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TRIAL CHAMBER I

Before: Judge Geoffrey Henderson, Presiding Judge
Judge Olga Herrera Carbuccion
Judge Bertram Schmitt

SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE

IN THE CASE OF

THE PROSECUTOR

v. LAURENT GBAGBO and CHARLES BLÉ GOUDÉ

PUBLIC

**Prosecution's Response to the Common Legal Representative's Request to
maintain redactions to the identifying and contact information of the
intermediaries mentioned in the applications of dual status individuals**

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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Introduction

1. The Common Legal Representative (“CLR”) seeks redactions to intermediary information contained in 12 applications for participation of dual status witnesses. The process of disclosing documents originating from the CLR to the Defence is not a matter foreseen in the current Redaction Protocol.¹ While the Prosecution may have performed disclosure and applied redactions in a strictly physical sense, the CLR is better placed to justify the redactions she has requested.

Procedural History and Submissions

2. On 6 March 2015, in its Decision on victim participation in the *Gbagbo* case, Trial Chamber I noted that it was “for the Prosecution to disclose lesser redacted versions of applications for participation of dual status witnesses in accordance with its disclosure obligations and in a manner consistent with the Redaction Decision.”² In line with this obligation, the Prosecution subsequently liaised with the CLR with a view to agreeing upon any redactions to be made to the applications for participation of dual status witnesses.
3. On 8 June 2015, and once discussions with the CLR had concluded, the Prosecution disclosed 19 applications for participation under rule 77 to both the Gbagbo and Blé Goudé Defence teams.³ Twelve of these applications contained redactions marked “B.3 LRV”, denoting that the redactions had been applied by the CLR.⁴ On the same day, the CLR filed her corresponding Request to maintain redactions to the identifying and contact information of the intermediaries mentioned in the applications of dual status individuals (“Request”).⁵

¹ ICC-02/11-01/11-737-AnxA.

² ICC-02/11-01/11-800, para.56.

³ ICC-02/11-01/15-86.

⁴ As set out in ICC-02/11-01/15-86, para.3.

⁵ ICC-02/11-01/15-85.

4. The 12 applications for participation originate from the CLR, yet have been physically disclosed by the Prosecution in accordance with its disclosure obligations under rule 77 and in conformity with Trial Chamber I's Decision on victim participation. The "B.3 LRV" redactions in question were therefore physically applied by the Prosecution, yet at the behest of the CLR.
5. The current Redaction Protocol does not foresee such a situation, whereby redactions are effectively applied not by the Prosecution but by the CLR. As indicated in the disclosure report filed on 9 June 2015, the Prosecution is only the "disclosing party" in the most technical of senses.⁶ The Prosecution is therefore not in a position to provide justifications for redactions to documents originating from the CLR. The Prosecution submits that it falls on the CLR to provide such justifications, as she did in her Request.



Fatou Bensouda, Prosecutor

Dated this 23rd day of June 2015

At The Hague, The Netherlands

⁶ ICC-02/11-01/15-86, para.3.