

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 17 July 2019

**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 THE REPUBLIC OF CÔTE D'IVOIRE**

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

**Public**

**Response to the "Prosecution's urgent request for extension of time limits under rule 150(1) and regulation 58(1)"**

**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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Mr James Stewart  
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**Counsel for Mr Blé Goudé**

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**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  
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**The Office of Public Counsel for the  
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**States' Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Mr Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

## I. INTRODUCTION

1. The Common Legal Representative of the Victims admitted to participate in the proceedings (the “Legal Representative”)<sup>1</sup> submits that the Prosecution’s urgent request for extension of time limits to file its notice of appeal under rule 150(1) of the Rules of Procedure and Evidence (the “Rules”) and its appeal brief under regulation 58 of the Regulations of the Court (the “Regulations”)<sup>2</sup> should be granted.

2. While recalling that the expeditiousness of the proceedings has always been a recurring concern of the Victims participating at trial, the Legal Representative supports the Prosecution’s Request and considers that good cause has been shown justifying the extension of time.

## II. BACKGROUND

3. On 15 January 2019, the Majority of the Chamber - Judge Herrera Carbuccia dissenting<sup>3</sup> - issued the oral Decision on the Defence motions for acquittal (the “Decision on acquittal”),<sup>4</sup> granting the Defence’s requests.

4. On 16 July 2019, the Chamber issued the written reasons for the Decision on acquittal,<sup>5</sup> with Annex A and B containing respectively the concurring separate

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<sup>1</sup> See the “Directions on the conduct of the proceedings” (Trial Chamber I), No. [ICC-02/11-01/15-205](#), 3 September 2015, p. 24.

<sup>2</sup> See the “Prosecution’s urgent request for extension of time limits under rule 150(1) and regulation 58(1)”, No. [ICC-02/11-01/15-1264](#), 16 July 2019 (the “Prosecution’s Request”).

<sup>3</sup> See the “Dissenting Opinion to the Chamber’s Oral Decision of 15 January 2019” (Judge Herrera Carbuccia), No. [ICC-02/11-01/15-1234](#), 15 January 2019.

<sup>4</sup> See the transcripts of the hearing held on 15 January 2019, No. [ICC-02/11-01/15-T-232-ENG ET](#), page 1, line 15 to page 5, line 7 (the “Decision on acquittal”). See also the “Requête de la Défense de Laurent Gbagbo afin qu’un jugement d’acquiescement portant sur toutes les charges soit prononcé en faveur de Laurent Gbagbo et que sa mise en liberté immédiate soit ordonnée”, No. [ICC-02/11-01/15-1199-Corr](#), 26 September 2018 (dated 23 July 2018) and the “Blé Goudé Defence No Case to Answer Motion”, No. [ICC-02/11-01/15-1198-Conf-Corr](#), 3 August 2018 (dated 23 July 2018).

opinion of Judge Tarfusser and the majority's analysis of the evidence and Annex C including Judge Herrera Carbuccion Dissenting Opinion (the "Impugned Decision").

5. On the same day, the Prosecution filed the Request.<sup>6</sup>

### III. SUBMISSIONS

6. The Legal Representative supports the Prosecution's Request.

7. Rule 150(2) of the Rules and regulation 35(2) of the Regulations allow the Appeals Chamber to extend the time limits where good cause is shown. As clarified by the Appeals Chamber in the context of regulation 35(2) of the Regulations, "[a] cause is good, if founded upon reasons associated with a person's capacity to conform to the applicable procedural rule or regulation or the directions of the Court. Incapability to do so must be for sound reasons, such as would objectively provide justification for the inability of a party to comply with his/her obligations".<sup>7</sup> The Appeals Chamber has also recognised that "the anticipated factual, legal and procedural complexity of the appeal and the novelty of

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<sup>5</sup> See the "Reasons for oral decision of 15 January 2019 on the *Requête de la Défense de Laurent Gbagbo afin qu'un jugement d'acquittement portant sur toutes les charges soit prononcé en faveur de Laurent Gbagbo et que sa mise en liberté immédiate soit ordonnée*, and on the Blé Goudé Defence no case to answer motion" (Trial Chamber I), No. [ICC-02/11-01/15-1263](#), 16 July 2019. See also the "Opinion of Judge Cuno Tarfusser" (Judge Cuno Tarfusser), No. [ICC-02/11-01/15-1263-AnxA](#), 16 July 2019; the "Reasons of Judge Geoffrey Henderson" (Judge Geoffrey Henderson), [ICC-02/11-01/15-1263-AnxB-Red](#), 16 July 2019; and the "Dissenting Opinion Judge Herrera Carbuccion" (Judge Herrera Carbuccion), No. [ICC-02/11-01/15-1263-AnxC-Red](#), 16 July 2019.

<sup>6</sup> See the "Prosecution's urgent request for extension of time limits under rule 150(1) and regulation 58(1)", No. [ICC-02/11-01/15-1264](#), 16 July 2019 (the "Prosecution's Request").

<sup>7</sup> See the "Reasons for the 'Decision of the Appeals Chamber on the request of counsel to Mr. Thomas Lubanga Dyilo for modification of the time limit pursuant to regulation 35 of the Regulations of the Court of 7 February 2007' issued on the 16 February 2007" (Appeals Chamber), No. [ICC-01/04-01/06-834](#) OA8, 21 February 2007, para. 7; and the "Reasons for the 'Decision on the 'Application for Extension of Time Limits Pursuant to Regulation 35 of the Regulations of the Court to Allow the Defence to Submit its Observations on the Prosecutor's Appeal regarding the Decision on Evidentiary Scope of the Confirmation Hearing and Preventative Relocation'" (Appeals Chamber), No. [ICC-01/04-01/07-653](#) OA7, 27 June 2008, para. 5.

*the legal issues to be addressed*" can be taken into consideration in its assessment of the existence of a good cause to justify an extension of time to file an appeal brief.<sup>8</sup>

8. In the present circumstances, the Legal Representative submits that the complexity and the length of the Impugned Decision represent an objective and sound reason justifying an extension of time.<sup>9</sup> The ruling actually consists of three documents with manifestly diverging views on crucial issues, counting a total of 1,366 pages.

9. Moreover, the upcoming three-week Court recess falling during the 30 days' delay provided for in rule 150(2) of the Rules<sup>10</sup> similarly affects the Prosecution's ability to properly analyse the Impugned Decision and file the notice of appeal within the prescribed time limit.<sup>11</sup>

10. Finally, the Legal Representative recalls that the expeditiousness of the proceedings has been a recurrent concern of the Victims participating in this trial.<sup>12</sup> Nevertheless, and in light of the reasons elaborated in the Prosecution's Request, the Legal Representative submits that it is in the Victims' interest and in the interest of justice that such delay is afforded to the Prosecution in order to allow a thorough and detailed analysis of the Impugned Decision.

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<sup>8</sup> See the "Decision on requests for an extension of the time limit for the filing of the documents in support of the appeal" (Appeals Chamber), No. [ICC-01/05-01/13-2046](#) A A2 A3 A4 A5, 23 November 2016, para. 18.

<sup>9</sup> See the Prosecution's Request, *supra* note 2, paras. 9-11.

<sup>10</sup> *Ibidem*, paras. 12-15.

<sup>11</sup> See the "Decision on the "Defence Application for Extension of Time to File Document in Support of Appeal"" (Appeals Chamber), No. [ICC-01/04-01/07-121](#) OA2, 21 December 2007, paras. 2 and 5.

<sup>12</sup> See e.g. "Views and concerns of victims in relation to the "Order on the further conduct of the proceedings" (ICC-02/11-01/15-1124)", No. [ICC-02/11-01/15-1131](#), 16 February 2018.

#### IV. CONCLUSION

11. For the foregoing reasons, the Legal Representative respectfully requests the Appeals Chamber to grant the Prosecution's Request.

A handwritten signature in black ink, reading "Paolina Massidda", with a horizontal line underneath the name.

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

Dated this 17<sup>th</sup> day of July 2019

At The Hague, The Netherlands