

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-02/11-01/15**
Date: **14 September 2021**

THE PRESIDENCY

Before: Judge Piotr Hofmański, President
Judge Luz del Carmen Ibáñez Carranza, First Vice-President
Judge Antoine Kesia-Mbe Mindua, Second Vice-President

SITUATION IN CÔTE D'IVOIRE

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

Public

Decision constituting a chamber and referring a request arising under article 85 concerning 'Public Redacted Version of "Mr Blé Goudé's Request for Compensation pursuant to Article 85(3) of the Rome Statute" (ICC-02/11-01/15-1411-Conf-Exp), 9 September 2021' dated 9 September 2021 (ICC-02/11-01/15-1411-Red)

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

The Office of the Prosecutor

Mr Karim Khan
Mr James Stewart

Counsel for Mr Blé Goudé

Mr Geert-Jan Alexander Knoops

Legal Representatives of the Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

The Office of Public Counsel for Victims

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Detention Section

Division of Court Services

Other

Article 85 Chamber

The Presidency of the International Criminal Court (the ‘Court’) has before it a request for compensation pursuant to article 85 of the Rome Statute (the ‘Statute’), filed by Mr Charles Blé Goudé on 9 September 2021 (the ‘Request’).¹

1. On 15 January 2019, Trial Chamber I, by majority, acquitted Mr Blé Goudé of all charges (the ‘Trial Chamber Decision’).² On 31 March 2021, the Appeals Chamber rejected the Prosecutor’s appeal and confirmed, by majority, the Trial Chamber Decision.³
2. On 23 June 2021, Mr Blé Goudé filed a notice before the Presidency informing it of his intention to file a request for compensation under article 85 of the Statute and requesting the designation of a Chamber for the consideration thereof.⁴ The Presidency considered that such request failed to meet the procedural requirements for the designation of a Chamber at that stage.⁵
3. The Presidency recalls article 85 of the Statute and rules 173-174 of the Rules of Procedure and Evidence (the ‘Rules’), which regulate requests for compensation of arrested or convicted persons. Pursuant to rule 173(1) of the Rules, the Presidency shall receive requests for compensation on any of the grounds indicated in article 85 and shall designate a Chamber composed of three judges to consider such requests (the ‘Article 85 Chamber’). The Presidency also recalls that, pursuant to rule 173(1), the judges of such Chamber shall not have participated in any earlier judgment of the Court regarding the person making the request. Having now received the request for compensation referred

¹ Defence for Mr Blé Goudé, *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, ‘Public Redacted Version of “Mr Blé Goudé’s Request for Compensation pursuant to Article 85(3) of the Rome Statute” (ICC-02/11-01/15-1411-Conf-Exp)’, 9 September 2021, ICC-02/11-01/15-1411-Red.

² Trial Chamber I, *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, Transcript of hearing, ICC-02/11-01/15-T-232-ENG, 15 January 2019, p. 4, lines 14-18. The written reasons for this oral decision were issued on 16 July 2019. Trial Chamber I, *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, 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, 16 July 2019, ICC-02/11-01/15-1263, p. 8.

³ Appeals Chamber, *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, Judgment in the appeal of the Prosecutor against Trial Chamber I’s decision on the no case to answer motions, 31 March 2021, ICC-02/11-01/15-1400, p. 3, para. 380.

⁴ Defence for Mr Blé Goudé, *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, Corrigendum to ‘Blé Goudé Defence Notice to the Presidency, ICC-02/11-01/15-1403-Conf-Exp’, 23 June 2021, ICC-02/11-01/15-1403-Conf-Exp-Corr, paras 2-3.

⁵ Presidency, *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, Decision on the Corrigendum to ‘Blé Goudé Defence Notice to the Presidency, ICC-02/11-01/15-1403-Conf-Exp’ dated 23 June 2021 (ICC-02/11-01/15-1403-Conf-Exp-Corr), 15 July 2021, ICC-02/11-01/15-1405, para. 2.

to in rule 173, the Presidency considers it appropriate to designate the Chamber to consider it.

4. The Presidency has considered the current and anticipated overall judicial workload of the Court and the necessity to ensure sound management of the same, the need to expedite proceedings, the workload of all judges, their previous involvement in cases, as well as the experience and expertise of each judge. In light of these factors, and in particular the heavy current and anticipated workload at the pre-trial and trial level, it comes to the conclusion that the Request cannot be appropriately addressed by a pre-existing Chamber of the Court. Accordingly, the Presidency considers it necessary to constitute a new Chamber for this purpose.
5. The Presidency recalls that, in composing chambers, it must balance a number of factors to the extent necessary and possible, and that the guiding principles informing these factors are the applicable statutory framework and the need to ensure the efficient management of the Court's workload, including in view of the Court's long-term needs.
6. Having considered all relevant factors and in particular the judges' workload, experience and expertise, the Presidency, acting by majority, composes the Article 85 Chamber as follows:

Judge Reine Alapini-Gansou;

Judge Joanna Korner; and

Judge Sergio Gerardo Ugalde Gordínez.

The Presidency, acting by majority, considers that such composition is consistent with the best interests of the Court, the principle of equality amongst judges, the desirability of geographic representation and the overall fairness of proceedings before the Court.

7. In this regard, the Presidency considers it necessary to call Judge Sergio Gerardo Ugalde Gordínez to serve on a full-time basis. In light of the Court's heavy judicial workload, the Presidency finds that the existing judicial resources at the Court are insufficient to meet the needs in the present case. The calling to full-time service of Judge Ugalde is based on the judicial workload of the Court, in full compliance with article 35(3) of the Statute. The Presidency considers that this best ensures the proper administration of the Court.

The Presidency **hereby**:

- (i) **constitutes** the Article 85 Chamber to be composed as specified in paragraph 6 above, with Judge Hofmański partially dissenting, as specified below;
- (ii) **calls** Judge Ugalde to full-time service;
- (iii) **designates** the Article 85 Chamber to consider the Request, pursuant to rule 173(1) of the Rules, without prejudice to any determination by the Chamber on the admissibility and/or merits of the Request; and
- (iv) **orders** the Registrar to notify the Request to the Article 85 Chamber.

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



Judge Piotr Hofmański
President



Judge Luz del Carmen Ibáñez Carranza
First Vice-President



Judge Antoine Kesia-Mbe Mindua
Second Vice-President

Dated this 14 September 2021

At The Hague, The Netherlands

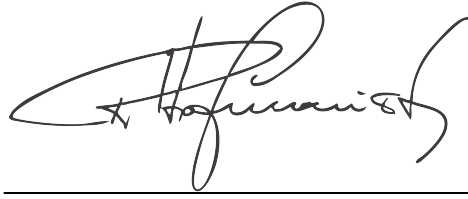
PARTLY DISSENTING OPINION OF JUDGE PIOTR HOFMAŃSKI

1. I am respectfully unable to concur with the one aspect of the decision of the majority of the Presidency in respect of the composition of the Article 85 Chamber, as set out in paragraph 6 of the present Presidency Decision. Specifically, I disagree with the decision to assign Judges Alapini-Gansou and Korner to the Article 85 Chamber.

2. I consider that this decision fails to satisfy the best interests of the Court when viewed through the lens of the proper administration of the judiciary. In my view, there are a number of other judges of the Court whose workload is significantly less than that of Judges Alapini-Gansou and Korner, when all relevant factors are taken into account, including the level of activity of the Chamber(s) in which judges sit, the anticipated future workload of judges, the complexity and stage of respective cases and any special responsibilities assumed by the judges in this regard, including as presiding judge. I note that, without impacting on the geographic balance of the Article 85 Chamber in any way, nor impacting on its level of expertise and experience, other compositions of the Article 85 Chamber were available which would have resulted in a more equitable division of judicial workload. It is my own firm view that it does not reflect the proper administration of justice, nor is it befitting in terms of collegiality and fairness, to increase the workload of judges when an alternative composition is available which would result in a more even distribution of workload amongst willing and available judges. Regardless of the present dissent, I express my fullest respect and support for Judges Alapini-Gansou and Korner, who will undoubtedly perform the considerable judicial tasks assigned to them with the utmost skill and professionalism.

3. I fully support all other aspects of the present Presidency Decision, including the evident necessity of the calling to full-time service of Judge Ugalde in order to consider the Request. In all possible configurations, Judge Ugalde's presence on the Article 85 Chamber is essential.

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

A handwritten signature in black ink, appearing to read 'P. Hofmański', written over a horizontal line.

Judge Piotr Hofmański
President

Dated this 14 September 2021
At The Hague, The Netherlands