



**Original: English**

**No. ICC-02/11-01/15 A**

**Date: 20 March 2020**

**THE APPEALS CHAMBER**

**Before:**

**Judge Chile Eboe-Osuji, Presiding  
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**

**Order scheduling a hearing before the Appeals Chamber and  
setting a time limit for any request for leave to reply**

**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 Laurent Gbagbo**  
Mr Emmanuel Altit  
Ms Agathe Bahi Baroan

**Legal Representative of Victims**  
Ms Paolina Massidda

**Counsel for Charles Blé Goudé**  
Mr Geert-Jan Alexander Knoops  
Mr Claver N'dry

**REGISTRY**

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**Registrar**  
Mr Peter Lewis

The Appeals Chamber of the International Criminal Court,

In the appeal of the Prosecutor against the decision of Trial Chamber I of 15 January 2019 (ICC-02/11-01/15-T-232-ENG), with reasons issued on 16 July 2019 (ICC-02/11-01/15-1263 and its annexes),

Noting that responses to the appeal brief in this appeal were filed, on 6 March 2020, by both Mr Gbagbo and Mr Blé Goudé,

Having before it the 'Prosecution notice of intention to file a request for leave to reply pursuant to regulation 60' of 16 March 2020 (ICC-02/11-01/15-1317),

*Issues* the following

## ORDER

1. The Appeals Chamber shall sit in open court from Monday, 11 May 2020, to Wednesday, 13 May 2020, to hear submissions and observations by the parties and participants on the above-mentioned appeal.
2. Any request by the Prosecutor for leave to reply to the responses of Mr Gbagbo and Mr Blé Goudé to her appeal brief shall be filed by 16h00 on Tuesday, 14 April 2020.

## REASONS

1. On 15 January 2019, Trial Chamber I issued, by majority, Judge Olga Herrera Carbuccion dissenting, an oral decision, acquitting Mr Gbagbo and Mr Blé Goudé of all charges.<sup>1</sup> On 16 July 2019, the Trial Chamber issued its reasons for the acquittal.<sup>2</sup>
2. On 16 September 2019, the Prosecutor filed her notice of appeal against the acquittal of Mr Gbagbo and Mr Blé Goudé,<sup>3</sup> and on 15 October 2019, she filed her appeal brief.<sup>4</sup>

<sup>1</sup> See Trial Chamber I, [Transcript of 15 January 2019](#), ICC-02/11-01/15-T-232-Eng, p. 1, line 15, to p. 5, line 7.

<sup>2</sup> [Reasons for oral decision of 15 January 2019 on 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](#), 16 July 2019, ICC-02/11-01/15-1263.

3. On 6 March 2020, Mr Gbagbo and Mr Blé Goudé both filed confidential responses to the Prosecutor’s appeal in this case, of which public redacted versions were subsequently filed<sup>5</sup> (‘Mr Gbagbo’s Response’ and ‘Mr Blé Goudé’s Response’). The Appeals Chamber has also issued an order fixing a time frame in respect of victim participation in this appeal.<sup>6</sup>

4. In light of the stage of these proceedings, the Appeals Chamber now finds it appropriate to schedule an oral hearing for the submissions and observations by the parties and participants in this appeal. This hearing is accordingly scheduled to take place from Monday, 11 May 2020, to Wednesday, 13 May 2020. Further directions on the schedule of the hearing, conduct of the proceedings and subject matter will be issued in due course.

5. The Prosecutor has now filed a notice of an intention to file a request for leave to reply to Mr Gbagbo’s Response and to Mr Blé Goudé’s Response<sup>7</sup> (‘Prosecutor’s Notice’), stating that she currently intends to file such a request by 10 April 2020.<sup>8</sup> She also states that, at the same time, ‘factors beyond [her] control’, in relation to which examples are given in her filing, ‘may detrimentally impact on [her] ability to file by this date’ and she ‘will inform the Appeals Chamber accordingly’.<sup>9</sup> As a matter of practice and precedent, the Appeals Chamber discourages the filing of ‘notice of intention to file a request for leave to reply.’ An appellant who sees a need to request leave to file a written reply should make the request promptly within a reasonable time following the filing of the respondent’s brief. It is unhelpful to file a ‘notice of intention’ to request leave to reply.

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<sup>3</sup> A corrigendum of this document was filed the following day. See [Corrected Version of ‘Prosecution Notice of Appeal’, 16 September 2019, ICC-02/11-01/15-1270](#), 17 September 2019, ICC-02/11-01/15-1270-Corr.

<sup>4</sup> See [Public redacted version of ‘Prosecution Document in Support of Appeal’, ICC-02/11-01/15-1277-Conf, 15 October 2019](#), 17 October 2019, ICC-02/11-01/15-1277-Red.

<sup>5</sup> [Version publique expurgée de la ‘Réponse de la Défense de Laurent Gbagbo au “Mémoire d’appel de l’Accusation” \(ICC-02/11-01/15-1277-Conf-tFRA\) déposé le 15 octobre 2019”](#), ICC-02/11-01/15-1314-Red, 13 March 2020; [Public Redacted Version of ‘Defence Response to the “Prosecution Document in Support of Appeal”](#)’, ICC-02/11-01/15-1315-Conf, 9 March 2020’, ICC-02/11-01/15-1315-Red.

<sup>6</sup> [Decision on victim participation](#), ICC-02/11-01/15-1290, 26 November 2019.

<sup>7</sup> [Prosecution notice of intention to file a request for leave to reply pursuant to regulation 60](#), ICC-02/11-01/15-1317, 16 March 2020.

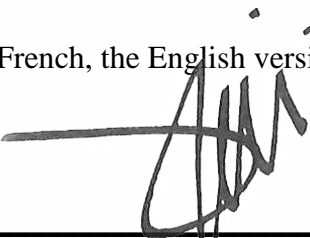
<sup>8</sup> [Prosecutor’s Notice](#), para. 1.

<sup>9</sup> [Prosecutor’s Notice](#), para. 8.

6. Nevertheless, the Appeals Chamber recalls that regulation 60 of the Regulations of the Court, the relevant provision regulating replies to appeal briefs in appeals against, *inter alia*, acquittals, ‘does not prescribe any time limit for the submission of requests for leave to reply and, accordingly, the Appeals Chamber has discretion to set a deadline for any such request’.<sup>10</sup> In the circumstances of this case, and again bearing in mind the stage of these appellate proceedings, the Appeals Chamber finds it appropriate to also now fix a deadline for the filing of any request for leave to file a reply. The Appeals Chamber accordingly fixes Tuesday, 14 April 2020, as the time limit for the filing of any request for leave to reply.<sup>11</sup>

7. The Appeals Chamber notes the Prosecutor’s submissions as to the possibility of delays in the filing of her request for leave to reply. The Appeals Chamber considers that, at this point in time, it is premature to speculate about such an eventuality. The Appeals Chamber will decide on any request by the Prosecutor for an extension of time if and when it comes. While the Appeals Chamber is mindful of the fact that the situations in the Host State and other States as regards public health concerns are fast evolving, it calls upon all parties and participants to ensure that the impact of this situation on the expeditious conduct of the proceedings be kept to a minimum, keeping in mind other circumstances that will contribute to the pressures of time in the appeal.

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



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**Judge Chile Eboe-Osuji**  
**Presiding**

Dated this 20<sup>th</sup> of March 2020

At The Hague, The Netherlands

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<sup>10</sup> [Order on reclassification of documents and Reasons for the ‘Decision on requests for variation of time limits for a request for leave to reply’](#), ICC-01/05-01/13-2196, 14 August 2017, para. 9.

<sup>11</sup> The Appeals Chamber notes that the Prosecutor expressed her intention to file any request for leave to reply by 10 April 2020 ([Prosecutor’s Notice](#), para. 8). That date being an official holiday of the Court, the Appeals Chamber sets the following working day, 14 April 2020, as the time limit.