



Original: English

No.: ICC-02/11-01/15
Date: 14 January 2016

TRIAL CHAMBER I

Before: Judge Cuno Tarfusser, Presiding Judge
Judge Olga Herrera Carbuccion
Judge Geoffrey Henderson

SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE

IN THE CASE OF

THE PROSECUTOR

v. LAURENT GBAGBO and CHARLES BLÉ GOUDÉ

PUBLIC

**With confidential Annexes A, B, C, D, E, F, G and H available to the Defence and
Legal Representatives**

**Prosecution's Communication of Evidence Disclosed to the Defence on
13 January 2016**

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

Mr 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

1. The Office of the Prosecutor (“Prosecution”) provides notice of the disclosure to the Defence teams of Charles BLÉ GOUDÉ and Laurent GBAGBO of the following packages on 13 January 2016:
 - a. INCRIM package 27, containing 31 items.¹ Twenty-eight of these items were disclosed without redaction while three documents contained redactions to their image only, in accordance with decision ICC-02/11-01/11-737 (“Redaction Protocol”).²
 - b. Rule 77 certification package 26, containing 136 items pursuant to rule 77 of the Rules of Procedure and Evidence (“Rules”).³ Seventy-five of these items were disclosed without redaction while nine documents contained redactions to their image and metadata, twelve documents contained redactions to their image only and forty documents contained redactions to their metadata only, in accordance with the Redaction Protocol.
 - c. Rule 77 package 27, containing eight items pursuant to rule 77 of the Rules⁴ without redaction.
 - d. Metadata update, containing one single item⁵ disclosed as incriminating evidence without redaction.
2. INCRIM package 27 was disclosed pursuant to the Trial Chamber’s Decision of 18 August 2015 on the variation of the time limit for disclosure of certain documents⁶ and pursuant to Trial Chambers’ Third Decision of 30 November 2015 on disclosure related matters and amendments to the List of Evidence (“Third Decision”)⁷ and contains:

¹ 20160113 INCRIM Package 27.

² See ICC-02/11-01/11-737-AnxA.

³ 20160113 Rule 77 Certification Package 26.

⁴ 20160113 Rule 77 Package 27.

⁵ 20160113 Metadata Update.

⁶ See ICC-02/11-01/15-183-Conf.

⁷ See ICC-02/11-01/15-350-Conf.

- a. Thirteen final French translations of P-0483's transcribed statement. The original English version of P-0483's transcribed statement had been disclosed on 20 August 2015⁸, whereas the non-revised version of the French translation of P-0483's transcribed statement was disclosed on 30 September 2015.⁹
- b. Thirteen translations of previously disclosed Human Rights Watch (HRW) reports or press releases, being either the English version of a previously disclosed French version or the French version of a previously disclosed English version. All of these HRW reports or press releases have been previously disclosed as incriminating evidence and are on the list of evidence.¹⁰ The Defence agreed to the disclosure of the other language

⁸ See ICC-02/11-01/15 Pre-Trial INCRIM Package 23.

⁹ See ICC-02/11-01/15 Pre-Trial INCRIM Package 24. See also Status Conference of 25 September 2015, ICC-02/11-01/15-T-4-ENG, p. 15, l. 18– p. 16, l. 12.

¹⁰ CIV-OTP-0087-0981 is the English version of CIV-OTP-0052-0165 disclosed in ICC-02/11-01/11 Pre-confirmation INCRIM package 23 15 November 2013 and ICC-02/11-02/11 Pre-confirmation INCRIM package 1 25 April 2014; CIV-OTP-0087-1067 is the French version of CIV-OTP-0009-0265 disclosed in ICC-02/11-01/11 Pre-confirmation INCRIM package 15 05 July 2013 and ICC-02/11-02/11 Pre-confirmation INCRIM package 1 25 April 2014; CIV-OTP-0087-1112 is the French version of CIV-OTP-0002-0847 disclosed in ICC-02/11-01/11 Pre-confirmation INCRIM package 28 09 January 2014 and ICC-02/11-02/11 Pre-confirmation INCRIM package 1 25 April 2014; CIV-OTP-0087-1265 is the English version of CIV-OTP-0055-0655 disclosed in ICC-02/11-01/11 Pre-Trial INCRIM package 30 17 September 2014 and ICC-02/11-02/11 Pre-confirmation INCRIM package 3 06 June 2014; CIV-OTP-0087-1369 is the French version of CIV-OTP-0004-0072 disclosed in ICC-02/11-01/11 Pre-confirmation INCRIM package 1 03 February 2012 and ICC-02/11-02/11 Pre-confirmation INCRIM package 1 25 April 2014; CIV-OTP-0087-2277 is the French version of CIV-OTP-0002-0161 disclosed in ICC-02/11-01/11 Pre-confirmation INCRIM package 1 03 February 2012 and ICC-02/11-02/11 Pre-confirmation INCRIM package 1 25 April 2014; CIV-OTP-0087-2284 is the French version of CIV-OTP-0002-0166 disclosed in ICC-02/11-01/11 Pre-confirmation INCRIM package 1 03 February 2012 and ICC-02/11-02/11 Pre-confirmation INCRIM package 1 25 April 2014; CIV-OTP-0087-2301 is the English version of CIV-OTP-0002-0198 disclosed in ICC-02/11-01/11 Pre-confirmation INCRIM package 1 03 February 2012 and ICC-02/11-02/11 Pre-confirmation INCRIM package 1 25 April 2014; CIV-OTP-0087-2309 is the French version of CIV-OTP-0002-0843 disclosed in ICC-02/11-01/11 Pre-confirmation INCRIM package 2 03 February 2012 and ICC-02/11-02/11 Pre-confirmation INCRIM package 1 25 April 2014; CIV-OTP-0087-2314 is the French version of CIV-OTP-0002-0182 disclosed in ICC-02/11-01/11 Pre-confirmation INCRIM package 1 03 February 2012 and ICC-02/11-02/11 Pre-confirmation INCRIM package 1 25 April 2014; CIV-OTP-0087-2324 is the French translation of CIV-OTP-0002-0196 disclosed in ICC-02/11-01/11 Pre-confirmation INCRIM package 1 03 February 2012 and ICC-02/11-02/11 Pre-confirmation INCRIM package 1 25 April 2014; CIV-OTP-0087-2330 is the French version of CIV-OTP-0002-0186 disclosed in ICC-02/11-01/11 Pre-confirmation INCRIM package 1 03 February 2012 and ICC-02/11-02/11 Pre-confirmation INCRIM package 1 25 April 2014; CIV-OTP-0087-2357 is the French version of CIV-OTP-0002-0631 disclosed in Pre-confirmation INCRIM package 1 03 February 2012 and ICC-02/11-02/11 Pre-confirmation INCRIM package 1 25 April 2014.

version (either French or English) of these reports or press releases by way of e-mail communication.¹¹

- c. Five transcripts of previously disclosed videos as incriminating evidence.¹²

These were disclosed as incriminating evidence in line with the Trial Chamber's Third Decision granting their disclosure and addition to the List of Evidence.¹³

3. The documents contained in this INCRIM package 27 will be added to the List of Evidence pursuant to the Trial Chamber's order in the Second Decision of 21 October 2015 on Prosecution's request for variation of the time limit for disclosure of certain documents and to add some of them to its List of Evidence ("Second Decision").¹⁴
4. The 136 items in the Rule 77 certification package 26 were disclosed in compliance with the Prosecution's ongoing obligation under rule 77 of the Rules to disclose documents which are material to the preparation of the Defence,¹⁵ in line with the Trial Chamber's Second Decision related to the ongoing and late disclosure of rule 77 material.¹⁶ The Prosecution has determined that these documents, including mostly information obtained from or belonging to the accused, may be material to the preparation of the Defence and therefore provided them following the Trial Chamber's Third Decision,¹⁷ which ordered the Prosecution to

¹¹ See e-mails of Mr MacDonald of 2 December 2015 sent at 14h49, of 18 December 2015 sent at 15h41, of 6 January 2016 sent at 11h08, of 8 January 2016 sent at 16h04; of 12 January 2016 sent at 16h16; e-mails of Ms Antonina Dyk of 7 December 2014 sent at 10h27, of 12 January 2016 sent at 18h32; e-mail of Ms Jennifer Naouri of 4 December 2015 sent at 17h01; e-mail of Mr Altit of 8 January 2016 sent at 14h33.

¹² CIV-OTP-0051-1684 is a transcript related to video CIV-OTP-0047-0606 disclosed in ICC-02/11-01/11 Pre-Trial INCRIM package 33 18 December 2014 and in ICC-02/11-02/11 Pre-Trial INCRIM package 11 19 February 2015; CIV-OTP-0088-0037 is a transcript related to video CIV-OTP-0061-0603 disclosed in ICC-02/11-01/11 Pre-Trial INCRIM package 33 18 December 2014 and ICC-02/11-02/11 Pre-Trial INCRIM package 11 19 February 2015; CIV-OTP-0088-0041 is a transcript related to video CIV-OTP-0064-0091 disclosed in ICC-02/11-01/11 Pre-Trial INCRIM package 33 18 December 2014 and ICC-02/11-02/11 Pre-Trial INCRIM package 9 22 August 2014; CIV-OTP-0088-0044 is a transcript related to video CIV-OTP-0064-0092 disclosed in ICC-02/11-01/11 Pre-Trial INCRIM package 33 18 December 2014 and ICC-02/11-02/11 Pre-Trial INCRIM package 11 19 February 2015; CIV-OTP-0088-0047 is a transcript related to video CIV-OTP-0069-0374 disclosed in ICC-02/11-01/15 Pre-Trial INCRIM package 14 19 June 2015.

¹³ See ICC-02/11-01/15-350-Conf, para. 25.

¹⁴ See ICC-02/11-01/15-306, para. 27.

¹⁵ See ICC-02/11-01/15-183-Conf, para. 34.

¹⁶ See ICC-02/11-01/15-306-Conf, paras. 17-20 and 34.

¹⁷ See ICC-02/11-01/15-350-Conf, para. 59.

comprehensively review its file to certify that no disclosable material had been overlooked. The prosecution has conducted a meaningful review and has identified all disclosable material, not previously disclosed, in respect to the right of the accused person under Article 67(1)(b) of the Rome Statute.

5. The eight items contained in the Rule 77 package 27 - four reports¹⁸ and their respective French translations¹⁹ - are HRW reports mentioned in Witness P-0369's statement. The online links to these reports were provided to the Defence on 18 December 2015 (via e-mail) for their assistance and agreed by the Parties to be disclosed as Pre-Trial Rule 77 package on 8 January 2016. These items were disclosed in compliance with the Prosecution's ongoing obligation under rule 77 of the Rules, in line with the Trial Chamber's Second Decision related to ongoing and late disclosure of rule 77 material.²⁰ These four HRW reports mentioned in P-0369's statement provide a context of the situation in Cote d'Ivoire before and after the post-electoral violence. The Prosecution has determined that those reports might be useful and assist the Defence in their preparation. The Prosecution does not intend to rely on the reports at trial; however, for the sake of completeness, the Prosecution determined that they should be included as rule 77 material.
6. The single document²¹ in the Metadata Update package was re-disclosed as incriminating evidence as its metadata has been re-issued with the corrected date.
7. The disclosed material was provided in a format that complies with the e-Court Protocol as approved for the trial stage.²²

¹⁸ CIV-OTP-0087-2022, CIV-OTP-0087-1855, CIV-OTP-0087-1690 and CIV-OTP-0087-1525.

¹⁹ CIV-OTP-0087-2141, CIV-OTP-0087-1934, CIV-OTP-0087-1768 and CIV-OTP-0087-1602.

²⁰ See ICC-02/11-01/15-306-Conf, paras. 17-20 and 34.

²¹ CIV-OTP-0052-0165.

²² See ICC-02/11-01/15-58, para. 24.

Request for Confidentiality

8. Annexes A²³, B²⁴, C²⁵, D²⁶, E²⁷, F²⁸, G²⁹ and H³⁰ appended to this communication contain the disclosure notes provided to the Defence. The Prosecution requests that these annexes be received as “Confidential” since they relate to *inter partes* disclosure.



Fatou Bensouda, Prosecutor

Dated this 14th day of January 2016

At The Hague, The Netherlands

²³ Disclosure note for Pre-trial INCRIM Package 27 provided to the Defence of Laurent Gbagbo on 13 January 2016.

²⁴ Disclosure note for Pre-trial IMCRIM Package 27 provided to the Defence of Charles Blé Goudé on 13 January 2016.

²⁵ Disclosure note for Pre-trial Rule 77 Certification Package 26 provided to the Defence of Laurent Gbagbo on 13 January 2016.

²⁶ Disclosure note for Pre-trial Rule 77 Certification Package 26 provided to the Defence of Charles Blé Goudé on 13 January 2016.

²⁷ Disclosure note for Pre-trial Rule 77 Package 27 provided to the Defence of Laurent Gbagbo on 13 January 2016.

²⁸ Disclosure note for Pre-trial Rule 77 Package 27 provided to the Defence of Charles Blé Goudé on 13 January 2016.

²⁹ Disclosure note for Metadata Update provided to the Defence of Laurent Gbagbo on 13 January 2016.

³⁰ Disclosure note for Metadata Update provided to the Defence of Charles Blé Goudé on 13 January 2016.