



Original: English

No.: ICC-02/11-02/11
Date: 25 September 2014

PRE-TRIAL CHAMBER I

Before: Judge Silvia Fernández de Gurmendi, Single Judge

**SITUATION IN THE REPUBLIC OF CÔTE D’IVOIRE
IN THE CASE OF
*THE PROSECUTOR v. CHARLES BLÉ GOUDÉ***

Public

**Second decision on OPCV requests in relation to the Defence disclosure
and list of evidence**

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

The Office of the Prosecutor

Fatou Bensouda

James Stewart

Counsel for the Defence

Nicholas Kaufman

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

Paolina Massidda

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

States Representatives

Others

REGISTRY

Registrar

Herman von Hebel

Detention Section

Victims and Witnesses Unit

Others

**Victims Participation and Reparations
Section**

Judge Silvia Fernández de Gurmendi, Single Judge for Pre-Trial Chamber I (the “Chamber”) of the International Criminal Court (the “Court”), responsible for carrying out the functions of the Chamber in relation to the situation in the Republic of Côte d’Ivoire and the cases emanating therefrom,¹ issues the following second decision on the Office of Public Counsel for victims’ (the “OPCV”) requests presented in the “Submissions of the Common Legal Representative of Victims on the Notice of Alibi (ICC-02/11-02/11-146) and the Defence Communication of Evidence (ICC-02/11-02/11-152 and ICC-02/11-02/11-153)” (the “Submissions”), filed on 18 September 2014.²

1. On 24 September 2014, the Single Judge issued the “Decision on OPCV requests in relation to the Defence disclosure and list of evidence”, *inter alia*, ordering the Defence and the Prosecutor to file submissions as to whether any redactions are needed to the Defence list of evidence prior to its notification to the OPCV, and whether the confidential items of evidence on the Defence list of evidence can be provided to the OPCV.³

2. On 24 September 2014, the Prosecutor filed her submissions, confirming that no redactions were necessary and access could be given to the OPCV to all confidential items of evidence as found in section (ii) of the Defence list of evidence and submitting that in relation to the confidential items of evidence in section (iii) the Chamber should consider applying the same level of confidentiality as ordered in the case of *The Prosecutor v. Laurent Gbagbo*.⁴

3. On 25 September 2014, the Defence filed its observations on the matter, submitting that the OPCV can be granted access to section (i) of the Defence

¹ “*Décision portant désignation d’un juge unique*”, 16 March 2012, ICC-02/11-02/11-9.

² ICC-02/11-02/11-155.

³ ICC-02/11-02/11-167.

⁴ ICC-02/11-02/11-168, para. 2-3.

list of evidence but that with the exception of three items (CIV-D25-0001-0895, CIV-D254-0001-2077 and CIV-D25-0001-2503), it should not be granted access to the confidential items listed in that section.⁵ The Defence submits that all but two witnesses who participated in the Defence investigation did so on the understanding and with the guarantee that their identities would be disclosed only to the Pre-Trial Chamber and to the Prosecutor and that a number of these witnesses, who fear for their lives, are hiding in exile and/or are currently undergoing immigration proceedings.⁶ With respect to section (iii) of the Defence list of evidence, the Defence submits that it has no objection to the application of the same level of confidentiality as in the *Gbagbo* case.

4. The Single Judge notes article 68 of the Rome Statute (the “Statute”) and regulation 23 *bis* of the Regulations of the Court.

5. Following the receipt of parties’ submissions, the Single Judge considers that items CIV-D25-0001-0895, CIV-D25-0001-2077 and CIV-D25-0001-2503, as well as all confidential items of evidence listed in section (ii) of the Defence list of evidence can be notified to the victims.

6. The Single Judge accepts the submissions of the Defence in relation to reasons precluding notification to the OPCV of certain of its confidential items of evidence. Equally, the Single Judge is of the view that it is appropriate to grant to the OPCV the same extent of access to the items listed in section (iii) of the Defence list of evidence as in the *Gbagbo* case.⁷

⁵ ICC-02/11-02/11-169, paras 2-3, 7.

⁶ *Ibid.*, para. 4.

⁷ ICC-02/11-01/11-381-Conf-Anx-Red.

FOR THESE REASONS, THE SINGLE JUDGE

ORDERS the Registrar to provide the OPCV with access to all confidential items of evidence listed in section (ii) of the Defence list of evidence (ICC-02/11-02/11-153-Conf-AnxB), as well as to items CIV-D25-0001-0895, CIV-D25-0001-2077 and CIV-D25-0001-2503; and

ORDERS the Defence to file in the record of the case, by 26 September 2014, a confidential redacted version of its list of evidence, to be made accessible to the parties and the OPCV, redacting in section (iii) the information under “Type”, “Main Date” and “Title” for all confidential items of evidence.

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



Judge Silvia Fernández de Gurmendi
Single Judge

Dated this 25 September 2014

At The Hague, The Netherlands