



Original: English

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

Date: 29 August 2014

PRE-TRIAL CHAMBER I

Before: Judge Silvia Fernández de Gurmendi, Single Judge

SITUATION IN THE REPUBLIC OF CÔTE D’IVOIRE

IN THE CASE OF

THE PROSECUTOR v. CHARLES BLÉ GOUDÉ

Public

Decision on the Prosecutor’s request to add an item to her list of evidence

Decision to be notified, in accordance with Regulation 31 of the *Regulations of the Court*, to:

The Office of the Prosecutor

Fatou Bensouda

James Stewart

Counsel for the Defence

Nicholas Kaufman

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

Paolina Massidda

**The Office of Public Counsel for the
Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Herman von Hebel

Detention Section

Victims and Witnesses Unit

Others

**Victims Participation and Reparations
Section**

Judge Silvia Fernández de Gurmendi, Single Judge for Pre-Trial Chamber I (the “Chamber”) of the International Criminal Court, responsible for carrying out the functions of the Chamber in relation to the situation in the Republic of Côte d’Ivoire and the cases emanating therefrom,¹ issues the following decision on the Prosecutor’s request to add an item to her list of evidence, contained within the submission entitled “Prosecution’s Notice that it is not relying on certain documents and Request for an extension of time to include one document on its list of evidence” (the “Submission”), filed on 27 August 2014.²

1. On 22 August 2014, the Prosecutor filed the document containing the charges (the “DCC”)³ and the list of evidence which she intends to present at the confirmation of charges hearing (the List of Evidence).⁴

2. On 27 August 2014 the Prosecutor filed the Submission, *inter alia*, informing the Chamber that five documents cited in the DCC are not included on the List of Evidence, as a result of the fact that electronic extraction of the evidence registration numbers from the DCC occurred prior to the DCC being finalised.⁵ The Prosecutor submits that she does not intend to rely on four of the said documents (CIV-OTP-0003-0551, CIV-OTP-0047-0444, CIV-OTP-0054-0803 and CIV-OTP-0063-3178) but requests an extension of time under regulation 35(2) of the Regulations of the Court (the “Regulations”) to add document CIV-OTP-0035-1933 to the List of Evidence.⁶ In support of this request, the Prosecutor refers to the document’s “high evidentiary value as it is the sole item of evidence that supports the factual allegation that Laurent

¹ “*Décision portant désignation d’un juge unique*”, ICC-02/11-02/11-9.

² ICC-02/11-02/11-129.

³ ICC-02/11-02/11-124-AnxI (public, without footnotes); ICC-02/11-02/11-124-Conf-Anx2 (confidential, with footnotes).

⁴ ICC-02/11-02/11-124-Conf-Anx3-Corr.

⁵ Submission, para. 5.

⁶ *Ibid.*, paras 6-7.

Gbagbo gave a speech before the United Nations (“UN”) in 2007 asking for the lifting of UN sanctions against Charles Blé Goudé”.⁷ The Prosecutor also states that the document in question was disclosed to the Defence on 9 May 2014 pursuant to rule 77 of the Rules of Procedure and Evidence (the “Rules”).

3. The Single Judge notes articles 61(3) of the Rome Statute, rule 121(3) of the Rules and regulation 35 of the Regulations.

4. The present request is the consequence of an error on the part of the Prosecutor in the technical compilation of the List of Evidence. While the Single Judge emphasises the importance of the timely provision of the list of evidence pursuant to rule 121(3) of the Rules, which is among the crucial documents that shape the discussion at the confirmation of charges hearing, the error is minor and no bad faith can be discerned.

5. In addition, the Single Judge notes that the error which the Prosecutor seeks to correct concerns a single item of evidence which was disclosed to the Defence on 9 May 2014. The Prosecutor also put the Defence on notice of her intention to rely on the item in the DCC filed on 22 August 2014. For these reasons, the Single Judge is of the view that no prejudice would occur to the Defence if the Prosecutor is permitted to rely at the confirmation of charges hearing on the document in question.

FOR THESE REASONS, THE SINGLE JUDGE

AUTHORISES the Prosecutor to rely on item CIV-OTP-0035-1933 at the confirmation of charges hearing.

⁷ *Ibid.*, para. 7.

Done in both English and French, the English version being authoritative.



Judge Silvia Fernández de Gurmendi
Single Judge

Dated this 29 August 2014

At The Hague, The Netherlands