

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **09/09/2014**

PRE-TRIAL CHAMBER I

Before: Judge Silvia Fernández de Gurmendi, Presiding Judge
Judge Ekaterina Trendafilova
Judge Christine Van den Wyngaert

SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE

IN THE CASE OF THE PROSECUTOR v. CHARLES BLÉ GOUDÉ

Confidential Document
ex parte Prosecution and Defence only

Notice of Alibi

Source: Defence for Charles Blé Goudé

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

Fatou Bensouda

James Stewart

Eric Macdonald

Counsel for the Defence

Nicholas Kaufman

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

Unrepresented

Applicants

(Participation/Reparation)

**The Office of Public Counsel for
Victims**

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Herman von Hebel

Counsel Support Section

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations Other
Section**

Pursuant to Rule 79(1)(a) of the Rules of Procedure, Charles Blé Goudé ("the Suspect") is required to provide notification of an alibi should he wish to raise such a plea.

1. On 8 September 2014, the Defence notified the Prosecutor for the second time¹ that on the date of the 5th incident detailed in the document containing the charges;² namely, the "*l'attaque sur Yopougon le ou vers le 12 Avril 2011*" – the Suspect was in Ghana.

2. The Suspect left Cote d'Ivoire on or about 28 March 2011 and no later than 29 March 2011.

3. This alibi will be supported by evidence provided to the Defence by the Prosecutor herself. The Prosecutor has been aware of this alibi since January 2012 at the latest having received the information from witness CIV-OTP-P-0068.³

4. This notice is provided out of an abundance of caution for two reasons. Firstly, the Defence notes that the obligations flowing from Rule 79(1)(a) pertain to an "accused" and not to a "suspect". Indeed, the Prosecutor's investigation may be deemed "ongoing" until trial when a suspect becomes an accused and she may no longer, as a rule, present new evidence. Secondly, the Prosecutor has failed to clarify to the Defence whether she views the Suspect's presence in Côte d'Ivoire as relevant to his individual responsibility with respect to the 5th incident. Should the Prosecutor argue that the Suspect is liable for the 5th incident – wherever he was on the African continent – then she will not be prejudiced by failure to provide notice of an alibi.

5. This document is filed "confidential *ex parte* Prosecution and Defence only" because it refers to evidence which is not available to OPCV.



Nicholas Kaufman
Counsel for Charles Blé Goudé

Done in Jerusalem, Israel
Tuesday, September 09, 2014

¹ See also: ICC-02/11-02/11-94-Conf-Exp at paragraph 5.

² ICC-02/11-02/11-124-Conf.

³ CIV-OTP-0028-0023-R01 at paragraph 20.