosecutor v. Charles Blé Goudé* to Trial Chamber I", ICC-02/11-02/11-193, 20 December 2014 (registered on 22 December 2014), ICC-02/11-02/11-193-Corr.

<sup>6</sup> *The Prosecutor v. Charles Blé Goudé*, Prosecution's Request to join the cases of *The Prosecutor v. Laurent GBAGBO* and *The Prosecutor v. Charles BLE GOUDÉ*, 22 December 2014, ICC-02/11-02/11-194.

<sup>7</sup> Application, ICC-02/11-01/11-742, para. 20. *See also*, paras 22-32.

<sup>8</sup> Application, ICC-02/11-01/11-742, para. 29.

where an accused would be unable to take part in the discussion and incapable of asserting his rights.<sup>9</sup>

8. In the alternative, the Defence requests the Chamber to fix the time limit for responses to the Joinder Request to 21 days of notification of the French translation of the Joinder Request and the *Blé Goudé* Confirmation Decision ('Second Defence Request').<sup>10</sup> It submits that Mr Gbagbo has the right to access, in their entirety and in a language that he fully understands, all indispensable material in order to make submissions on the Joinder Request. The Defence also argues that, taking into consideration the importance of the issue at hand, it is important that the debate be as in-depth and rigorous as possible.<sup>11</sup>
9. The Single Judge considers the First Defence Request to be moot. The *Blé Goudé* case was, shortly after the filing of the Joinder Request, referred to this Chamber and the latter received access to the entirety of the record of the case. Moreover, the Single Judge notes that the Prosecution also filed its request to join the cases in the record of the *Blé Goudé* case; the two defence teams are therefore currently able to respond to the Prosecution's request to join the cases. In addition, the Single Judge does not otherwise identify impediments to the Chamber's competence with regard to the Joinder Request.
10. As concerns the Second Defence Request, the Single Judge acknowledges the crucial importance of the issue at hand and the potential impact the Chamber's decision could have on the conduct of proceedings and the rights of the accused. The Single Judge is therefore of the view that, because, the

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<sup>9</sup> Application, ICC-02/11-01/11-742, para. 31.

<sup>10</sup> Application, ICC-02/11-01/11-742, para. 33. *See also*, paras 34-62.

<sup>11</sup> Application, ICC-02/11-01/11-742, para. 34.

requested translations are necessary for the requirements of fairness, good cause has been shown.


**FOR THE FOREGOING REASONS, THE SINGLE JUDGE**

**DISMISSES** the First Defence Request as moot;

**GRANTS** the Second Defence Request; and

**ORDERS** the filing of any response to the Joinder Request within 21 days of notification of the French translation of this request and of the *Blé Goudé* Confirmation Decision.

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

A handwritten signature in black ink, appearing to read 'G. Henderson', is written over a horizontal line. The signature is stylized and cursive.

**Judge Geoffrey Henderson**

**Single Judge**

Dated 6 January 2015

At The Hague, The Netherlands