

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

**Original: English**

**No. ICC-02/11-02/11 OA**

**Date: 7 August 2014**

**THE APPEALS CHAMBER**

**Before:**  
Judge Anita Ušacka, Presiding Judge  
Judge Sang-Hyun Song  
Judge Sanji Mmasenono Monageng  
Judge Akua Kuenyehia  
Judge Erkki Kourula

**SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE**

**IN THE CASE OF THE PROSECUTOR v. CHARLES BLÉ GOUDÉ**

**Public document**

**Decision on the “Demande d’autorisation aux fins d’appel contre la décision de la  
Chambre du 11 juin 2014, du refus de participation au stade préliminaire”**

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

**The Office of the Prosecutor**  
Ms Fatou Bensouda, Prosecutor  
Ms Helen Brady

**Counsel for the Defence**  
Mr Nicholas Kaufman

**Legal Representatives of Applicants**  
Mr Mayombo Kassongo

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**Registrar**  
Mr Herman von Hebel

A handwritten signature in black ink, appearing to be 'A. von Hebel', located in the bottom right corner of the page.

The Appeals Chamber of the International Criminal Court,

In the matter of the “Demande d’autorisation aux fins d’appel contre la décision de la Chambre du 11 juin 2014, du refus de participation au stade préliminaire”, filed by Mr Mayombo Kassongo on behalf of victim applicants a/220188/12, a/20189/12, a/20190/12, a/20191/12 and a/20192/12 and dated 23 June 2014 and registered on 26 June 2014 (ICC-02/11-02/11-92-Anx),

*Renders the following*

## DECISION

The above-mentioned request is rejected.

## REASONS

### I. PROCEDURAL HISTORY

#### A. Proceedings before the Pre-Trial Chamber

1. On 16 May 2014, the Registrar transmitted to Pre-Trial Chamber I (hereinafter: “Pre-Trial Chamber”) a request submitted by Mr Mayombo Kassongo on behalf of victim applicants a/20188/12, a/20189/12, a/20190/12, a/20191/12 and a/20192/12 (hereinafter: “Applicants”) to participate in the proceedings in the situation of Côte d’Ivoire and to be authorised to participate as victims in the case against Mr Charles Blé Goudé<sup>1</sup> (hereinafter: “Request for Victims’ Participation”). The Request for Victims’ Participation noted that the victim applicants had previously applied to participate in the case of *Prosecutor v. Laurent Gbagbo*.<sup>2</sup>

2. Pursuant to an order issued by the Pre-Trial Chamber,<sup>3</sup> on 20 May 2014 the Registrar submitted the “Report on the applications for victim’s participation in the

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<sup>1</sup> “Requête aux de participation à la procédure contre Par les 5victimes en vertu de l’article 68 alinéa 1 et 3 du Statut de Rome”, dated 14 May 2014, ICC-02/11-02/11-74-Anx1.

<sup>2</sup> Request for Victims’ Participation, p. 4.

<sup>3</sup> “Order to the VPRS to submit information in relation to the applications for victims’ participation in the proceedings”, 13 May 2014, ICC-02/11-02/11-72.



proceedings submitted in compliance with the Single Judge's order ICC-02/11-02/11-72".<sup>4</sup>

3. On 11 June 2014, the Pre-Trial Chamber rendered the "Decision on victim's participation in the pre-trial proceedings and related issues"<sup>5</sup> (hereinafter: "Victims' Participation Decision"), *inter alia* rejecting the Request for Victims' Participation.<sup>6</sup> The Pre-Trial Chamber recalled that the applications concerned had previously been submitted to the Victims Participation and Reparations Section of the Registry (hereinafter: "VPRS") in the context of the case against Mr Laurent Gbagbo, but that the VPRS had not transmitted the applications to the Pre-Trial Chamber.<sup>7</sup> The Pre-Trial Chamber also recalled that the Registrar was to transmit only those applications to the Chamber that were complete and fell within the scope of the case.<sup>8</sup> As the VPRS had not transmitted the applications for participation of the Applicants to the Pre-Trial Chamber, the Pre-Trial Chamber stated that it could only conclude that they were incomplete and/or not linked to the case against Mr Charles Blé Goudé.<sup>9</sup> On the basis of those considerations, the Pre-Trial Chamber held that it was not possible to assess whether the Applicants met the requirements of rule 85 of the Rules of Procedure and Evidence.<sup>10</sup>

## **B. Proceedings before the Appeals Chamber**

4. On 26 June 2014, the Registrar transmitted a request submitted by Mr Mayombo Kassongo on behalf of the Applicants, seeking authorisation from the Appeals Chamber to appeal the Victims' Participation Decision and to present the arguments supporting their request to participate in the proceedings<sup>11</sup> (hereinafter: "Request for Leave to Appeal").

## **II. MERITS**

5. The Appeals Chamber notes that the Applicants do not identify the legal basis for the Request for Leave to Appeal. In light of the subject matter of the Victims'

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<sup>4</sup> ICC-02/11-02/11-75.

<sup>5</sup> ICC-02/11-02/11-83.

<sup>6</sup> Victim's Participation Decision, p. 21.

<sup>7</sup> Victims' Participation Decision, para. 39.

<sup>8</sup> Victims' Participation Decision, para. 39.

<sup>9</sup> Victims' Participation Decision, para. 40.

<sup>10</sup> Victims' Participation Decision, para. 40.

<sup>11</sup> Demande d'autorisation aux fins d'appel contre la décision de la Chambre du 11 juin 2014, du refus de participation au stade préliminaire, ICC-02/11-02/11-92-Anx.

Participation Decision, the Appeals Chamber is of the view that such a decision could, if at all, only be appealable under article 82 (1) (d) of the Statute.

6. The Chamber recalls that rule 155 of the Rules of Procedure and Evidence provides that “When a party wishes to appeal a decision under article 82, paragraph 1 (d) [...], that party shall [...] make a written submission to the Chamber that gave the decision, setting out the reasons for the request for leave to appeal”. In light of this provision, since the decision that the Applicants seek to appeal was rendered by the Pre-Trial Chamber, the Request for Leave to Appeal should have been addressed to that Chamber and not to the Appeals Chamber. Accordingly, the Appeals Chamber lacks competence to entertain the Request for Leave to Appeal and therefore has to reject it. In light of this finding, the Appeals Chamber does not have to explore the question of whether, in circumstances such as the present, the Applicants may be considered to be a “party” in terms of article 82 (1) (d) of the Statute.

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



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**Judge Anita Ušacka**  
**Presiding Judge**

Dated this 7 of August 2014

At The Hague, The Netherlands