



Original: French

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

Date: 25 May 2018

**TRIAL CHAMBER I**

**Before: Judge Cuno Tarfusser, Presiding Judge  
Judge Olga Herrera-Carbuccia  
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 one confidential annex**

**Defence Request for the Court's Translation Service to Provide a Corrected Final  
Version of the French Translation of the "Mid-Trial Brief" Filed by the  
Prosecution**

**Source: Defence team for Laurent Gbagbo**

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

**Office of the Prosecutor**

Ms Fatou Bensouda, Prosecutor  
Mr James Stewart

**Counsel for the Defence of Laurent Gbagbo**

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**Legal Representatives of Victims**

Ms Paolina Massidda

**Legal Representatives of Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for Participation/Reparations**

**Office of Public Counsel for Victims**

**Office of Public Counsel for the Defence**

**States' Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Mr Peter Lewis

**Counsel Support Section**

Esteban Peralta

**Victims and Witnesses Section**

**Detention Section**

**Victims Participation and Reparations Section**

**Other**

*As a preliminary matter, classification of the annex:*

1. The annex to this request is filed as confidential in accordance with regulation 23 *bis*(2) of the Regulations of the Court as it refers to internal communication between the Defence and the relevant sections of the Registry and to documents that are themselves confidential.

### **I. Procedural history**

2. On 19 March 2018, the Prosecutor filed the “Prosecution’s Mid-Trial Brief submitted pursuant to Chamber’s Order on the further conduct of the proceedings (ICC-02/11-01/15-1124)”, in English.<sup>1</sup>

3. On 20 March 2018, the Defence requested an urgent translation into French of the Mid-Trial Brief from the Counsel Support Section.<sup>2</sup>

4. On 21 March 2018, the Counsel Support Section informed the Defence that “[TRANSLATION] our colleagues can provide you with a draft translation within approximately three months and a revised final document within approximately six months”.<sup>3</sup>

5. In its decision of 26 March 2018, the bench of this Chamber noted that:

The Defence for Mr Gbagbo has already approached the relevant section of the Registry with a request for a translation of the Trial Brief and of some of its annexes; the requested translations will be provided within the time frame allowed by that section’s workload, on the basis of the level of urgency of any competing requests.<sup>4</sup>

6. On 29 March 2018, the Prosecutor filed a corrected version of the Mid-Trial Brief.<sup>5</sup>

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<sup>1</sup> ICC-02/11-01/15-1136.

<sup>2</sup> Email from Defence to CSS on 20 March 2018 at 12.16.

<sup>3</sup> Email from CSS to Defence on 21 March 2018 at 11.14.

<sup>4</sup> ICC-02/11-01/15-1141, para. 12.

<sup>5</sup> ICC-02/11-01/15-1136-Conf-Anx1-Corr.

7. On 24 May 2018, the Defence received an email from the Counsel Support Section to which was attached a “draft translation” of the Prosecution’s Mid-Trial Brief (“MTB”). In the email, the Defence was informed that the translation services of the Court would not provide a corrected translation of the Prosecution’s Mid-Trial Brief owing to the “limited resources of the ICC Language Services Section (LSS)”.

## **II. Submission**

8. The Accused and the Defence are confronted with a decision that is detrimental to them: they will never be able to access a reliable, that is to say, carefully corrected, French version of the Prosecution’s Mid-Trial Brief. Worse still, an official French version of the Mid-Trial Brief will never be entered into the record of the case. It should be noted, however, that the Mid-Trial Brief is the only document that states the Prosecution’s position on the charges and the details of the charges subsequent to the presentation of its case and in the light the latest state of prosecution evidence. That is why a faithful translation of the Mid-Trial Brief is indispensable.

9. It is impossible for the Defence to work on an uncorrected version of the MTB that could contain errors and omissions. A translation that contains errors or omissions is, by definition, of little use if not dangerous because as a result of a poor or partial translation the Defence may miss legal or factual issues.

10. Although the Defence was able to use the uncorrected portions sent on a rolling basis by the translators as they worked, it used them as one-off assistance, knowing that the final version was expected to reach it in September 2018.

11. It is all the more important for the Defence to be able to work on an error-free final version as it is noticeable from the very first pages of the draft translation of the MTB that there are errors, omissions and inaccuracies with potentially significant consequences since part of the Prosecution’s arguments might disappear or a legal concept might be altered (see Annex 1).

12. As things stand, neither the Accused nor his Defence have a usable and fully reliable French version of the MTB. Put otherwise, they have no such document that they can either use as the basis for their work or rely on in order to know with certainty the details of the charges.

13. It should be pointed out that the document that was sent to the Defence appears to be an – uncorrected – translation of the first version of the MTB that the Prosecutor filed on 19 March 2018 instead of a translation of the corrected version of the MTB that the Prosecutor filed on 29 March 2018. Therefore, this is an uncorrected translation of a document which is itself out of date (see Annex 1).

14. In any event, the Defence can work properly only on an official, final and error-free French version of the MTB; such a version is absolutely indispensable taking into account in particular the ongoing legal discussions (a possible motion for no case to answer) and the need to build the Defence case.

**FOR THESE REASONS, MAY IT PLEASE TRIAL CHAMBER I, to:**

- **Direct** the Registry to take the necessary steps to ensure that the Defence for Laurent Gbagbo has access as soon as possible to a corrected final French version of the Prosecution's Mid-Trial Brief.

[ signed ]

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Emmanuel Altit

Lead Counsel for Laurent Gbagbo

Dated this 25 May 2018

At The Hague, Netherlands