



Original: English

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

Date: 14 June 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**

**Prosecution's response to Mr Gbagbo's application for leave to appeal the  
decision concerning the translation of the Prosecutor's Trial Brief (ICC-02/11-  
01/15-1184)**

**Source:** Office of the Prosecutor

**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 James Stewart  
Mr Eric MacDonald

**Counsel for Mr Laurent Gbagbo**

Mr Emmanuel Altit  
Ms Agathe Bahi Baroan

**Counsel for Mr Charles 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 for  
Participation/Reparation**

**The Office of Public Counsel for  
Victims**

Ms Paolina Massidda

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

**States' Representatives**

**Amicus Curiae**

**REGISTRY**

---

**Registrar**

Mr Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

## Submission

1. The Trial Chamber should reject the Defence of Mr Gbagbo's application for leave to appeal<sup>1</sup> its Decision<sup>2</sup> in which it granted the Defence's request and ordered the Registry to prepare and file a revised French translation of the Trial Brief. The two issues<sup>3</sup> referred to in the Application are not appealable issues within the meaning of article 82(1)(d) that arise from this Decision.

2. The Application repeats arguments made by the Defence in a prior motion filed earlier this year seeking leave to appeal on the same issue of the translation of the Trial Brief.<sup>4</sup> It also expresses disagreements with the Chamber's decision on matters already decided by the Trial Chamber (the importance of the Trial Brief and the right of the Defence to work in the French language) in its decision rejecting the earlier leave to appeal.<sup>5</sup> Given that these two issues are *res judicata*, they cannot be raised again under the cover of alleged new circumstances, when such circumstances only amount to the very issuance of the Decision, confirming for the third time<sup>6</sup> the status of the Trial Brief as an auxiliary tool in these proceedings.

3. Moreover, the Defence itself concedes that it already had the occasion to explain why it perceived that the Trial Brief was important,<sup>7</sup> and that the impugned Decision is based on the same rationale as the one expressed in the Chamber's 26 March 2018 decision rejecting the Defence request to suspend delays in responding to the Trial Brief.<sup>8</sup> Hence, nothing new has been brought before the Chamber.

4. Finally, the Defence adds that although the question is presented through a different angle, it is driven by the same arguments of obtaining a decision on the principle of notice of charges.<sup>9</sup> Thus, not only is the Application redundant, it is

---

<sup>1</sup> ICC-02/11-01/15-1184 ("Application").

<sup>2</sup> ICC-02/11-01/15-1177 ("Decision").

<sup>3</sup> "Issues".

<sup>4</sup> ICC-02/11-01/15-1144.

<sup>5</sup> ICC-02/11-01/15-1150.

<sup>6</sup> ICC-02/11-01/15-1141, ICC-02/11-01/15-1150, ICC-02/11-01/15-1177.

<sup>7</sup> Application, para. 19.

<sup>8</sup> ICC-02/11-01/15-1141.

<sup>9</sup> Application, para. 26.

based on the misguided assumption that the Trial Brief provides notice of the charges. As previously stated on multiple occasions by the Prosecution<sup>10</sup> and confirmed by the Chamber,<sup>11</sup> the Trial Brief is not a charging document, does not specify charges and the charging document (the decision on the confirmation of charges) remains unchanged.

### Conclusion

5. For the above reasons, the Prosecution requests the Chamber to dismiss the Application.



---

Fatou Bensouda, Prosecutor

Dated this 14<sup>th</sup> day of June 2018  
At The Hague, The Netherlands

---

<sup>10</sup> ICC-02/11-01/15-1140, para. 5; ICC-02/11-01/15-1146, para. 5.

<sup>11</sup> ICC-02/11-01/15-1141, para. 7; ICC-02/11-01/15-1150, para. 11.