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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

Public redacted version of "Prosecution's Request for an extension of time for the submission of its video evidence", 29 May 2017

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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Introduction

1. The Prosecution applies under regulation 35 of the Regulations of the Court (“Regulations”) and article 64(6)(f) of the Rome Statute (“Statute”), for an extension of time to comply with the deadline of 30 June 2017 for the submission of its video evidence.¹ Specifically, it seeks an extension to 31 July 2017.
2. This request for variation is based on a combination of factors, namely the size and complexity of the video collection in question, and the significant competing responsibilities during the coming weeks especially in light of the recent change of order of witnesses.

Confidentiality

3. This filing is classified as confidential, as it refers to information that is not yet available to the public. The Prosecution files a public redacted version concurrently.

Procedural History

4. On 23 January 2017, the Chamber ordered the Prosecution to file a consolidated submission of documentary evidence by 28 February 2017 (“23 January 2017 order”).²
5. On 8 February 2017, the Prosecution applied for an extension of time to comply with the 23 January 2017 order (“8 February 2017 request for extension”).³ It sought to extend the deadline to 28 April 2017 in respect of documentary

¹ ICC-02/11-01/15-119-Red-ENG, p. 1, ln. 23 to p. 2, ln. 2.

² ICC-02/11-01/15-787, para. 11.

³ ICC-02/11-01/15-798.

evidence, and to 30 June 2017 in respect of video evidence. The Chamber granted this application on 9 February 2017 (“Order of 9 February 2017”).⁴

6. The Prosecution duly filed its submission of documentary evidence on 28 April 2017.⁵
7. On 5 April 2017, the Presiding Judge directed the Prosecution to amend its witness calling order [REDACTED].⁶
8. On 11 April 2017, the Prosecution submitted its new calling order of witnesses.⁷ [REDACTED].
9. On 29 May 2017, the Prosecution also informed the Chamber of the difficulties it was encountering with the scheduling of its witnesses. A number of alternatives were discussed which also impacted the Prosecution preparation of the examination of its witnesses and the resources available to finalise the submission of its video evidence by the set deadline of 30 June 2016.⁸

Submissions

Size and complexity of the video collection

10. The Prosecution refers to the submissions made in paragraphs 7 to 14 of its 8 February 2017 request for extension, as to the size of the video collection and the complexity of the task, given certain particularities of the video collection.
11. From its work to date, including assessing the duplication of content, the Prosecution is now able to provide a more detailed estimation of the size of the video collection, and the proportion it seeks to rely upon. The collection of RTI videos alone consists of more than 125 individual video items (that is, over 125 separate ERNs) between the date range of 28 November 2010 and 3 April 2011.

⁴ ICC-02/11-01/15-119-Red-ENG, p. 1, ln. 23 to p. 2, ln. 2.

⁵ ICC-02/11-01/15-895.

⁶ ICC-02/11-01/15-T-144-CONF-ENG, p. 94, ln. 25 to p. 95, ln. 5.

⁷ ICC-02/11-01/15-873-Conf.

⁸ ICC-02/11-01/15-T-162-ENG, p. 1, ln. 1 to p. 8, ln. 8.

Each video item normally contains between about thirty minutes and two hours of footage, broken down by excerpts – or individual news stories – of about two-three minutes each. The Prosecution estimates, on average, that it would intend to rely upon about 30 minutes of footage per video item. This means that the Prosecution will be making submissions on 1500 or more individual excerpts, representing a total of more than 3000 minutes. The Prosecution will argue that these excerpts, when pieced together into a collection, show the evolving narrative of events, on the pro-Gbagbo side, during almost the entire post-electoral crisis.

12. In addition to the RTI collection of 125 video items, there are also an additional 30 videos containing potentially additional RTI content for submission, together with approximately 60 other videos for submission not consisting of RTI footage.
13. The Prosecution bears the onus of proving its case beyond a reasonable doubt. In particular, it is required, in accordance with the Chamber's guidance, to make "sufficiently detailed and precise submissions"⁹ as to each individual excerpt or video. This means, in practical terms, that multiple levels of review and supervision are required to ensure that the submissions on each individual excerpt or video reach the level of depth required. The size of the video collection, combined with the level of detail of the required analysis, makes this a time-consuming exercise.

Competing tasks

14. While the Prosecution was already aware of the scale of the exercise when requesting its first extension, it had not at that point anticipated the current pace of proceedings and the witness order now in place. Whereas the Prosecution had anticipated that [REDACTED] would not be heard until approximately October-November 2017, [REDACTED]. These witnesses, as well as the [REDACTED],

⁹ ICC-02/11-01/15-773, para. 38.

require preparation and each will monopolise the time of multiple team members.

15. Given the size of the exercise, completing this task when most of the team is busy preparing [REDACTED] will prove most difficult. An extension of time of one month will allow the Prosecution to prepare the testimony of the witnesses to be called before the summer Court recess properly, and to complete the submission of its video evidence.

Conclusion

16. For all of the foregoing reasons, the Prosecution seeks an extension of time until 31 July 2017 to file its submission of its video evidence.



Fatou Bensouda, Prosecutor

Dated this 29th day of May 2017

At The Hague, The Netherlands