

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

THE PROSECUTOR V. CHARLES BLÉ GOUDÉ

Public Document

Defence Observations on OPCV access to material in eCourt

Source: Defence for Charles Blé Goudé

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

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1. On 24 September 2014, Pre-Trial Chamber I issued its *Decision on OPCV requests in relation to the Defence disclosure and list of evidence*.¹ In this decision, the Single Judge ordered the Defence to file “submissions as to: whether any redactions are needed to section (i) of its list of evidence prior to its notification to the OPCV; and whether access to all or certain confidential items of evidence listed in section (i) of its list of evidence can be provided to the OPCV.”²
2. With respect to section (i) of its list of evidence, the Defence considers that no redactions are necessary, and it therefore raises no objection to OPCV being granted access thereto in addition to the public items contained therein.
3. With the exception of three items, however, the Defence submits that the Chamber should not grant OPCV access to the confidential items listed in section (i) of its list of evidence. The Defence disclosed these confidential items pursuant to the condition that they would be disclosed *inter partes*.³
4. All but two of the witnesses who participated in the Defence’s investigations did so on the understanding and with the guarantee that their identities would be

¹ ICC-02/11-02/11-167.

² *Ibid.*, p. 8.

³ ICC-02/11-02/11-153, para. 3.

disclosed only to the Pre-Trial Chamber and to the Prosecution.⁴ Furthermore, a number of these witnesses, who fear for their lives, are hiding in exile and/or are currently undergoing immigration proceedings. The Defence simply could not reassure these witnesses in order to obtain their consent to the disclosure of their identities to the victims in the time allotted.

5. As the Chamber is aware, some of these witnesses were interviewed at an extremely late stage (within the last month) in order to address issues which arose, specifically, as a result of allegations made in the document containing the charges. Had OPCV petitioned the Defence in more timely fashion⁵ - expressing its desire to be given access to confidential materials arising out of a potential Defence investigation, a more intensive attempt to persuade the witnesses might have been possible with written assurances from OPCV being presented if necessary.
6. The Defence is fully aware that the role of the victims is an integral part of the impending litigation and recognises that their legal representative should be afforded equal standing. To this end, and in the run up to the filing of written submissions, a renewed attempt will be made to supply OPCV with redacted versions of these witness statements in so far as the redactions will not reveal

⁴ One of these witnesses stated that she preferred that her name not be released to the public at large.

⁵ OPCV has been representing the victims' interests in this case for several months. The first request for access to fruits of a Defence investigation was forwarded to the Defence team on 15 September 2014.

identifying details. Indeed, the Defence will undertake to try and persuade the witnesses concerned to completely reveal their identities to the victims.

7. The Defence therefore objects to OPCV receiving access to the substance of all confidential documents contained in section (i) except for documents CIV-D25-0001-0895, CIV-D25-0001- 2077 and CIV-D25-0001-2503. The first two of these items are statements taken from Defence witness D-10 and the third of these items is a report received from Defence witness D-15. OPCV is reminded to refer to these witnesses only by their witness numbers in public court sessions and filings.
8. Finally, as regards the confidential items of evidence listed in section (iii) of the Defence list of evidence, the Defence raises no objection to the Chamber's application of the same level of confidentiality as ordered in ICC-02/11-01/11.



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25 September 2014