

**Cour  
Pénale  
Internationale**

**International  
Criminal  
Court**



Original: **English**

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

Date: **20 July 2017**

**TRIAL CHAMBER I**

**Before:** Judge Cuno Tarfusser, Presiding Judge  
Judge Olga Herrera Carbuccion  
Judge Geoffrey Henderson

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

**IN THE CASE OF  
*THE PROSECUTOR v. LAURENT GBAGBO AND CHARLES BLÉ GOUDÉ***

**Public Document  
with six confidential redacted Annexes**

**Redacted version of the applications for the resumption of action by the family members of deceased victims a/20116/12, 20136/12, a/20147/12, a/20163/12, a/10228/14 and a/10260/14**

**Source:** Office of Public Counsel for Victims

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

**The Office of the Prosecutor**

Ms Fatou Bensouda

Mr Eric Macdonald

**Counsel for Mr Laurent Gbagbo**

Mr Emmanuel Altit

Ms Agathe Bahi Baroan

**Counsel for Mr Blé Goudé**

Mr Geert-Jan Alexander Knoops

Mr Claver N'Dry

**Legal Representatives of the Victims**

Ms Paolina Massidda

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants  
(Participation/Reparation)**

**The Office of Public Counsel for  
Victims**

Ms Paolina Massidda

Mr Enrique Carnero Rojo

Ms Ludovica Vetrucchio

Mr Alexis Larivière

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

**States' Representatives**

**Amicus Curiae**

**REGISTRY**

---

**Registrar**

Mr Herman von Hebel

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

Mr Philipp Ambach

**Other**

## I. Introduction

1. The Common Legal Representative of the victims admitted to participate in the proceedings (the “Legal Representative”)<sup>1</sup> informs the Chamber of the death of the following six victims: a/20116/12, a/20136/12, a/20147/12, a/20163/12, a/10228/14 and a/10260/14.

2. The Legal Representative further informs the Chamber that the family members of the abovementioned victims wish to resume the action initiated by their deceased relatives under the same conditions previously granted to the latter, including in relation to the protective measures applied. Consequently, the Legal Representative requests the Chamber to authorise the family members of the deceased victims to participate in the proceedings.

3. In this regard, the Legal Representative advocates for the adoption of a system similar to the one established by other Trial Chambers in different cases and, in particular, by Trial Chambers III and VI for the submission of future applications for the resumption of action.

## II. Confidentiality

4. Pursuant to regulation 23*bis*(1) of the Regulations of the Court, this filing and its accompanying annexes are filed confidential *ex parte*, only available to the Legal Representative and the VPRS since they contain confidential information concerning victims and their family members not disclosed to the Prosecution and the Defence. A public redacted version of this filing is filed simultaneously, together with a confidential redacted version of the annexes. The reasons for the redactions to the annexes are provided *infra* in paragraphs 53 to 55.

---

<sup>1</sup> See the “Decision on victim participation” (Trial Chamber I), No. ICC-02/11-01/11-800, 6 March 2015; and the “Decision on victims’ participation status” (Trial Chamber I), No. ICC-02/11-01/15-379, 7 January 2016, p. 23.

### III. Background

5. On 4 June 2012, the Single Judge of Pre-Trial Chamber I (the “Single Judge”) decided to admit, *inter alia*, a/20116/12, a/20136/12, a/20147/12 and a/20163/12 as victims participating at the confirmation of charges hearing and in the related proceedings in the *Gbagbo* case.<sup>2</sup>

6. On 11 June 2014, the Single Judge decided to admit, *inter alia*, a/20116/12, a/20136/12, a/20147/12 and a/20163/12 as victims participating at the confirmation of charges hearing and in the related proceedings in the *Blé Goudé* case.<sup>3</sup>

7. On 12 June 2014, Pre-Trial Chamber I, by majority, issued a decision confirming the charges against Mr Gbagbo under article 61(7)(a) of the Rome Statute and committing him for trial.<sup>4</sup>

8. On 1 August 2014, the Single Judge decided to admit, *inter alia*, a/10228/14 as a victim participating at the confirmation of charges hearing and in the related proceedings in the *Blé Goudé* case,<sup>5</sup> and terminated the status of a/20163/12 as a victim participating in the same case following his decease.<sup>6</sup>

---

<sup>2</sup> See the “Decision on Victims’ Participation and Victims’ Common Legal Representation at the Confirmation of Charges Hearing and in the Related Proceedings” (Pre-Trial Chamber I, Single Judge), No. ICC-02/11-01/11-138, 4 June 2012, p. 25.

<sup>3</sup> See the “Decision on victims’ participation in the pre-trial proceedings and related issues” (Pre-Trial Chamber I, Single Judge), No. ICC-02/11-02/11-83, 11 June 2014, para. 18 and pp. 19-20.

<sup>4</sup> See the “Decision on the confirmation of charges against Laurent Gbagbo” (Pre-Trial Chamber I), No. ICC-02/11-01/11-656-Red, 12 June 2014 (the “Confirmation of Charges Decision”), p. 131.

<sup>5</sup> See the “Second Decision on victims’ participation in the pre-trial proceedings and related issues” (Pre-Trial Chamber I, Single Judge), No. ICC-02/11-02/11-111, 1 August 2014, p. 13.

<sup>6</sup> *Idem*, para. 29 and p. 16.

9. On 11 December 2014, Pre-Trial Chamber I, by majority, issued a decision confirming the charges against Mr Blé Goudé under article 61(7)(a) of the Rome Statute and committed him for trial.<sup>7</sup>

10. On 6 March 2015, Trial Chamber I (the “Chamber”) authorised, *inter alia*, victims a/20116/12, a/20136/12, a/20147/12 and a/10228/14 to participate in the trial against Mr Gbagbo,<sup>8</sup> and terminated the status of victim a/20163/12 since he had passed away in the meantime.<sup>9</sup>

11. On 11 March 2015, the Chamber joined the *Gbagbo* and *Blé Goudé* cases deciding, *inter alia*, that all decisions and orders issued in both cases shall continue to apply, as appropriate and until ordered otherwise, in the joint case.<sup>10</sup>

12. On 7 January 2016, the Chamber admitted, *inter alia*, victim a/10260/14 to participate in the trial proceedings.<sup>11</sup>

#### IV. Submissions

13. The Legal Representative hereby informs the Chamber of the death of victims a/20163/12 on 31 July 2013; a/20136/12 on 15 September 2014; a/20147/12 on 17 October 2014; a/10228/14 on 5 July 2016; a/10260/14 on 17 October 2016; and a/20116/12 on 20 October 2016.

---

<sup>7</sup> See the “Decision on the confirmation of charges against Charles Blé Goudé” (Pre-Trial Chamber I), No. ICC-02/11-02/11-186, 11 December 2014.

<sup>8</sup> See the “Decision on victim participation”, *supra* note 1, paras. 41 and 46.

<sup>9</sup> *Idem*, para. 40 and p. 24.

<sup>10</sup> See the “Decision on Prosecution requests to join the cases of *The Prosecutor v. Laurent Gbagbo* and *The Prosecutor v. Charles Blé Goudé* and related matters” (Trial-Chamber I), No. ICC-02/11-01/15-1, 11 March 2015, para. 74 and p. 33.

<sup>11</sup> See the “Decision on victims’ participation status”, *supra* note 1, p. 23; and “Annex A to Decision on victims’ participation status” (Trial Chamber I), No. ICC-02/11-01/15-379-AnxA, 7 January 2016, p. 60.

14. Victim a/20163/12 had been authorised to participate in the pre-trial proceedings,<sup>12</sup> and passed away before the charges against Mr Gbagbo were confirmed.<sup>13</sup> In turn, victims a/20136/12 and a/20147/12 had been admitted to participate in the trial proceedings,<sup>14</sup> and passed away immediately before the charges against Mr Blé Goudé were confirmed. Lastly, victims a/20116/12, a/10228/14 and a/10260/14 had also been authorised to participate in the trial,<sup>15</sup> and passed away before the first twenty witnesses were heard.

15. The family members of victims a/20116/12, a/20136/12, a/20147/12, a/20163/12, a/10228/14 and a/10260/14 are currently willing to participate on behalf of the six deceased victims. All these individuals therefore seek authorisation to resume the action of their relatives under the same conditions previously granted to the latter.

16. The Legal Representative notes the considerable delay between the submission of the current applications and the decease of victims a/20136/12, a/20147/12 and a/20163/12 and stresses that said delay is explained by the following considerations: (i) the difficulty to easily identify and contact the relatives of some of the deceased victims, who live or were temporarily residing outside Abidjan or outside Côte d'Ivoire; (ii) the time needed by the relatives to consider their willingness to resume the action of the deceased victims; and (iii) the time necessary to collect the relevant documents supporting the request to resume the action of the deceased victims before the Court.

17. Moreover, and in order to expedite the proceedings, the Legal Representative decided to collect the documentation supporting an application for all victims deceased to date instead of filing individual requests when victims authorised to participate passed away. In this regard, it is noteworthy that the relevant and

---

<sup>12</sup> See *supra* notes 2 and 3.

<sup>13</sup> See *supra* notes 6 and 9.

<sup>14</sup> See *supra* note 8.

<sup>15</sup> See *supra* notes 8, 10 and 11.

necessary documentation to resume the actions of victims a/20147/12, a/10228/14 and a/10260/14 has been made available only recently.

18. Trial Chambers II, III, VI and VIII have established procedures for the resumption of the action of deceased victims participating in the *Katanga and Ngudjolo, Bemba, Ntaganda* and *Al Mahdi* cases, respectively. In order to ensure an effective and meaningful participation of the victims in the proceedings, the Legal Representative respectfully requests the Chamber to adopt the same procedural framework for this case.

### **1. Legal basis for the resumption of the action initiated by deceased victims**

19. Article 68 of the Rome Statute and rule 89 of the Rules of Procedure and Evidence have been relied upon by several Chambers to grant persons leave to participate in the proceedings on behalf of deceased victims.<sup>16</sup>

20. On the basis of these legal provisions, Trial Chamber II held in the then *Katanga and Ngudjolo* case that “the close relatives of a victim authorised to participate who is now deceased may decide to continue the action initiated by the victim before the Court, [...] they may do so only on behalf of the deceased victim and within the limits of the views and concerns expressed by the victim in his or her initial application”.<sup>17</sup>

---

<sup>16</sup> See the “Operative Part of the Second Decision on the Applications by Victims for Participation in the Proceedings” (Trial Chamber II), No. ICC-01/04-01/07-1669-tENG, 23 November 2009, para. 4 and p. 7; the “Motifs de la deuxième décision relative aux demandes de participation de victimes à la procédure” (Trial Chamber II), No. ICC-01/04-01/07-1737, 22 December 2009, paras. 4 and 33; the “Motifs de la troisième décision relative à 8 demandes de participation de victimes à la procédure” (Trial Chamber II), No. ICC-01/04-01/07-1967, 17 March 2010, paras. 4, 9 and 15; the “Fourth decision on victims’ participation in trial proceedings” (Trial Chamber VI), No. ICC-01/04-02/06-805, 1 September 2015, p. 3; and the “Decision on ‘Requête relative à la reprise des actions introduites devant la Cour par des victimes décédées’” (Trial Chamber III), No. ICC-01/05-01/08-3346, 24 March 2016, para. 9.

<sup>17</sup> See the “Decision on the applications to resume action submitted by the family members of deceased Victims a/0025/08, a/0051/08, a/0197/08 and a/0311/09” (Trial Chamber II), No. ICC-01/04-01/07-3018-tENG, 14 June 2011, para. 20 (emphasis added), referring to the “Motifs de la deuxième

21. In turn, Trial Chamber VI ruled in the *Ntaganda* case that “any closely-connected individual, such as a close relative of a participating victim who is now deceased, may seek leave to continue the action initiated by the participating victim, but may do so only on behalf of the deceased victim and within the limits of the views and concerns expressed by the victim in his or her initial application”.<sup>18</sup>

22. More recently, in the *Bemba* case, Trial Chamber III has followed the jurisprudence quoted above in order to “authorise family members of victims participating in the proceedings and who subsequently dies, or other closely-connected individuals, to resume the actions initiated by the deceased victims, on behalf of the deceased victim and within the limits of the views and concerns expressed by the victim in his or her initial application”.<sup>19</sup>

23. The Legal Representative is aware that the Appeals Chamber addressed a question related to the maintenance of deceased victims on the list of participating victims in appellate proceedings, concluding that the “*resumption of a deceased victim’s participation by an heir / successor is not deemed appropriate*”.<sup>20</sup> Nevertheless, the Legal Representative contends that this specific finding by the Appeals Chamber does not

---

décision relative aux demandes de participation de victimes à la procédure”, *supra* note 16, para. 30. See also the “Decision on the application to resume action, submitted by a family member of deceased Victim a/0253/09” (Trial Chamber II), No. ICC-01/04-01/07-3383-tENG, 10 June 2013, para. 6; and the “Decision on the applications for resumption of action submitted by the family members of deceased victims a/0170/08 and a/0294/09” (Trial Chamber II), No. ICC-01/04-01/07-3547-tENG, 11 May 2015, para. 6. See also the “Decision on the applications for resumption of action lodged by the family members of deceased victims a/0015/09, a/0032/08, a/0057/08, a/0166/09, a/0192/08, a/0225/09, a/0281/08, a/0282/09, a/0286/09, a/0298/09, a/0354/09, a/0361/09, a/0391/09, a/2743/10 and a/30490/15” (Trial Chamber II), No. ICC-01/04-01/07-3691-tENG, 20 May 2016, para. 7; and the “Décision relative à la demande de reprise d’instance introduite par un proche de la victime décédée a/0265/09 et de désignation d’un nouveau mandataire pour représenter la victime a/0071/08” (Trial Chamber II), No. ICC-01/04-01/07-3721, 12 December 2016, para. 7.

<sup>18</sup> See the “Fourth decision on victims’ participation in trial proceedings”, *supra* note 16, para. 8 (emphasis added).

<sup>19</sup> See the “Decision on ‘Requête relative à la reprise des actions introduites devant la Cour par des victimes décédées’”, *supra* note 16, para. 22 (emphasis added).

<sup>20</sup> See the “Decision on the participation of anonymous victims in the appeal and on the maintenance of deceased victims on the list of participating victims”, No. ICC-01/04-02/12-140 A, 23 September 2013, para. 26.

rule out, as a matter of principle, the possibility for resuming actions on behalf of deceased victims,<sup>21</sup> and is based on the fact that the victims concerned “*actively participated in the trial by expressing their views and concerns which were ultimately considered by the Trial Chamber in its Decision on Acquittal, the subject of the appeal*”,<sup>22</sup> whereas the deceased victims’ views in these proceedings must still be heard by the Chamber because the trial has not concluded yet. Moreover, as confirmed by Trial Chamber III,<sup>23</sup> this finding by the Appeals Chamber is explicitly limited to the resumption of deceased victims’ actions *in appellate proceedings* and does not apply to the resumption of actions during trial proceedings.<sup>24</sup>

24. Hence, the death of one or more victims authorised to participate in the trial cannot prevent the Legal Representative from continuing to defend their personal interests, to engage with their families, and to submit their views and concerns in order to be ultimately considered by the Chamber. At this stage of the proceedings, this can be done through the resumption of action by individuals closely connected to the deceased victims, as found by the Appeals Chamber and Trial Chambers II, III, VI and VIII.

25. Moreover, authorising individuals to resume the deceased victims’ actions will not impinge on the requirements that victim participation be based on the victims’ “*personal interests*”, since the resumed action will be limited to the views and concerns expressed by the deceased victims in their initial applications. In other

---

<sup>21</sup> See the “Decision on the participation of anonymous victims in the appeal and on the maintenance of deceased victims on the list of participating victims”, *supra* note 20, para. 26.

<sup>22</sup> *Idem*, para. 25.

<sup>23</sup> See the “Decision on ‘Requête relative à la reprise des actions introduites devant la Cour par des victimes décédées’”, *supra* note 16, para. 22.

<sup>24</sup> See the “Decision on the participation of anonymous victims in the appeal and on the maintenance of deceased victims on the list of participating victims”, *supra* note 20, para. 25 (“*The Appeals Chamber considers that the issue for determination is whether victims who died prior to the conclusion of the proceedings may be maintained on the List of participating victims in the appeal*”).

words, the applications for resumption of action do not constitute new applications for participation.<sup>25</sup>

26. In fact, the resumption of action by the deceased victims' relatives is appropriate because it ensures that the personal interests of the victims continue to be represented, in accordance with article 68(3) of the Rome Statute. Consequently, there is no need to re-examine the merits of the claims made in the application forms by the deceased victims who were authorised to participate.<sup>26</sup>

27. In light of the abovementioned jurisprudence, the Legal Representative submits that for the purpose of resuming the action of a deceased victim, evidence must be provided of (i) the death of the victim who has been authorised to participate; (ii) the relationship of the successor to the deceased victim; and (iii) the mandate authorising the successor to continue the deceased victim's action.<sup>27</sup>

28. In relation to point iii) above, Trial Chamber II required the production of a "specific mandate" by the deceased victim's family in order to authorise the

---

<sup>25</sup> See the "Decision on 'Requête relative à la reprise des actions introduites devant la Cour par des victimes décédées'", *supra* note 16, paras. 20 and 47.

<sup>26</sup> *Idem*, para. 26 and footnote 105.

<sup>27</sup> *Ibid.*, para. 23. See also the "Motifs de la deuxième décision relative aux demandes de participation de victimes à la procédure", *supra* note 16, paras. 31-32; the "Motifs de la troisième décision relative à 8 demandes de participation de victimes à la procédure", *supra* note 16, para. 12; the "Decision on the applications to resume action submitted by the family members of deceased Victims a/0025/08, a/0051/08, a/0197/08 and a/0311/09", *supra* note 17, paras. 23, 25, 27 and 29; the "Corrigendum of the decision on the applications to resume action submitted by the family members of deceased Victims a/0025/08 and a/0311/09" (Trial Chamber II), No. ICC-01/04-01/07-3185-Corr-tENG, 24 October 2011, paras. 4-5; the "Decision on the application to resume action, submitted by a family member of deceased Victim a/0253/09", *supra* note 17, para. 8; the "Decision on the applications for resumption of action submitted by the family members of deceased victims a/0170/08 and a/0294/09", *supra* note 17, para. 6; and the "Fourth decision on victims' participation in trial proceedings", *supra* note 16, para. 8. See also the "Decision on the applications for resumption of action lodged by the family members of deceased victims a/0015/09, a/0032/08, a/0057/08, a/0166/09, a/0192/08, a/0225/09, a/0281/08, a/0282/09, a/0286/09, a/0298/09, a/0354/09, a/0361/09, a/0391/09, a/2743/10 and a/30490/15", *supra* note 17, para. 7; the "Décision relative à la demande de reprise d'instance introduite par un proche de la victime décédée a/0265/09 et de désignation d'un nouveau mandataire pour représenter la victime a/0071/08", *supra* note 17, para. 7; and the "Decision on LRV Request for Resumption of Action for Deceased Victim a/35084/16" (Trial Chamber VIII, Single Judge), No. ICC-01/12-01/15-223, 2 June 2017, para. 2.

resumption of the action initiated by the deceased victims.<sup>28</sup> In turn, Trial Chamber III found that the “mandate” requirement is case-specific and must be assessed taking into account the specificities of the applicable domestic law.<sup>29</sup>

29. In this regard, the Legal Representative supports the approach followed by Trial Chamber VI, whereby no mandate from the deceased victim’s family is required if the applicant can easily be presumed to continue the deceased victim’s action or to represent the family.<sup>30</sup> This is the case, for instance, where there is a spousal relationship between the deceased victim and the applicant<sup>31</sup> or where the applicant is the deceased victim’s child.<sup>32</sup>

30. Otherwise, the mandate requirement is satisfied with a statement attesting the relationship between the deceased victim and the applicant which clearly refers to the latter’s intention to resume the action initiated by the deceased victim.<sup>33</sup> For the collection of said statement regarding the six deceased victims concerned by this submission, the Legal Representative has made use of the “Resumption of Action

---

<sup>28</sup> See the “Motifs de la deuxième décision relative aux demandes de participation de victimes à la procédure”, *supra* note 16, para. 31; the “Motifs de la troisième décision relative à 8 demandes de participation de victimes à la procédure”, *supra* note 16, para. 12; the “Decision on the applications to resume action submitted by the family members of deceased Victims a/0025/08, a/0051/08, a/0197/08 and a/0311/09”, *supra* note 17, paras. 23, 25, 27 and 29; the “Corrigendum of the decision on the applications to resume action submitted by the family members of deceased Victims a/0025/08 and a/0311/09”, *supra* note 27, paras. 4-5; the “Decision on the application to resume action, submitted by a family member of deceased Victim a/0253/09”, *supra* note 17, para. 7; and the “Decision on the applications for resumption of action submitted by the family members of deceased victims a/0170/08 and a/0294/09”, *supra* note 17, para. 7. See also the “Decision on the applications for resumption of action lodged by the family members of deceased victims a/0015/09, a/0032/08, a/0057/08, a/0166/09, a/0192/08, a/0225/09, a/0281/08, a/0282/09, a/0286/09, a/0298/09, a/0354/09, a/0361/09, a/0391/09, a/2743/10 and a/30490/15”, *supra* note 17, para. 9; and the “Décision relative à la demande de reprise d’instance introduite par un proche de la victime décédée a/0265/09 et de désignation d’un nouveau mandataire pour représenter la victime a/0071/08”, *supra* note 17, paras. 8-9.

<sup>29</sup> See the “Decision on ‘Requête relative à la reprise des actions introduites devant la Cour par des victimes décédées’”, *supra* note 16, para. 31.

<sup>30</sup> See the “Fourth decision on victims’ participation in trial proceedings”, *supra* note 16, para. 8.

<sup>31</sup> *Idem*, para. 11.

<sup>32</sup> *Ibid.*, footnote 10.

<sup>33</sup> *Ibid.*, para. 11.

Form” template developed by the Registry and adopted in the *Ntaganda* and *Bemba* cases.<sup>34</sup>

## 2. Applications to resume the action initiated by deceased victims a/20116/12, 20136/12, a/20147/12, a/20163/12, a/10228/14 and a/10260/14

### 2.1. Victim a/20116/12

31. Victim a/20116/12 was authorised to participate in both the *Gbagbo* case and the *Blé Goudé* case, and subsequently in the joint case.<sup>35</sup>

32. Victim a/20116/12’s [REDACTED] seeks the Chamber’s leave to resume the action initiated by [REDACTED],<sup>36</sup> within the limits of the views and concerns raised by the latter in his application.<sup>37</sup>

33. To this aim, victim a/20116/12’s [REDACTED] submits the following documents:

- A request signed by the applicant seeking authorisation to resume the action initiated by the deceased victim a/20116/12,<sup>38</sup>
- A medical procès-verbal, a death certificate, and a burial authorisation certifying the death of victim a/20116/12 on 20 October 2016,<sup>39</sup> and
- A document establishing the identity of the applicant which also attests the kinship of the applicant.<sup>40</sup>

<sup>34</sup> See the “Annex B: Decision on ‘Requête relative à la reprise des actions introduites devant la Cour par des victimes décédées’” (Trial Chamber III), No. ICC-01/05-01/08-3346-AnxB, 24 March 2016. See also the “Fourth decision on victims’ participation in trial proceedings”, *supra* note 16, para. 12.

<sup>35</sup> See *supra* notes 2-3, 8 and 10.

<sup>36</sup> See Annex 1.

<sup>37</sup> See ICC-02/11-01/11-121-Conf-Exp-AnxF15, 16 May 2012.

<sup>38</sup> See Annex 1, pp. 2-3.

<sup>39</sup> *Idem*, pp. 4-6.

<sup>40</sup> *Ibid.*, pp. 7-8 (the *verso* of the identity document indicates the name of the applicant’s [REDACTED]).

## 2.2. Victim a/20136/12

34. Victim a/20136/12 was authorised to participate in both the *Gbagbo* case and the *Blé Goudé* case, and subsequently in the joint case.<sup>41</sup>

35. Victim a/20136/12's [REDACTED] seeks the Chamber's leave to resume the action initiated by [REDACTED],<sup>42</sup> within the limits of the views and concerns raised by the latter in her application.<sup>43</sup>

36. To this aim, victim a/20136/12's [REDACTED] submits the following documents:

- A request signed by the applicant seeking authorisation to resume the action initiated by the deceased victim a/20136/12,<sup>44</sup>
- A death certificate certifying the death of victim a/20136/12 on 15 September 2014,<sup>45</sup> and
- A document establishing the identity of the applicant which also attests the kinship of the applicant.<sup>46</sup>

## 2.3. Victim a/20147/12

37. Victim a/20147/12 was authorised to participate in both the *Gbagbo* case and the *Blé Goudé* case, and subsequently in the joint case.<sup>47</sup>

---

<sup>41</sup> See *supra* notes 2-3, 8 and 10.

<sup>42</sup> See Annex 2.

<sup>43</sup> See ICC-02/11-01/11-121-Conf-Exp-Anx15, 16 May 2012.

<sup>44</sup> See Annex 2, pp. 2-3.

<sup>45</sup> *Idem*, p. 4.

<sup>46</sup> *Ibid.*, p. 5 (the *recto* of the identity document indicates the name of the applicant's [REDACTED], who is also the [REDACTED] of the deceased victim, *cfr.* the death certificate in Annex 2).

<sup>47</sup> See *supra* notes 2-3, 8 and 10.

38. Victim a/20147/12's [REDACTED] seeks the Chamber's leave to resume the action initiated by [REDACTED],<sup>48</sup> within the limits of the views and concerns raised by the latter in his application.<sup>49</sup>

39. To this aim, victim a/20147/12's [REDACTED] submits the following documents:

- A request signed by the applicant seeking authorisation to resume the action initiated by the deceased victim a/20147/12,<sup>50</sup>
- A death certificate certifying the death of victim a/20147/12 on 17 October 2014,<sup>51</sup>
- A document establishing the identity of the applicant,<sup>52</sup> and
- A document establishing the kinship of the applicant with victim a/20147/12.<sup>53</sup>

#### **2.4. Victim a/20163/12**

40. Victim a/20163/12 was authorised to participate in both the *Gbagbo* case and the *Blé Goudé* case, and his status as victim was terminated because of his death before the Chamber ordered the joint trial.<sup>54</sup>

41. Victim a/20163/12's [REDACTED] seeks the Chamber's leave to resume the action initiated by [REDACTED],<sup>55</sup> within the limits of the views and concerns raised by the latter in his application.<sup>56</sup>

---

<sup>48</sup> See Annex 3.

<sup>49</sup> See ICC-02/11-01/11-121-Conf-Exp-Anx23, 16 May 2012.

<sup>50</sup> See Annex 3, pp. 2-3.

<sup>51</sup> *Idem*, p. 4.

<sup>52</sup> *Ibid.*, pp. 5-6.

<sup>53</sup> *Ibid.*, p. 7.

<sup>54</sup> See *supra* notes 2-3, 6 and 9.

<sup>55</sup> See Annex 4.

<sup>56</sup> See ICC-02/11-01/11-121-Conf-Exp-Anx39, 16 May 2012.

42. To this aim, victim a/20163/12's [REDACTED] submits the following documents:

- A request signed by the applicant seeking authorisation to resume the action initiated by the deceased victim a/20163/12,<sup>57</sup>
- A medical procès-verbal, a death certificate, a burial authorisation, and a burial certificate certifying the death of victim a/20163/12 on 31 July 2013,<sup>58</sup> and
- A document establishing the identity of the applicant which also attests the kinship of the applicant.<sup>59</sup>

## 2.5. Victim a/10228/14

43. Victim a/10228/14 was authorised to participate in both the *Blé Goudé* case and the *Gbagbo* case, and subsequently in the joint case.<sup>60</sup>

44. Victim a/10228/14's [REDACTED] seeks the Chamber's leave to resume the action initiated by [REDACTED],<sup>61</sup> within the limits of the views and concerns raised by the latter in his application.<sup>62</sup>

45. To this aim, victim a/10228/14's [REDACTED] submits the following documents:

---

<sup>57</sup> See Annex 4, pp. 2-3.

<sup>58</sup> *Idem*, pp. 4-7.

<sup>59</sup> *Ibid.*, pp. 8-9 (the *verso* of the identity document indicates the name of the applicant's [REDACTED] and [REDACTED], who are also the same [REDACTED] of the deceased victim, *cfr.* the deceased victims' identity document attached to the original application form).

<sup>60</sup> See *supra* notes 5, 8 and 10.

<sup>61</sup> See Annex 5.

<sup>62</sup> See ICC-02/11-02/11-104-Conf-Exp-Anx108, 10 July 2014.

- A request signed by the applicant seeking authorisation to resume the action initiated by the deceased victim a/10228/14,<sup>63</sup>
- A declaration signed by two witnesses certifying the death of victim a/10228/14 on 5 July 2016 as a result of [REDACTED].<sup>64</sup> This declaration is provided along with the identity documents of said witnesses,<sup>65</sup>
- A document establishing the identity of the applicant,<sup>66</sup> and
- A declaration signed by two witnesses certifying the family relationship between victim a/10228/14 and [REDACTED].<sup>67</sup> This declaration is provided along with the identity documents of said witnesses.<sup>68</sup>

## 2.6. Victim a/10260/14

46. As stated above, victim a/10260/14 was authorised to participate in the trial.<sup>69</sup>

47. Victim a/10260/14's [REDACTED] seeks the Chamber's leave to resume the action initiated by [REDACTED],<sup>70</sup> within the limits of the views and concerns raised by the latter in her application.<sup>71</sup>

---

<sup>63</sup> See Annex 5, pp. 2-3.

<sup>64</sup> *Idem*, pp. 4-5 and 7-8.

<sup>65</sup> *Ibid.*, pp. 6 and 9. The possibility to establish the death of a family member by means of a declaration by two credible witnesses was upheld by Trial Chamber II. See the "Grounds for the Decision on the 345 Applications for Participation in the Proceedings Submitted by Victims" (Trial Chamber II), No. ICC-01/04-01/07-1491-Red-tENG, 23 September 2009, para. 38 ("*the Chamber is of the view that it is not possible to ignore the difficulties encountered by applicants living in Ituri in providing documents proving the death of a family member [...]. It therefore considers that the submission of a certificate signed by two credible witnesses is sufficient, at this stage in the proceedings, to establish the death of a person [...]*").

<sup>66</sup> *Ibid.*, pp. 10-11.

<sup>67</sup> *Ibid.*, 12-13 and 15-16.

<sup>68</sup> *Ibid.*, pp. 14 and 17. The possibility to establish the family relationship by means of a declaration by two credible witnesses was upheld by Trial Chamber II. See the "Grounds for the Decision on the 345 Applications for Participation in the Proceedings Submitted by Victims", *supra* note 65, para. 38 ("*the Chamber is of the view that it is not possible to ignore the difficulties encountered by applicants living in Ituri in providing documents proving [...] their family relationship with that person. It therefore considers that the submission of a certificate signed by two credible witnesses is sufficient, at this stage in the proceedings, to establish [...] that individual's family relationship with the applicant*").

<sup>69</sup> See *supra* note 11.

<sup>70</sup> See Annex 6.

<sup>71</sup> See ICC-02/11-01/15-225-Conf-Exp-Anx6, 17 September 2015.

48. To this aim, victim a/10260/14's [REDACTED] submits the following documents:

- A request signed by the applicant seeking authorisation to resume the action initiated by the deceased victim a/10260/14,<sup>72</sup>
- A medical procès-verbal, a death certificate, and a burial authorisation certifying the death of victim a/10260/14 on 17 October 2016,<sup>73</sup>
- A document establishing the identity of the applicant,<sup>74</sup>
- A declaration signed by two witnesses certifying the family relationship between victim a/10260/14 and [REDACTED].<sup>75</sup> This declaration is provided along with the identity documents of said witnesses.<sup>76</sup>

**3. Request to maintain the protective measures for the successors of victims a/20116/12, 20136/12, a/20147/12, a/20163/12, a/10228/14 and a/10260/14**

49. The Legal Representative indicates that the applicants seeking to resume the action of the six deceased victims ask that the same protective measures granted to their deceased relatives continue to apply, namely the non-disclosure of their identities to the public and the Defence.

50. Most applicants indeed submitted to the Legal Representative that the current security situation in the neighbourhoods where they live is precarious and unforeseeable because of the close presence of pro-Ouattara and pro-Gbagbo

---

<sup>72</sup> See Annex 6, pp. 2-3.

<sup>73</sup> *Idem*, pp. 4-6.

<sup>74</sup> *Ibid.*, p. 7.

<sup>75</sup> *Ibid.*, pp. 8 and 10. Regarding the possibility to establish the family relationship by means of a declaration by two credible witnesses, see *supra* note 68.

<sup>76</sup> *Ibid.*, pp. 9 and 11-12.

supporters.<sup>77</sup> An applicant expressed his will for his identity not to be disclosed to the Defence because of [REDACTED].<sup>78</sup>

51. In this regard, the practice of Trial Chambers II and III shows that maintaining the protective measures is a logical consequence of granting the resumption of the action.<sup>79</sup> In fact, Trial Chamber II has consistently found that “*the protective measures granted to victims authorised to participate in the proceedings also apply to persons authorised to participate on behalf of deceased victims*”.<sup>80</sup>

52. Accordingly, if the Chamber authorises the family members of victims a/20116/12, 20136/12, a/20147/12, a/20163/12, a/10228/14 and a/10260/14 to continue the action initiated by their deceased relatives, the Legal Representative requests that the former be granted the same protective measures applied to the deceased victims, including the anonymity of the successor and the successor’s family members *vis-à-vis* the public and the Defence. For the same reasons, the Legal Representative

---

<sup>77</sup> See Annex 2 (a/20136/12), p. 2; Annex 3 (a/20147/12); Annex 4 (a/20163/12), p. 2; Annex 5 (a/10228/14), p. 2; and Annex 6 (a/10260/14), p. 2.

<sup>78</sup> See Annex 1 (a/20116/12), p. 2.

<sup>79</sup> See, *mutatis mutandis*, the “Decision on the disclosure of the identity of victims to the parties and order to the Prosecutor and the Defence to submit additional observations in respect of certain deceased victims” (Trial Chamber II), No. ICC-01/04-01/07-2827-tENG, 11 April 2011, paras. 32-34; the “Decision on the applications to resume action submitted by the family members of deceased Victims a/0025/08, a/0051/08, a/0197/08 and a/0311/09”, *supra* note 17, paras. 33-35; the “Decision on the application to resume action, submitted by a family member of deceased Victim a/0253/09”, *supra* note 17, paras. 10-11 and 13-14; and the “Decision on ‘Requête relative à la reprise des actions introduites devant la Cour par des victimes décédées’”, *supra* note 16, para. 40.

<sup>80</sup> See the “Decision on the applications to resume action submitted by the family members of deceased Victims a/0025/08, a/0051/08, a/0197/08 and a/0311/09”, *supra* note 17, para. 32; the “Corrigendum of the decision on the applications to resume action submitted by the family members of deceased Victims a/0025/08 and a/0311/09”, *supra* note 27, para. 7; the “Decision on the application to resume action, submitted by a family member of deceased Victim a/0253/09”, *supra* note 17, para. 12; and the “Decision on the applications for resumption of action submitted by the family members of deceased victims a/0170/08 and a/0294/09”, *supra* note 17, para. 11. See also the “Decision on the applications for resumption of action lodged by the family members of deceased victims a/0015/09, a/0032/08, a/0057/08, a/0166/09, a/0192/08, a/0225/09, a/0281/08, a/0282/09, a/0286/09, a/0298/09, a/0354/09, a/0361/09, a/0391/09, a/2743/10 and a/30490/15”, *supra* note 17, para. 11; and the “Décision relative à la demande de reprise d’instance introduite par un proche de la victime décédée a/0265/09 et de désignation d’un nouveau mandataire pour représenter la victime a/0071/08”, *supra* note 17, para. 10.

requests maintaining the anonymity of the deceased victims *vis-à-vis* the public and the Defence.

53. Lastly, in order not to prejudice the effect of the eventual decision of the Chamber on the request for protective measures, the Legal Representative has redacted the documents supporting each request to resume the action of deceased victims.<sup>81</sup> Said redactions have been applied pursuant to the decisions on redactions issued by the Chamber,<sup>82</sup> and concern the identity of the victims and their successors, the day and the month of the victim's death, and the address or place of residence of the victims or successors.

54. These redactions are consistent with those authorised by the Chamber in the applications for participation of the deceased victims transmitted to the Defence,<sup>83</sup> and with the fact that none of said victims was called to testify or to present their views and concerns before the Chamber before they passed away.

55. Moreover, the redactions applied to the supporting documentation are consistent with the decisions issued by other Chambers in similar situations. In particular, the transmission of redacted versions of the supporting documentation remains necessary to protect the non-disclosed identity of the deceased victims and their families,<sup>84</sup> and the redactions do not unduly affect the Defence's ability to submit observations in an informed manner.<sup>85</sup>

---

<sup>81</sup> See Annexes 1 to 6.

<sup>82</sup> See the "Decision on victim participation", *supra* note 1, paras. 55 and 57; the "Decision on Prosecution requests to join the cases of *The Prosecutor v. Laurent Gbagbo* and *The Prosecutor v. Charles Blé Goudé* and related matters", *supra* note 10, para. 74; and the "Decision on victims' participation status", *supra* note 1, paras. 37-42.

<sup>83</sup> See ICC-02/11-01/15-91-Conf-Anx138-Red, 19 June 2015 (victim a/20116/12); ICC-02/11-01/15-91-Conf-Anx155-Red, 19 June 2015 (victim a/20136/12); ICC-02/11-02/11-87-Conf-Exp-Anx123-Red, 19 June 2014 (victim a/20147/12); ICC-02/11-02/11-87-Conf-Exp-Anx138-Red, 19 June 2014 (victim a/20163/12); ICC-02/11-01/15-184-Conf-Anx208-Red, 8 October 2015 (victim a/10228/14); and ICC-02/11-01/15-225-Conf-Exp-Anx6-Red, 17 September 2015 (victim a/10260/14).

<sup>84</sup> See the "Decision on the disclosure of the identity of victims to the parties and order to the Prosecutor and the Defence to submit additional observations in respect of certain deceased victims", *supra* note 79, para. 27; *mutatis mutandis*, the "Decision on the application to resume action, submitted

#### 4. Request for a system for the submission of future applications for the resumption of actions

56. The Legal Representative notes that, in the *Bemba* and *Ntaganda* cases, Trial Chambers III and VI have recently adopted a procedure for the resumption of action, identifying the steps and roles of the Legal Representative and the Registry in the collection and processing of applications to resume action, respectively.<sup>86</sup>

57. In order to ensure an effective and meaningful participation of the victims in the proceedings, the Legal Representative respectfully requests the Chamber to adopt a similar procedural framework for the submission of future applications for the resumption of action in this case.<sup>87</sup>

58. Pursuant to said procedure, the Legal Representative assists individuals willing to resume the action of deceased victims by collecting and transmitting to the Registry the relevant documentation accompanied by an application for the resumption of action. In turn, the Registry assesses said applications and transmits them to the Chamber if they comply with the formal and substantive requirements mentioned in paragraphs 22 and 27 above, or alternatively, it informs the Legal Representative if said requirements are not met. Barring an error in the Registry's assessment, the Chamber approves said assessment and authorises the resumption of action.

---

by a family member of deceased Victim a/0253/09", *supra* note 17, para. 4; and the "Decision on 'Requête relative à la reprise des actions introduites devant la Cour par des victimes décédées'", *supra* note 16, para. 40.

<sup>85</sup> See the "Decision on the applications to resume action submitted by the family members of deceased Victims a/0025/08, a/0051/08, a/0197/08 and a/0311/09", *supra* note 17, para. 19, referring to the "Grounds for the Decision on the 345 Applications for Participation in the Proceedings Submitted by Victims", *supra* note 65, paras. 24-25; and the "Decision on the submission of observations on the requests for reparations and the applications to resume action" (Trial Chamber II), No. ICC-01/04-01/07-3682-tENG, 14 April 2016, para. 26.

<sup>86</sup> See the "Fourth decision on victims' participation in trial proceedings", *supra* note 16, para. 13; and the "Decision on 'Requête relative à la reprise des actions introduites devant la Cour par des victimes décédées'", *supra* note 16, para. 49.

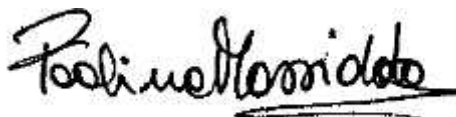
<sup>87</sup> *Idem*.

59. The high number of victims in this case and the expected length of the remainder of the trial justify the adoption of the system outlined in the preceding paragraph for the resumption of action of deceased victims, which facilitates the expeditiousness of the proceedings.

## V. Conclusion

60. For the foregoing reasons, the Legal Representative respectfully requests the Chamber to:

- Authorise the family members of deceased victims a/20116/12, 20136/12, a/20147/12, a/20163/12, a/10228/14 and a/10260/14 to continue the action initiated by said victims under the same conditions previously granted to the latter;
- Grant the successors of the action initiated by deceased victims a/20116/12, 20136/12, a/20147/12, a/20163/12, a/10228/14 and a/10260/14 the same protective measures applied to the latter; and
- Authorise the application of the framework referred to in paragraphs 57 and 58 for the future resumption of the action of deceased victims in this case.



**Paolina Massidda**  
**Principal Counsel**

Dated this 20<sup>th</sup> day of July of 2017

At The Hague, The Netherlands