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

Date: 29 July 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 Annexes 1 and 2 – Confidential, *ex parte*, only available to the Prosecution

**Prosecution's request for redactions to the transcribed statements of witnesses
CIV-OTP-P-0321 and CIV-OTP-P-0324 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:

The Office of the Prosecutor

Ms Fatou Bensouda

Mr James Stewart

Mr Eric Macdonald

Counsel for the Defence

Mr Emmanuel Altit

Ms Agathe Bahi Baroan

Ms Natacha Fauveau Ivanovic

Legal Representatives of the Victims

Legal Representatives of the 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 Herman von Hebel

Defence Support Section

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Introduction

1. On 5 July 2013, the Prosecution filed a request, seeking an extension of time to submit a request for redactions to the transcripts of the interviews of witnesses CIV-OTP-P-0321 and CIV-OTP-P-0324.¹ On 15 July 2013 the Single Judge for Pre-Trial Chamber I (the "Chamber") authorised the request, granting an extension of time until Monday 29 July 2013 for the submission of the Prosecution's request for redactions to the transcripts of interviews of the two witnesses in question.²
2. The Prosecution hereby presents a request for redactions pursuant to Rule 81(2) to the content and metadata of the transcribed interviews and their annexes for the above-mentioned witnesses that it wishes to rely on for the purposes of the confirmation of charges in the present case.

Confidentiality

3. Pursuant to Regulation 23*bis* of the Regulations of the Court and the instruction of the Single Judge in her Decision establishing a disclosure system,³ the Prosecution files its annexes confidential, *ex parte*, only available to the Prosecution, as knowledge by the Defence of the content of the annexes would defeat their purpose.

Requests for redactions

4. The Prosecution seeks authorisation to redact from the content and from the metadata of the documents in question (a) the identities of investigators mentioned in the relevant documents; and (b) the day, month and location of interviews. These redactions are sought pursuant to Rule 81(2) to protect further and ongoing investigations. Revealing to the Defence any of the above

¹ ICC-02/11-01/11-448-Conf-Exp. A public redacted version is available (ICC-02/11-01/11-448-Red).

² ICC-02/11-01/11-455, page 5.

³ ICC-02/11-01/11-30, paras 54-55.

information is likely to impact on the Prosecution's ability to conduct its investigations, as it may unduly attract attention to the movement of Prosecution staff and by extension to (potential) witnesses and their security.⁴

5. 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.
6. The Prosecution recalls that investigators within the 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 new 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 identities of the investigators should be redacted from the documents in question.
7. The Prosecution submits that the redactions sought pursuant to Rule 81(2) would not result in unfairness to the suspect at the confirmation of charges, since they do not relate to information that is relevant for the preparation of the case of the Defence. The Prosecution will also periodically review the need to request the lifting of these redactions at a more advanced stage of its investigation.

⁴ Although these redactions are sought pursuant to Rule 81(2), they also have security implications for witnesses and they can therefore equally be justified under Rule 81(4).

Furthermore, the redactions sought under Rule 81(2) are consistent with prior Decisions of the Chamber that authorised similar redactions in the past.⁵

8. Annex 1 to this filing relates to the interview of witness CIV-OTP-P-0321 and Annex 2 relates to CIV-OTP-P-0324. Both annexes include a table that identifies the exact redactions requested to the text of the documents as well as to their metadata and provides the factual and legal basis for each individual redaction.⁶ These annexes also contain copies of the transcripts of the interviews and of their annexes with highlights to the information for which redactions are requested.



Fatou Bensouda, Prosecutor

Dated this 29th day of July 2013

At The Hague, The Netherlands

⁵ 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.

⁶ ICC-02/11-01/11-30, para.55.