



Original: English

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

Date: 3 April 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

With Annexes 1 to 6 - Confidential, *EX PARTE*, only available to the Prosecution and the Registry

Prosecution's response to Defence request for reclassification of documents in the situation and the case

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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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

1. On 31 March 2014, the Single Judge ordered the Prosecution to submit any observations, and proposed redactions to submissions that may be reclassified, in response to the “Defence request for reclassification of documents”¹ by 3 April 2014.²
2. The Prosecution hereby submits its observations by identifying 1) the submissions that, barring independent reasons, it believes can be immediately reclassified, and 2) the submissions for which redactions are being proposed before being reclassified. The submissions with proposed redactions and the corresponding explanatory notes are submitted in Confidential, *ex parte* Annexes 1 to 6.

Confidentiality

3. Annexes 1 to 6 are submitted as *Confidential, ex parte* since they refer to material for which redactions are being requested.

Observations

4. The Prosecution notes that some submissions previously registered in the situation have been reclassified as public in the *Laurent Gbagbo* case (“Gbagbo”) and are therefore available to the Defence.³
5. The following submissions in the situation can be immediately reclassified:
 - ICC-02/11-24-Conf-Exp-Red with the same confidentiality level. The Prosecution undertakes to propose the lifting of a number of redactions once the Chamber has adopted the Protocols concerning the disclosure of the identity of witnesses of the other party and the handling of confidential information in the course of investigations in this case;⁴
 - ICC-02/11-32-US-Exp can be reclassified as Confidential;

¹ ICC-02/11-02/11-53-Conf.

² Instructions received by e-mail on 31 March 2014 at 14:51.

³ See for instance ICC-02/11-26-US-Exp, which was reclassified as public - ICC-02/11-01/11-1.

⁴ ICC-02/11-01/11-49-Anx.

- ICC-02/11-33-US-Exp and its Annexes, with the exception of Annex 7, can be reclassified as Confidential. Annex 7 is the summary of the recorded interview of witness CIV-OTP-P-0046. The Prosecution submits that the transcripts of the interview will be disclosed to the Defence once a Protocol is adopted. Consequently, in order to avoid duplication of tasks and unduly monopolise resources, the Prosecution requests to be relieved from disclosing this summary. The Defence will not suffer any prejudice since it will receive, with the first disclosure, the complete set of transcripts of the interview of witness CIV-OTP-P-0046; subject of course to any authorised redactions.⁵
6. The following submissions in the case can also be immediately reclassified as Confidential, only available to the Defence, Prosecution and Registry, barring independent reasons from the Registry and the Chamber where applicable :
- ICC-02/11-02/11-2-US-Exp
 - ICC-02/11-02/11-4-US-Exp
 - ICC-02/11-02/11-5-US-Exp
 - ICC-02/11-02/11-6-US-Exp
 - ICC-02/11-02/11-10-US-Exp
 - ICC-02/11-02/11-11-US-Exp and Annexes
 - ICC-02/11-02/11-13-US-Exp and Annexes
 - ICC-02/11-02/11-14-US-Exp and Annexes
 - ICC-02/11-02/11-15-US-Exp and Annexes
 - ICC-02/11-02/11-16-US-Exp and Annexes
 - ICC-02/11-02/11-18-US-Exp
 - ICC-02/11-02/11-20-US-Exp
 - ICC-02/11-02/11-21-US-Exp
 - ICC-02/11-02/11-22-US-Exp
 - ICC-02/11-02/11-11-US-Exp
 - ICC-02/11-02/11-23-US-Exp
 - ICC-02/11-02/11-24-US-Exp
 - ICC-02/11-02/11-25-US-Exp
 - ICC-02/11-02/11-28-US-Exp and Annexes
 - ICC-02/11-02/11-29-US-Exp
 - ICC-02/11-02/11-30-US-Exp, and
 - ICC-02/11-02/11-34-Conf-Exp-Anx

⁵ These same transcripts were disclosed to the Defence in the *Gbagbo* case with redactions. The Prosecution expects to apply for the same redactions in this case.

7. The Prosecution submits that the following submissions, barring independent reasons from the Registry and the Chamber where applicable, can be reclassified as Confidential redacted, with authorised redactions, available to the Defence, Prosecution and Registry only :

- ICC-02/11-02/11-12-US-Exp
- ICC-02/11-02/11-17-US-Exp
- ICC-02/11-02/11-26-US-Exp
- ICC-02/11-02/11-27-US-Exp
- ICC-02/11-02/11-T-1-US-EXP-ENG ET, and
- ICC-02/11-02/11-T-2-US-EXP-ENG ET

8. The Prosecution submits in Annexes 1 to 6, copies of these submissions and transcripts with redaction proposals for each highlighted in yellow. The justification or reasons for the redactions are provided in an explanatory note for each document. While the Defence may not have access to the explanatory notes, the information proposed to be redacted can be categorised as information that: 1) does not refer to the case of Charles Blé Goudé, 2) refers to operational issues related to the arrest and surrender of Charles Blé Goudé that are not material to the preparation of the Defence, 3) refers to national security issues, and 4) refers to matters that should not be disclosed to the Defence since they pertain to the Prosecution's on-going investigation into the situation in Côte d'Ivoire.

Conclusion

9. The Prosecution requests the Chamber to reclassify the submissions in the situation and in the case as recommended in paragraphs five to eight above.



Fatou Bensouda, Prosecutor

Dated this 3rd day of April 2014

At The Hague, The Netherlands