



Original: English

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

Date: 3 October 2013

PRE-TRIAL CHAMBER I

Before: Judge Silvia Fernández de Gurmendi, Presiding Judge
Judge Hans-Peter Kaul
Judge Christine van den Wyngaert

SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE

IN THE CASE OF THE PROSECUTOR v. LAURENT GBAGBO

Public

**With Annex A– Confidential, *ex parte*, only available to the Prosecution,
and Annex B – Confidential**

**Prosecution's request for redactions to the statement of witness
CIV-OTP-P-0369 pursuant to Rule 81(2)**

Source: Office of the Prosecutor

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

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**Unrepresented Applicants
(Participation/Reparation)**

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Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Introduction

1. The Prosecution hereby presents a request to redact the identity of an investigator pursuant to Rule 81(2) in the statement of witness P-0369, its annex and metadata. The Prosecution informs the Chamber that it wishes to rely on the evidence provided by witness P-0369 for the purposes of the confirmation of charges in the present case.

Confidentiality

2. Pursuant to Regulation 23*bis* of the Regulations of the Court, the Prosecution files Annex A as confidential, *ex parte*, only available to the Prosecution, as knowledge by the Defence of the full content of the statement would defeat the purpose of the redactions sought. Without presuming the decision of the Chamber and in order for the Defence to immediately have access to the statement and its annex, the Prosecution provides in Annex B the statement and its annex with the redactions applied as requested.

Requests for redactions

3. The Prosecution seeks the authorisation to redact from the content and metadata of the statement and its annex, the identity of the investigator present during the interview of Witness P-0369. The redactions are sought pursuant to Rule 81(2) to protect further and ongoing investigations. Revealing to the Defence the identity of that investigator is likely to impact on the Prosecution's ability to conduct its investigations in the field, as it may unduly attract attention to the movement of Prosecution staff and by extension to (potential) witnesses and their security.
4. The above redactions also ensure that the Prosecution can continue to use during its investigations the limited number of investigators that it currently has at its disposal, without any need to replace them, which would have negative

implications both on the expeditious conduct of its investigations, as well as on the resources required to conduct such investigations.

5. The Prosecution recalls that investigators within the Office of the Prosecutor (“OTP”) can work on different investigations at once and when they finish working on one investigation they are assigned to another. Consequently, because they regularly move from one investigation to another, they repeatedly face potential security issues requiring that their identities be kept confidential. When the identities of investigators are revealed in one case, it makes it significantly more difficult to maintain confidentiality in subsequent cases. Thus absent some showing of a specific need or justification for the disclosure of the identities of investigators, the OTP seeks, as a matter of practice, to maintain their confidentiality. For these reasons, pertaining both to the present case and to the overall practice of the OTP, the identity of the investigator should be redacted from the document and metadata in question.
6. The Prosecution submits that the redactions sought pursuant to Rule 81(2) would not result in unfairness to the Defence at the confirmation of charges, since they do not relate to information that is relevant for the preparation of the case. Additionally, the profile of Witness P-0369, and the fact that the identities of other Prosecution staff members present during the interview are being disclosed, should alleviate any concerns as to “possible faults”.¹ The redactions sought under Rule 81(2) are consistent with prior Decisions of the Chamber that authorised similar redactions in the past.²
7. As previously stated in past requests, the Prosecution will also periodically review the need to request the lifting of these redactions at a more advanced stage of its investigation.

¹ ICC-02/11-01/11-74-Red, para. 89.

² ICC-02/11-01/11-74-Red, ICC-02/11-01/11-106, ICC-02/11-01/11-176 and ICC-02/11-01/11-294 and recently in ICC-02/11-01/11-520.

8. Finally, the Prosecution informs the Chamber that the French translation of the statement of Witness P-0369 is being finalized and therefore it could not be submitted with the present request. Nevertheless, the Prosecution requests that the redactions to the identity of the investigator also apply to the French translation of the statement and annex.



Fatou Bensouda, Prosecutor

Dated this 3rd day of October 2013

At The Hague, The Netherlands