



Original: English

No.: ICC-02/11-01/15
Date: 2 November 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 to N

**Prosecution's Communication of Evidence Disclosed to the Defence on
3, 14, 17 and 21 October 2016**

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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Detention Section

**Victims Participation and Reparations
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Other

Introduction

1. The Prosecution hereby provides its monthly report relating to disclosures to the Defence teams for Mr Laurent GBAGBO and Mr Charles BLÉ GOUDÉ, on 3 October 2016, 14 October 2016, 17 October 2016 and 21 October 2016.
2. All disclosed material was provided *via* TRIM electronically, in a format that complies with the e-Court Protocol as approved for the trial stage.¹

Request for Confidentiality

3. Annexes A², B³, C⁴, D⁵, E⁶, F⁷, G⁸, H⁹, I¹⁰, J¹¹, K¹², L¹³, M¹⁴ and N¹⁵ appended to this communication contain the disclosure letter and lists provided to the Defence. The Prosecution requests that these annexes be received as “Confidential” since they relate to *inter partes* disclosure.

¹ See ICC-02/11-01/15-58, para. 24.

² Disclosure letter and list for Rule 77 Package 48 provided to the Defence of Laurent Gbagbo on 3 October 2016.

³ Disclosure letter and list for Rule 77 Package 48 provided to the Defence of Charles Blé Goudé on 3 October 2016.

⁴ Disclosure letter and list for INCRIM Package 50 provided to the Defence of Laurent Gbagbo on 14 October 2016.

⁵ Disclosure letter and list for INCRIM Package 50 provided to the Defence of Charles Blé Goudé on 14 October 2016.

⁶ Disclosure letter and list for Rule 77 Package 49 provided to the Defence of Laurent Gbagbo on 14 October 2016.

⁷ Disclosure letter and list for Rule 77 Package 49 provided to the Defence of Charles Blé Goudé on 14 October 2016.

⁸ Disclosure letter and list for INCRIM Package 51 provided to the Defence of Laurent Gbagbo on 17 October 2016.

⁹ Disclosure letter and list for INCRIM Package 51 provided to the Defence of Charles Blé Goudé on 17 October 2016.

¹⁰ Disclosure letter and list for Rule 77 Package 50 provided to the Defence of Laurent Gbagbo on 17 October 2016.

¹¹ Disclosure letter and list for Rule 77 Package 50 provided to the Defence of Charles Blé Goudé on 17 October 2016.

¹² Disclosure letter and list for Rule 77 Package 51 provided to the Defence of Laurent Gbagbo on 21 October 2016.

¹³ Disclosure letter and list for Rule 77 Package 51 provided to the Defence of Charles Blé Goudé on 21 October 2016.

¹⁴ Disclosure letter and list for Metadata Update Package provided to the Defence of Laurent Gbagbo on 21 October 2016.

¹⁵ Disclosure letter and list for Metadata Update Package provided to the Defence of Charles Blé Goudé on 21 October 2016.

Disclosure of 3 October 2016

4. The Prosecution provides notice of the disclosure, on 3 October 2016, to the Defence teams for Mr Gbagbo and Mr Blé Goudé, of Rule 77 package 48,¹⁶ containing one item. The item contains redactions to its content only, in accordance with decision ICC-02/11-01/11-737 (“Redaction Protocol”¹⁷). The item is:
 - a. An investigator’s report, dated 3 October 2016, related to a Prosecution Witness. Summary details are provided in the disclosure letter and list at Confidential Annexes A and B.

Disclosure of 14 October 2016

5. The Prosecution provides notice of the disclosure, on 14 October 2016, to the Defence teams for Mr Gbagbo and Mr Blé Goudé, of INCRIM package 50,¹⁸ containing 13 items. All items were disclosed in unredacted form. The package consisted of:
 - a. Four transcripts of two videos¹⁹ previously disclosed as incriminating evidence and included in the List of Evidence;²⁰ and
 - b. Nine French translations of ONUCI reports²¹ previously disclosed as incriminating evidence and included in the List of Evidence.²²
6. Summary details are provided in the disclosure letter and list at Confidential Annexes C and D.

¹⁶ Annexes A and Annex B.

¹⁷ See ICC-02/11-01/11-737-AnxA.

¹⁸ Annexes C and Annex D.

¹⁹ CIV-OTP-0088-0029, CIV-OTP-0062-1007 and CIV-OTP-0082-0482.

²⁰ Items 1, 11, 12 and 13 on the Prosecution’s accompanying list of documents.

²¹ CIV-OTP-0044-0316, CIV-OTP-0044-0852, CIV-OTP-0044-0888, CIV-OTP-0044-0903, CIV-OTP-0044-0948, CIV-OTP-0044-0996, CIV-OTP-0044-1004, CIV-OTP-0044-1024, CIV-OTP-0044-1341.

²² Items 2 to 10 on the Prosecution’s accompanying list of documents.

7. The Prosecution provides notice of the disclosure, on 14 October 2016, to the Defence teams for Mr Gbagbo and Mr Blé Goudé, of Rule 77 package 49,²³ containing 54 items, including 10 items without redactions. Thirty-four items contain redactions to their content and metadata, and ten items contain redactions to their content only in accordance with the Redaction Protocol. The package consisted of:
- a. Forty-five psycho-social assessment reports²⁴ related to several Prosecution witnesses. The respective dates of these reports are as indicated in the list at Confidential Annexes E and F. These documents were disclosed following review, and now on an ongoing basis, in light of the Chamber's oral decision of 1 July 2016;²⁵
 - b. An investigator's report, dated 26 January 2016, related to a Prosecution Witness;²⁶
 - c. Four press articles, and a photo extracted from one of them.²⁷ The Prosecution became aware of the online existence of these documents on 7 October 2016, while running Internet searches. The Prosecution discloses these documents as part of its ongoing review of material relating to its case and accused;

²³ Annexes E and Annex F.

²⁴ Items 1 to 45 in the Prosecution's List of Disclosed Material.

²⁵ See ICC-02/11-01/15-T-57-ENG, p. 38, ln.7-20.

²⁶ Item 46 in the Prosecution's List of Disclosed Material.

²⁷ Items 48 to 52 in the Prosecution's List of Disclosed Material. The Prosecution notes that, in its disclosure letter of 14 October 2016, it erroneously describes item 52 as a photo extracted from social media. Rather, item 52 is a photo extracted from item 51.

- d. An investigator's report, dated 10 October 2016, related to a Prosecution Witness;²⁸ and
 - e. Two documents – one post from social media, and one photo extracted from the post. Whilst previously aware of the existence of this post, the Prosecution determined it to be subject to disclosure under rule 77 as part of its ongoing review of material relating to its case and accused.²⁹
8. Summary details are provided in the disclosure letter and list at Confidential Annexes E and F.

Disclosure of 17 October 2016

9. The Prosecution provides notice of the disclosure, on 17 October 2016, to the Defence teams for Mr Gbagbo and Mr Blé Goudé, of INCRIM package 51³⁰ which contains one French translation of a media article,³¹ previously disclosed as incriminating evidence and included in the List of Evidence. The item was disclosed in unredacted form. Summary details are provided in the disclosure letter and list at Confidential Annexes G and H.
10. The Prosecution provides notice of the disclosure, on 17 October 2016, to the Defence teams for Mr Gbagbo and Mr Blé Goudé, of Rule 77 package 50³² which contains an expert report. This document came into the Prosecution's possession on 11 October 2016 and was already provided to the Defence *via* email on 12 October 2016. Summary details are provided in the disclosure letter and list at Confidential Annexes I and J.

²⁸ Item 47 in the Prosecution's List of Disclosed Material.

²⁹ Items 53 and 54 in the Prosecution's List of Disclosed Material. The Prosecution notes that, in its disclosure letter of 14 October 2016, it erroneously stated that it became aware of the existence of the post on 6 October 2016.

³⁰ Annexes G and Annex H.

³¹ CIV-OTP-0062-0989.

³² Annexes I and Annex J.

Disclosure of 21 October 2016

11. The Prosecution provides notice of the disclosure, on 28 September 2016, to the Defence teams for Mr Gbagbo and Mr Blé Goudé, of Rule 77 package 51,³³ containing 11 items, including 2 items without redactions. Four items contain redactions to their content and metadata and five items contain redactions to their content only in accordance with the Redaction Protocol. The package consisted of:
- a. A report dated 17 April 2003.³⁴ The document came into the Prosecution's possession on 1 November 2011 and it has now been assessed by the Prosecution as subject to disclosure under rule 77;
 - b. Two lists³⁵ which the Prosecution came into the possession of in October 2016;
 - c. Transcript of testimony in domestic proceedings;³⁶
 - d. The most recent psycho-social reports related to Prosecution witnesses, as identified at Confidential Annexes K and J,³⁷ disclosed in light of the Chamber's oral decision of 1 July 2016;³⁸
 - e. Recording of a security assessment,³⁹ dated 28 September 2014, disclosed in conformity with the Chamber's oral decision of 18 October 2016;⁴⁰ and
 - f. Screening notes of a non-testifying Prosecution witness.⁴¹ These screening notes were generated in August 2011 and have now been assessed by the Prosecution as subject to disclosure under rule 77 in light of the upcoming testimony of a Prosecution Witness.

³³ Annexes K and Annex L.

³⁴ Item 1 in the Prosecution's List of Disclosed Material.

³⁵ Items 6 and 7 in the Prosecution's List of Disclosed Material.

³⁶ Item 5 in the Prosecution's List of Disclosed Material.

³⁷ Items 8 to 11 in the Prosecution's List of Disclosed Material.

³⁸ See ICC-02/11-01/15-T-57-ENG, p. 38, ln.7-20.

³⁹ Item 4 in the Prosecution's List of Disclosed Material.

⁴⁰ See ICC-02/11-01/15-T-87-ENG, p. 58 to p. 60. This item was also provided to the Defence teams in hard copy on 20 October 2016.

⁴¹ Items 2 and 3 in the Prosecution's List of Disclosed Material.

12. Summary details are provided in the disclosure letter and list at Confidential Annexes K and L.

13. The Prosecution provides notice of the disclosure, on 21 October 2016, to the Defence teams for Mr Gbagbo and Mr Blé Goudé, of a Metadata Update package⁴² containing six items, already disclosed as incriminating evidence and on the List of Evidence. The “Witness Relates Field” metadata field was populated for documents related to Witness P-0483. Summary details are provided in the disclosure letter and list at Confidential Annexes M and N.



Fatou Bensouda, Prosecutor

Dated this 2nd day of November 2016

At The Hague, The Netherlands

⁴² Annexes M and N.