



Original: English

No.: ICC-02/11-01/15
Date: 15 October 2015

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

**with Confidential Annex A,
Confidential, *EX PARTE* Annex B – only available to the Prosecution and Legal
Representatives of the Victims
and Confidential, *EX PARTE* Annex C – only available to the Prosecution**

Prosecution's list of the first 20 witnesses it intends to call at trial

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

Mr James Stewart

Mr Eric Macdonald

Counsel for Mr Laurent Gbagbo

Mr Emmanuel Altit

Ms Agathe Bahi Baroan

Counsel for Mr Charles Blé Goudé

Mr Geert-Jan Alexander Knoops

Ms Claver N'dry

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

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Introduction

1. Pursuant to the Trial Chamber's order setting a commencement date for trial,¹ the Prosecution submits the list of the first 20 witnesses it intends to call at trial ("First List").

Confidentiality

2. Annex A to this filing is classified as confidential, pursuant to regulation 23bis(1) and (2) of the Regulations of the Court, as it contains information related to the identity of Prosecution witnesses. Annex B is classified as confidential, *ex parte* – only available to the Prosecution and Legal Representatives of the Victims ("LRV"), because it contains personal information related to a Prosecution witness who is also a participating victim. This information should not, for witness security reasons, be made available to the Parties at this stage. Annex C is classified as confidential, *ex parte* – only available to the Prosecution, because it contains personal information related to a witness which should not, for reasons of medical confidentiality, be made available to the Parties or participants at this stage.

Submissions

3. The Prosecution submits its First List in Confidential Annex A.
4. The Prosecution has previously provided an estimate of the duration of time it anticipates will be required to conduct its examination of each witness.²
5. The Prosecution intends to begin the presentation of its case by calling five witnesses, one for each of the charged incidents.³ If, for any reason, any of these witnesses are not available to testify, the Prosecution proposes in Confidential Annex A alternative witnesses for each incident. This will enable the Prosecution

¹ ICC-02/11-01/15-58, para. 25. *See also* ICC-02/11-01/15-205, para. 18.

² ICC-02/11-01/15-114-Conf-AnxB-Corr.

³ Mr Blé Goudé is charged in respect of five incidents, and Mr Gbagbo in respect of four. *See* ICC-02/11-02/11-186, section 4. I, pp. 82-87; ICC-02/11-01/11-656-Red, section 4.I, pp. 126-129.

to replace an unavailable witness with the alternative witness who can testify in relation to the same incident, as opposed to simply calling the next witness on the list. The alternative witnesses are provided out of an abundance of caution, and to ensure early notice to the Chamber, Parties and participants in the event that replacing any or each of the first five witnesses becomes a necessity.

6. The Prosecution recalls that it has proposed that a site visit take place after the testimony of the first five witnesses,⁴ as it believes that the hearing of the first five witnesses will provide some factual and geographical context related to the five charged incidents, and that a site visit at this juncture will greatly assist the Chamber in evaluating the evidence to be adduced at trial. For reasons related to the medical condition of the witness, as further elaborated in Annex B (Confidential, *ex parte* – only available to the LRV), a sixth crime base witness is now included in the calling order. Because also a crime base witness whose testimony relates to two charged incidents (25 February and 12 April), the Chamber may consider that it would be preferable to conduct a site visit after this witness testifies, and before the evidence of the seventh (international) witness in the calling order.
7. The Prosecution files its First List with the caveat that the first 20 witnesses are likely to be heard over a period of some months, during the course of which the circumstances of individual witnesses may change, for reasons entirely outside the Prosecution's control. The Prosecution will of course keep the Chamber, Parties and participants informed of any change of circumstances which may impact upon the calling order of witnesses, as indicated in the First List.
8. Finally, it is currently envisaged that the Prosecution may, in due course, be making an application to have the fifth and sixth witnesses in the calling order testify *via* video link, pursuant to article 69(2) of the Rome Statute and rule 67 of the Rules of Procedure and Evidence. For purposes of this filing, the Prosecution

⁴ ICC-02/11-01/15-268, paras. 11-12.

includes at Annexes B (Confidential, *ex parte* – only available to the LRV) and C (Confidential, *ex parte* – only available to the LRV) some preliminary information as to why an application in respect of these two witnesses is being considered.



Fatou Bensouda, Prosecutor

Dated this 15th October 2015

At The Hague, The Netherlands