

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: **5 June 2014**

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. CHARLES BLÉ GOUDÉ

Public

With Annex 1 – Confidential

Public redacted version of Prosecution's request pursuant to Regulation 35 for an extension of time to disclose certain documents, 5 June 2014

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

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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. As part of its investigation into the situation in Côte d'Ivoire, the Prosecution facilitated medical examinations for several witnesses. These examinations were conducted by an independent medical professional who will provide the Prosecution with expert medical reports. The Prosecution is in possession of some medical records originating from these medical examinations but has not yet received the expert medical reports. Consequently, the Prosecution seeks to extend the time limit for disclosure of the medical records pursuant to Regulation 35(2) of the Regulations of the Court.

Confidentiality

2. The Prosecution files this submission and its Annex as confidential because they relate to evidentiary matters which additionally fall under Rule 73.

Submissions

3. On 5 May 2014, the Single Judge issued the Second decision on issues related to disclosure of evidence,¹ which decision, *inter alia*, requires the Prosecutor to disclose to the Defence "other evidence currently in her possession which is subject to disclosure [...] no later than Friday, 6 June 2014".²
4. Listed in Annex 1 are the Evidence Registration Numbers ("ERNs") for 58 documents that would be subject to disclosure and were in the Prosecution's possession on 5 May 2014. The Prosecution seeks an extension of the 6 June 2014 disclosure time limit for these documents until 27 June 2014. The Prosecution

¹ ICC-02/11-02/11-67.

² ICC-02/11-02/11-67, p. 10.

submits that ‘good cause’ as contemplated by Regulation 35(2) is shown, for the reasons detailed below.

Good Cause

5. The documents listed in Annex 1 are records from medical examinations of several witnesses. The assigned pseudonyms for these witnesses are also listed in Annex 1. The Prosecution considers that the disclosure of these medical records now would be incomplete, because the expert medical reports reflecting the outcome of the examinations are not yet available.
6. It is also likely that the expert medical reports will include copies of all the medical documentation and therefore delaying disclosure of the documents listed in Annex 1 until the reports are received will ensure that there is no “duplicate disclosure” of certain documents.
7. Given the confidential nature of medical procedures and the records resulting from same, the Prosecution requires the expert medical reports to properly assess the possible necessity of additional protective measures³ or enhanced confidentiality requirements that would require an application to the Chamber in advance of the material being disclosed.⁴

The Delay

8. The Prosecution expected to receive the expert medical reports in sufficient time to review them and prepare for disclosure prior to the 6 June 2014 time limit, and has recently been in contact with the independent medical expert to inquire about the delay in receiving the reports. The Prosecution has learned from the independent medical expert that the primary reason for the delay [REDACTED].

³ In addition to the general measures, such as limited redactions, already authorised by the Chamber in the Second decision on issues related to disclosure of evidence; ICC-02/11-02/11-67.

⁴ See for example such an application in the Katanga and Ngudjolo case: ICC-01/04-01/07-898; and related decision of Trial Chamber II: ICC-01/04-01/07-988.

9. Based on its communications with the independent medical expert, the Prosecution estimates that a further three weeks will be required to receive the expert reports, review them, and assess whether or not any additional pre-disclosure applications to the Chamber are necessary. Consequently, assuming no further pre-disclosure applications, the Prosecution anticipates being able to disclose the documents listed in Annex 1 and the related expert reports on or before 27 June 2014.

Lack of Prejudice to the Defence

10. The number of documents in question is limited and they are of a technical nature. Additionally, all the witnesses listed in Annex 1 have provided statements that have been disclosed to the Defence. The Defence will still have ample time in advance of the confirmation hearing to review the documents and such review will likely be more meaningful if the documents are accompanied by the relevant expert reports.

Conclusion

11. For the reasons set out above, the Prosecution requests the Chamber to grant, pursuant to Regulation 35(2), the extension of time to disclose the documents listed in Annex 1, to 27 June 2014.



Fatou Bensouda, Prosecutor

Dated this 5th day of June 2014

At The Hague, The Netherlands