

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: **23 March 2018**

TRIAL CHAMBER I

Before: Judge Cuno Tarfusser, Presiding Judge
Judge Olga Herrera-Carbuccia
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 Public Annex A and Confidential Annex B

Prosecution's application for the introduction of documentary evidence under paragraphs 43-44 of the directions on the conduct of the proceedings and as identified in its Mid-Trial Brief

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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Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

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I. INTRODUCTION

1. The Prosecution seeks to introduce and submit 26 documents (“Items”) under paragraphs 43 and 44 of the directions on the conduct of the proceedings,¹ that were cited as supporting sources in the Prosecution’s Mid-Trial Brief.²

2. The Items should be recognised as submitted because they are relevant to, and probative of, issues in the case. The Items are listed in tables provided in Annexes A and B, detailing their relevance and probative value, including authenticity.

II. CONFIDENTIALITY

3. Annex B is filed as “Confidential” pursuant to regulation 23*bis*(1) of the Regulations of the Court, as it contains sensitive information on deceased victims of the post-election violence.

III. PROCEDURAL HISTORY

4. On 19 March 2018, the Prosecution filed its Mid-Trial Brief.³ In its cover filing⁴ – and in the Mid-Trial Brief itself⁵ and an annex thereto⁶ – it indicated that it would file a motion requesting the submission of 24 documents on its List of Evidence but that had not, thus far, been submitted or sought to be submitted. Upon submission of the Mid-Trial Brief and further verifications, the Prosecution has identified two additional transcripts of videos not formally submitted in its past requests.⁷

¹ ICC-02/11-01/15-498-AnxA (“Directions”).

² ICC-02/11-01/15-1136-Conf-Anx1 and ICC-02/11-01/15-1136-Conf-AnxE.1.

³ ICC-02/11-01/15-1124, para. 10 and p. 8.

⁴ ICC-02/11-01/15-1136, para.12.

⁵ ICC-02/11-01/15-1136-Conf-Anx-1.

⁶ ICC-02/11-01/15-1136-Conf-AnxE.1.

⁷ For past requests, see ICC-02/11-01/15-895, ICC-02/11-01/15-998 (supplemented by ICC-02/11-01/15-1089) and ICC-02/11-01/15-1092.

IV. SUBMISSIONS

5. The Prosecution tenders the Items listed at Annexes A and B under paragraphs 43-44 of the Directions and requests that they be considered as submitted. The listed Items are all available to the Trial Chamber, the Parties and participants in eCourt.

6. Pursuant to the requirements of paragraph 44 of the Directions, the Prosecution provides, at each annex, (i) the relevance and probative value, including authenticity; and (ii) the first disclosure date of the items as incriminatory evidence.⁸

7. The Items are placed in different annexes as follows:

- i) Annex A consists of eight Items referenced in the Mid-Trial Brief itself.⁹ Four of them are transcripts of video evidence already submitted. The remaining four items consist of i) minutes of a meeting; ii) a *fil conducteur* relating to an RTI broadcast; and iii) two decrees in relation to requisition of the armed forces prior to the 2010-2011 crisis. They are relevant to the development and implementation of the common plan. The specific relevance of each Item is developed in the table provided in Annex A. Following the approach taken by the Prosecution in its April Submission—where it made observations regarding the probative value of documents obtained from particular collections—the collections to which these items belong are indicated.¹⁰
- ii) Annex B consists of 18 Items listed in Annex E.1 to the Mid-Trial Brief (victims list for 16-19 December 2010 incident).¹¹ Three of the Items are

⁸ Directions, para. 44. Although the Prosecution is mindful of regulation 36(2)(b) of the Regulations of the Court and the main submission is contained in the April Submission and herein at paragraphs 9-15, the Annexes provide the information specifically as to each Item's relevance and probative value including authenticity.

⁹ ICC-02/11-01/15-1136-Conf-Anx-1.

¹⁰ ICC-02/11-01/15-895, paras. 11 and 23.

¹¹ ICC-02/11-01/15-1136-Conf-AnxE.1.

INTERFU files for individual deceased persons, and fifteen are forensic medical reports (*fiches d'examen externe de corps*) by the *Institut de Médecine Légale*. These *fiches* were not submitted in their entirety during the live testimony of Witness P-0564; instead – in line with judicial economy – the witness identified one such *fiche*,¹² laying the basis for the submission of the additional *fiches*. All 18 Items are relevant to the issue of killings during the 16-19 December 2010 incident, and pertain to a victim for which there is already evidence submitted on the record.

V. CONCLUSION

8. For the foregoing reasons, the Prosecution tenders the Items listed at Annexes A and B and requests that the Trial Chamber recognise them as submitted.



Fatou Bensouda
Prosecutor

Dated this 23rd day of March 2018

At The Hague, The Netherlands

¹² See Witness P-0564, T-219-FRA-ET, pp. 17-21, 27-28.