

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: ICC-02/11-02/11
Date: **29 January 2015**

TRIAL CHAMBER I

Before: Judge Geoffrey Henderson, Presiding Judge
Judge Cuno Tarfusser
Judge Olga Herrera Carbuccion

SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE

**IN THE CASE OF
*THE PROSECUTOR v. CHARLES BLÉ GOUDÉ***

Public

**Prosecution's urgent Request for an extension of time to file its response to
Defence Request ICC-02/11-02/11-201 and Chamber's orders ICC-02/11-02/11-200
and ICC-02/11-02/11-202**

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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1. The Office of the Prosecutor (“Prosecution” or “OTP”) respectfully requests Trial Chamber I (“Chamber”) to extend the time limit pursuant to regulation 35 of the Regulations of the Court (“RoC”) to file its partial response to the “Urgent Defence submissions on the need to have adequate time and facilities to prepare for trial and extension of time to responds to joinder request” (“Defence request”).¹ The Prosecution also requests an extension of the time limit to respond to the scheduling order of the Chamber and the remainder of the Defence’s request.²
2. The Prosecution currently has important competing deadlines to meet by 6 February 2015, in the *Gbagbo* case, which significantly impact on the trial team’s ability to meet the said deadlines. Consequently, the Prosecution is seeking a limited extension of time of two days to file its response to the part of the Defence request which seeks an extension of time to file its response to the joinder request. The Prosecution additionally seeks an extension of time to 9 February 2015 to respond to the scheduling order and remainder of the Defence request.

Background

3. On 16 and 22 December 2014, the Prosecution filed a request to join the cases (“joinder request”) in the cases of the *Prosecutor v. Laurent Gbagbo* and the *Prosecutor v. Charles Blé Goudé* respectively.³
4. On 6 January 2015, the Chamber extended the deadline for the Defence to file its response to the joinder request “to 21 days from the notification of the French translation of ICC-02/11-01/11-738 and ICC-02/11-02/11-186.”⁴
5. On 22 January 2015, the Parties and participants were formally informed that the translations of ICC-02/11-02/11-186 and ICC-02/11-01/11-738 were notified

¹ ICC-02/11-02/11-201.

² ICC-02/11-02/11-200 and ICC-02/11-02/11-202, p. 5.

³ ICC-02/11-01/11-738 (“*Gbagbo* case”) and ICC-02/11-02/11-194 (“*Blé Goudé* case”).

⁴ ICC-02/11-02/11-197, p.6.

respectively on 20 January 2015 and 21 January 2015 and “that any response to the OTP Joinder Request should therefore be submitted at the latest on 12 February 2015.”⁵

6. On 23 January 2015, the Chamber ordered the scheduling of a status conference for 13 February 2015 and ordered the Parties and Legal Representatives of victims to address in writing a number of topics by 2 February 2015.⁶
7. On 26 January 2015, the Defence filed its request for an extension of time to respond to the joinder request and to prepare for trial.⁷
8. On 28 January 2015, the Chamber ordered the Prosecution and Legal Representatives of victims to file their response by 2 February 2015 to the “Defence request for an extension of time to the joinder request” and “that responses to the remainder of the Defence Request shall be made in the context of the submissions prior to and during the status conference scheduled on 13 February 2015.”⁸

Submission

9. On 17 November 2014, the Chamber ordered the Prosecution in the *Gbagbo* case “to provide full disclosure of all material to the Defence no later than 6 February 2015” and to file its List of Evidence and List of Witnesses for trial also by 6 February 2015.⁹
10. On 15 December 2014, the Chamber changed the redaction regime when it adopted a new redactions protocol with features that necessitated the implementation of new Ringtail fields and pseudonyms which first had to be

⁵ Email received from Court Management Services at 13.26.

⁶ ICC-02/11-02/11-200.

⁷ ICC-02/11-02/11-201.

⁸ ICC-02/11-02/11-201, p.5.

⁹ ICC-02/11-01/11-723, para.10. On 19 December 2014, the Prosecution sought a partial modification of this deadline, see ICC-02/11-01/11-741. On 13 January 2015, it was refused by the Chamber in decision ICC-02/11-01/11-746.

adopted, approved, and tested.¹⁰ Additionally, the Prosecution had to familiarise itself with and implement this new redaction regime to 838 documents. As a result of this labour-intensive and time-consuming process, the Prosecution could only disclose these 838 documents on 16 January 2015.¹¹

11. The Prosecution then reviewed approximately 800 items of evidence previously disclosed with redactions to their content in order to re-disclose them by 6 February 2015 as ordered in the “Decision on the Protocol establishing a redaction regime”.¹² These 800 documents consist in large part of witness interviews in the form of screenings, written statements and transcripts of interviews which have to be read carefully in order to avoid any error that could have security implications. For these 800 documents, a very large number of redactions had to be individually and manually removed and/or replaced with new redactions that contain the new redaction categories adopted by the Chamber in its redaction protocol. Also, the implementation of pseudonyms to metadata can only be done manually by OTP’s Knowledge Base Unit (“KBU”) staff members. The KBU provides services not only to the *Gbagbo* trial team but to all Prosecution teams, including the *Ntaganda* trial team that also has significant and voluminous disclosure deadlines.¹³

12. The Prosecution also notes that in order to disclose all relevant material in its possession by 6 February, it is also reviewing a number of documents and statements that have only recently become available to the Prosecution. As previously mentioned, the Prosecution’s investigations are being finalised.¹⁴ Therefore, the Prosecution also has to manage the review, application of

¹⁰ ICC-02/11-01/11-737.

¹¹ ICC-02/11-01/11-747, para.4. The Prosecution was not in a position to disclose this material earlier since the new redactions protocol had not been adopted, see ICC-02/11-01/11-T-25-CONF, p.24, ln.24 to p.28, ln.2 (open session), and ICC-02/11-01/11-T-27-CONF, p.4, lns.13-16 (open session).

¹² ICC-02/11-01/11-737, paras.23, 35 and ICC-02/11-01/11-737-AnxA, paras.7-9.

¹³ *The Prosecutor v Bosco Ntaganda*, ICC-01/04-02/06-382.

¹⁴ ICC-02/11-01/11-T-25-CONF, p. 9, lns. 6-8 (open session) and ICC-02/11-01/11-T-25-CONF, p.4, lns.17-19 (open session). See also ICC-02/11-01/11-741.

redactions where necessary, and prepare these newly collected documents for their disclosure by 6 February. This process also takes time and resources.

13. Additionally, the Prosecution has to finalise its List of Evidence and List of Witnesses and among others, prepare a request for non-standard redactions (Category D) to be filed at the latest by the same 6 February 2015 deadline.¹⁵
14. Once the material is disclosed by 6 February 2015, the Prosecution will be in a better position to provide, in writing, answers to disclosure related questions set out in paragraph 6 of the scheduling order since the evidence is the same in both cases.¹⁶
15. Consequently, in light of these competing obligations, the Prosecution submits that an extension of two days to respond to the part of the Defence request seeking an extension of time to respond to the joinder request would not be unreasonable. Further, if the Chamber grants the requested extension of time relating to the scheduling order, this extension should also be extended to the Defence and the Legal Representatives of victims.

¹⁵ ICC-02/11-01/11-723, para.10 and ICC-02/11-01/11-737, para.23 the interpretation of which was confirmed by the Chamber to the parties in the *Gbagbo* case on 14 January 2015 at 13.36.

¹⁶ ICC-02/11-02/11-200.

Conclusion

16. For the foregoing reasons, the Prosecution respectfully requests the Chamber to extend, to 4 February, the time limit to file its response to that part of the Defence request which seeks an extension of time to file its response to the joinder request. The Prosecution additionally seeks an extension of time to 9 February 2015 to respond to the scheduling order and remainder of the Defence's request.



Fatou Bensouda, Prosecutor

Dated this 29th day of January 2015

At The Hague, The Netherlands