



Original: English

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

Date: 9 March 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 and F available to the Defence and
Legal Representatives**

**Prosecution's Communication of Evidence Disclosed to the Defence on
4 March 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 for
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 Prosecution provides notice of the disclosure of the following packages, on 4 March 2016, to the Defence teams of Charles BLÉ GOUDÉ and Laurent GBAGBO:
 - a. INCRIM package 29, containing 20 items of incriminatory material.¹ Nineteen of these items were disclosed without redactions while one was disclosed with redactions to the metadata only, in accordance with decision ICC-02/11-01/11-737 (“Redaction Protocol”).²
 - b. Rule 77 certification package 31, containing 106 items pursuant to rule 77 of the Rules of Procedure and Evidence (“Rules”).³ Seventy-one of these items were disclosed without redactions, nine items contained redactions to their image only, and two documents contained redactions to their metadata only, in accordance with the Redaction Protocol.
 - c. Rule 77 package 32, containing two items pursuant to rule 77 of the Rules.⁴ Both items were disclosed without redactions.
2. INCRIM package 29 consists of:
 - a. Sixteen transcripts of videos previously disclosed as incriminating evidence and included on the Prosecution’s List of Evidence.⁵ These were disclosed as incriminating evidence following the Trial Chamber’s Third Decision granting their disclosure and addition to the List of Evidence.⁶
 - b. One map of Côte d’Ivoire,⁷ being the subject of an agreed fact.⁸

¹ 20160304 INCRIM Package 29.

² See ICC-02/11-01/11-737-AnxA.

³ 20160304 Rule 77 Certification Package 31.

⁴ 20160304 Rule 77 Package 32.

⁵ CIV-OTP-0088-0763, CIV-OTP-0088-0765, CIV-OTP-0088-0768, CIV-OTP-0088-0771, CIV-OTP-0088-0775, CIV-OTP-0088-0778, CIV-OTP-0088-0780, CIV-OTP-0088-0783, CIV-OTP-0088-0785, CIV-OTP-0088-0788, CIV-OTP-0088-0790, CIV-OTP-0088-0794, CIV-OTP-0088-0796, CIV-OTP-0088-0798, CIV-OTP-0088-0801, CIV-OTP-0088-0804.

⁶ See ICC-02/11-01/15-350-Conf, para. 25.

⁷ CIV-OTP-0002-1076.

⁸ ICC-02/11-01/15-201-Conf-Anx2.

- c. Images extracted from two videos which were already disclosed as incriminatory material and included on the Prosecution's List of Evidence.⁹ These extracts had been forwarded to the Defence by way of courtesy email on 26 February 2016 in relation to the list of material the Prosecution intended to rely on for its examination of Witness P-0625.
 - d. A transcribed version of the visitors logbook from the Presidential Residence.¹⁰ The logbook was previously disclosed as incriminatory material and is included on the Prosecution's List of Evidence.¹¹ The transcript was produced by the Prosecution for use in Court together with the handwritten original.
3. The 106 items contained in Rule 77 certification package 31 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,¹² in conformity with the Trial Chamber's Second Decision related to the ongoing and late disclosure of rule 77 material.¹³ The Prosecution has determined that these documents may be material to the preparation of the Defence and therefore provided them following the Trial Chamber's Third Decision of 30 November 2015,¹⁴ which ordered the Prosecution to comprehensively review its file to certify that no disclosable material had been overlooked. The items consist of:
- a. Twenty-one witness-related documents identified through review of the Prosecution's internal database, mainly investigator reports and related documents;¹⁵
 - b. Forty-six documents received by the Prosecution via eight individual communications under article 15 of the Rome Statute;¹⁶

⁹ CIV-OTP-0043-0269, CIV-OTP-0047-0606.

¹⁰ CIV-OTP-0088-0863.

¹¹ CIV-OTP-0067-0402.

¹² See ICC-02/11-01/15-183-Conf, para. 34.

¹³ See ICC-02/11-01/15-306-Conf, paras. 17-20 and 34.

¹⁴ See ICC-02/11-01/15-350-Conf, para. 59.

¹⁵ Items 1, 6-17 and 72-79 in the Prosecution's List of Disclosed Material.

- c. Thirty-five documents¹⁷ received via emails to the “OTP Information desk”, nineteen¹⁸ of which were provided by Mr Gbagbo’s lawyers in July 2011, and six of which are Prosecution-generated documents relating to the download of video material;¹⁹ and
 - d. Four additional Ringtail documents.²⁰
4. In Rule 77 package 32, the two documents relate to Prosecution witnesses and have recently come into the Prosecution’s possession. One is a press article from a newspaper in relation to Witness P-0625,²¹ and the other is a letter from Witness P-0369’s former employer regarding his testimony.²² These items 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,²³ in conformity with the Trial Chamber’s Second Decision of 21 October 2015 (“Second Decision”) related to the ongoing and late disclosure of rule 77 material.²⁴
5. The disclosed material was provided via TRIM electronically in a format that complies with the e-Court Protocol as approved for the trial stage.²⁵

¹⁶ Items 18-63 in the Prosecution’s List of Disclosed Material.

¹⁷ Items 64-71 and 80-106 in the Prosecution’s List of Disclosed Material.

¹⁸ Items 86 and 89-106 in the Prosecution’s List of Disclosed Material.

¹⁹ Items 64-66 and 68-70 in the Prosecution’s List of Disclosed Material.

²⁰ Items 2-5 in the Prosecution’s List of Disclosed Material.

²¹ CIV-OTP-0088-1346.

²² CIV-OTP-0088-0824.

²³ See ICC-02/11-01/15-183-Conf, para. 34.

²⁴ See ICC-02/11-01/15-306-Conf, paras. 17-20 and 34.

²⁵ See ICC-02/11-01/15-58, para. 24.

Request for Confidentiality

6. Annexes A²⁶, B²⁷, C²⁸, D²⁹, E³⁰ and F³¹ 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 9th day of March 2016

At The Hague, The Netherlands

²⁶ Disclosure note for INCRIM Package 29 provided to the Defence of Laurent Gbagbo on 4 March 2016.

²⁷ Disclosure note for INCRIM Package 29 provided to the Defence of Charles Blé Goudé on 4 March 2016.

²⁸ Disclosure note for Rule 77 Certification Package 31 provided to the Defence of Laurent Gbagbo on 4 March 2016.

²⁹ Disclosure note for Rule 77 Certification Package 31 provided to the Defence of Charles Blé Goudé on 4 March 2016.

³⁰ Disclosure note for Rule 77 Package 32 provided to the Defence of Laurent Gbagbo on 4 March 2016.

³¹ Disclosure note for Rule 77 Package 32 provided to the Defence of Charles Blé Goudé on 4 March 2016.