

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: *English*

No: *ICC-02/11-01/15*

Date: **10 June 2015**

TRIAL CHAMBER I

Before:

**Judge Geoffrey Henderson, Presiding Judge
Judge Olga Herrera-Carbuccia
Judge Bertram Schmitt**

SITUATION IN COTE D'IVOIRE

IN THE CASE OF

THE PROSECUTOR v. LAURENT GBAGBO AND CHARLES BLE GOUDE

PUBLIC

Public redacted version of "Submissions pursuant to the order regarding any further submissions - ICC-02/11-01/11-797-Conf-Red," 9 April 2015, ICC-02/11-01/15-25-Conf

Source: Defence of Mr Charles Blé Goudé

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

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Other

I. Introduction

1. Pursuant to Trial Chamber I's ('the Chamber's') Order regarding any further submissions - ICC-02/11-01/11-797-Conf-Red,¹ the Defence of Charles Blé Goudé ('the Defence') provides the Chamber with its submissions regarding the redacted redaction charts related to witnesses P-0316, and P-0402. Since the order did not mention ICC-02/11-01/11-787-Conf-AnxA-Red, the Defence will not make any new submissions regarding the annex, but kindly refers the Chamber to its submissions regarding the redaction charts in paragraph 8 of its "Addendum to Defence Observations on the Prosecution's requests to apply non-standard redactions to documents related to P-0114, and to maintain redactions to documents related to P-0316 and P-0402."²
2. The observations provided herewith shall be made on a confidential basis due to the references to confidential material that shall be made herein.
3. Despite its e-mails to Court Management-Court Records, the Defence did not obtain access to ICC-02/11-01/11-797-Conf-AnxA-Red until 7 April 2015.³ Nevertheless, the Defence will herein make its submissions regarding both annex A and B to ICC-02/11-01/11-797-Conf-Red.

II. Submissions

4. The Defence contends that the current extent of the redactions made in relation to ICC-02/11-01/11-797-Conf-AnxA-Red and AnxB-Red make it impossible for the Defence to ascertain the scope and possible content of the redactions.

¹ The Order was notified to the parties via e-mail on 2 April 2015, at 16:19, and the Single Judge .

² ICC-02/11-01/15-22-Conf.

³ See Annex 1.

5. Both ICC-02/11-01/11-797-Conf-AnxA-Red and ICC-02/11-01/11-797-Conf-AnxB-Red consist of redaction charts related to documents concerning witnesses P-0316 and P-0402 respectively. Both redaction charts contain a category, [REDACTED].⁴ For every single proposed redaction in this category, the Prosecution gives the location of the redaction, and simply states that it is redacting redacted content.⁵
6. Therefore, the Defence finds that in their current state these charts provide no useful information to the Defence. The Defence of course understands that redactions would be rendered pointless if the Prosecution revealed in these charts their exact content. However, in the instant case, the Prosecution has not even provided the Defence with a general description as to what the information concerns. Simply stating that the information on a certain page contains redactions to [‘REDACTED’] is equivalent to the Prosecution stating that a statement or document contains redactions, which the Defence can clearly see at first glance of the relevant documents related to P-0316 and P-0402.
7. The Defence submits that even the categories for the automatic redactions identified in the Protocol, establishing a redaction regime in the case of the *Prosecutor v. Laurent Gbagbo*, allow the Defence to ascertain the general content of the redactions.⁶ For example, when the Defence takes notes of the category A.5 over an automatic redaction to a document, it can rest assured that it contains material related to “identifying and contact information of intermediaries”.⁷ With respect to non-standard redactions, the Protocol

⁴ ICC-02/11-01/11-797-Conf-AnxA-Red; ICC-02/11-01/11-797-Conf-AnxB-Red.

⁵ See e.g. ICC-02/11-01/11-797-Conf-AnxA-Red, p. 3, Déclaration de CIV-OTP-P-0316, CIV-OTP-0043-0461 At 0468, para.26: OTP is proposing redactions to: “[REDACTED]”, “[REDACTED]”; ICC-02/11-01/11-797-Conf-AnxB-Red, p. 1, [REDACTED] P-0402, CIV-OTP-0068-0169 At 0169: OTP is proposing redactions to: “[REDACTED]”.

⁶ ICC-02/11-01/11-737-AnxA.

⁷ Ibid, at p. 6.

establishing a redaction regime in the case of the *Prosecutor v. Gbagbo* requires the Prosecution to use an application base procedure to seek the redaction.⁸ Such a procedure should not allow the Prosecution to provide the Defence with less information than with the automatic standard redactions. Therefore, the Defence respectfully requests the Chamber to find that such blanket redactions with no indication as to what they concern are prejudicial to the Defence as they undermine the adversarial process by not allowing the Accused to confront the evidence against him under article 68(5) of the Rome Statute.

8. In regards to a potential justification for the redactions, the Defence submits that the redaction charts contain no new information, and reiterates its observations made in both its initial observations regarding the requested redactions and the addendum.⁹

RELIEF SOUGHT

For the foregoing reasons, the defence respectfully requests the honourable Trial Chamber to deny the Prosecutor's request to maintain redactions to documents related to P-0316 and P-0402 notwithstanding the Defence now having access to the current redaction charts.

⁸ Ibid, at paras. 48-50.

⁹ ICC-02/11-01/15-17-Conf, paras. 37-47; ICC-02/11-01/15-22-Conf.



A handwritten signature in dark ink, appearing to read 'Mr. Knoop', is written over a horizontal line. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Mr. Knoop, Lead Counsel and Mr. N'Dry, Co-Counsel

Dated this 10 June 2015

At The Hague, the Netherlands