



Original: **English**

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

Date: **4 July 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

Public redacted version of “Prosecution’s Response to Defence request for the variation of a time limit pursuant to Regulation 35(2) of the Regulations of the Court”, 24 June 2014, ICC-02/11-02/11-90-Conf

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, Prosecutor
Mr James Stewart, Deputy Prosecutor
Mr Eric Macdonald, Senior Trial Lawyer

Counsel for the Defence

Mr Nicholas Kaufman

Legal Representatives of the Victims

Ms Paolina Massidda

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda

**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 16 June 2014, the Defence filed a “request for the variation of a time limit pursuant to regulation 35(2) of the Regulations of the Court” (“Request”).¹ The Prosecution is opposed to this Request on the basis that as presented, it is not legally permissible and alternatively that no “good cause” has been demonstrated by Defence.

Confidentiality

2. The Prosecution files this submission as confidential because it includes submissions pertaining to matters discussed in partial closed session during the status conference held on 1 May 2014,² [REDACTED]. A public redacted version will be filed as soon as practicable.

Submissions

The Request, as presented, is not legally permissible

3. The Request must fail because it does not include a request to change the date of the confirmation hearing, which is in fact the relevant time limit that was set by the Single Judge on 27 March 2014.³ While the date of 18 July 2014 was specified by the Single Judge in the “Decision establishing a system for disclosure of evidence” (“Decision of 14 April 2014”),⁴ this date operating as a time limit is mandated by the application of Rule 121(3) and is not imposed pursuant to the Single Judge’s discretion.

¹ ICC-02/11-02/11-84-Corr.

² ICC-02/11-02/11-T-4-CONF-ENG.

³ ICC-02/11-02/11-T-3-Red-ENG, p. 12, lines 9-16.

⁴ ICC-02/11-02/11-57.

4. The Prosecution submits that Rule 121(3) confirms a right to the Prosecution to file its Document Containing the Charges (“DCC”) and List of Evidence (“LoE”) at the time of its choosing provided that these documents are filed “no later than 30 days before the date of the confirmation hearing”. Consequently, the time limit in this situation is prescribed by the Rules of Procedure and Evidence. The Prosecution recalls that Regulation 35 of the Regulations of the Court specifically limits its own applicability to “[...] any time limit as prescribed in these Regulations or as ordered by the Chamber [...]” and therefore cannot be relied upon to modify deadlines prescribed by the Statute or the Rules.
5. This interpretation of the limits of Regulation 35 has been confirmed by the Appeals Chamber:

“As to the time limit for the filing of the appeal itself, which has to be filed pursuant to rule 154 (1) of the Rules of Procedure and Evidence, within five days of the decision that is the object of the appeal, failing which that decision shall become final, the Appeals Chamber notes that regulation 35 of the Regulations of the Court provides only for the extension of time limits ordered by a Chamber or prescribed in the Regulations of the Court. Accordingly, the Appeals Chamber does not extend the time limit for the filing of the appeal on that basis.”⁵

The Request’s lack of “good cause”

6. Alternatively, the Request does not establish any “good cause”, as required by Regulation 35(2) of the Regulations of the Court. At paragraph 5 of the Request, the Defence refers the Single Judge to Rule 101(1); however, the Defence does not explain how the currently scheduled time limits bring any prejudice to the rights of Charles Blé Goudé (“BLÉ GOUDÉ”). Nor does the Defence explain, particularly in light of the fact that there is no request to change the date of the confirmation hearing, how BLÉ GOUDÉ’S rights would be enhanced by

⁵ Prosecutor v. Gbagbo, Decision on Defence Request to Suspend Time Limits, ICC-02/11-01/11-189 OA, 19 July 2012, para. 5.

advancing the date that the Prosecution is required to file its DCC and LoE. Nor does the Request identify any prejudice that would occur if the current time limits remain unchanged.

7. Nowhere in the Request does the Defence indicate that the currently scheduled 30-day time period between the filing of the DCC and the start of the confirmation hearing will be an insufficient amount of time to prepare for the confirmation hearing.

The Prosecution is currently conducting further investigations which have practical implications on the submission of the DCC

8. [REDACTED].⁶
9. The Prosecution informs the Chamber and Defence that in the course of its further investigation it collected evidence “involving the multiple commission of acts” that will form the basis of a fifth charged incident as part of the charges against BLÉ GOUDÉ which will be described in the DCC to be filed on 18 July 2014.
10. Part of the additional evidence recently collected, consists of witness interviews conducted pursuant to Article 55(2). A number of interviews are (and some will be soon) in the process of being transcribed, registered and disclosed. It is currently anticipated that the Prosecution will only be in a position to disclose some transcripts of interviews by 18 July 2014.⁷ Consequently, without the actual registered transcripts of interviews, the Prosecution cannot source its DCC to the actual evidence and it further cannot hyperlink the DCC to the evidence in eCourt.
11. The Prosecution accordingly informs the Chamber that the DCC is not yet finalised. The Prosecution is currently making its best effort to meet the current deadline of 18 July 2014 in order to file its DCC and LoE.

⁶ See ICC-02/11-02/11-T-4-CONF-ENG, p.6, line 21 to p.7, line 17.

⁷ ICC-02/11-02/11-57, p.9. The Prosecution is making every effort to ensure that the relevant transcripts are available by the 18 July 2014 time limit.

Conclusion

12. For these reasons, the Prosecution requests the Chamber to reject the Request.



Fatou Bensouda, Prosecutor

Dated this 4th day of July 2014

At The Hague, The Netherlands