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No.: ICC-02/11-01/15
Date: 10 February 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 and *EX PARTE* Annex A only available to the Chamber,
Prosecution and VWU**

**Public redacted version of "Prosecution's urgent application on exceptional
measures during the familiarisation of Witness P-0190", 4 February 2016,
ICC-02/11-01/15-415-Conf**

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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Other

Introduction

1. The Prosecution files this urgent application seeking the Chamber's leave to show Witness P-0190, as part of the witness's familiarisation, portions of a video relating to the third charged incident, the women's march in Abobo on 3 March 2011. It is proposed to adopt this course of action to avoid, or reduce to the extent possible, any trauma the witness may experience in the courtroom. A confidential, *ex parte*, annex produced by the Victims and Witnesses Unit ("VWU") is attached to this application.

Level of Confidentiality

2. The Prosecution files this submission Confidential and its Annex A as Confidential *ex parte* pursuant to the Chamber's oral ruling of 2 February 2016.¹

Submissions

3. On 26 January 2016, the Prosecution filed an urgent request seeking, *inter alia*, the Trial Chamber to:

Allow vulnerable witnesses to review, in their statement reading sessions conducted and monitored by VWU, certain documents or other materials (in addition to their statements and any documents which may be annexed or referred to therein), which the Prosecution intends to show such witnesses during their testimony, in order to avoid any psychological harm which could be occasioned if they were to be exposed to the document or material for the first time during their actual testimony.²

4. On 2 February 2016, the Trial Chamber ruled, *inter alia*, that:

Accordingly, the Chamber grants the first request with the understanding, however, that, one, the requesting party shall file confidential application before the Chamber. Two, the assessment by the VWU as to whether there is a risk that the review of documents or the material might entail potential re-traumatization of the witness, will be attached as a confidential *ex parte* annex to the request. Three, the Chamber will rule on the application in light of the assessment of the VWU. Four, any so-called limited contact with the calling party if authorized will have to be monitored by the VWU.³

¹ ICC-02/11-01/15-T-12, pp. 108-109.

² ICC-02/11-01/15-399-Conf, para. 7(i).

³ ICC-02/11-01/15-T-12, pp. 108-109.

5. In light of the Chamber's oral ruling, the Prosecution seeks to show portions of a video of the 3 March 2011 women's march in Abobo (Abidjan) [REDACTED]. This is proposed for the following reason:
- a) The video is relevant [REDACTED] as it contains footage of a charged incident [REDACTED];
 - b) The footage includes graphic images of wounded and dead women (the head of one of the victims was severed from her body and other victims are lying dead on the ground).
 - c) [REDACTED].
 - d) The contents of this video will be traumatising to the Witness if it is not shown to her before she enters the court.
 - e) [REDACTED].
6. With respect to the procedure, the Prosecution proposes to present the video to the Witness after she has had the opportunity to read her statement. This meeting would take place in the presence of the VWU (including a support person in case the video causes a traumatic reaction). During this meeting, the Prosecution would show relevant portions of the video to the Witness. The video is eight minutes long and the Prosecution expects to show the original high definition version⁴ and, if necessary, the enhanced version which provides higher graphic quality⁵. However, in light of VWU's assessment, the Prosecution will not show the entire video, but proposes to show excerpts from the beginning of the video up to the 3 minutes 30 seconds mark. The footage beyond this time code includes the shooting as well as footage of dead bodies lying on the ground; these are likely to produce a strong emotional response. No questions may be asked in relation to the content of the

⁴ CIV-OTP-0077-0411.

⁵ CIV-OTP-0082-0357.

video during this viewing session. The Prosecution is limited to inform the Witness that the video is presented to her as it may be shown to her in court. The session will end as soon as the Witness has finished viewing the video.

Urgency

7. In light of the fact that the Witness is [REDACTED] expected to testify as of Monday 8 February 2016, the Prosecution respectfully requests an expedited ruling on the matter.

Relief Sought

8. For the foregoing reasons, the Prosecution respectfully requests that the Trial Chamber grants this application and permits the Prosecution to show Witness P-0190 the above-mentioned video in accordance with the procedure described at paragraph 6 above, or any other procedure ordered by the Trial Chamber.



Fatou Bensouda, Prosecutor

Dated this 10th day of February 2016

At The Hague, The Netherlands