

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: **ICC-02/11-01/11**
Date: **19 December 2013**

PRE-TRIAL CHAMBER I

Before: Judge Silvia Fernández de Gurmendi, Presiding Judge
Judge Hans-Peter Kaul
Judge Christine Van den Wyngaert

SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE

IN THE CASE OF THE PROSECUTOR v. LAURENT GBAGBO

Public

**Prosecution's request for an extension of the page limit for the Amended
Document Containing the Charges**

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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Other

Introduction

1. On 3 June 2013, the Chamber adjourned the hearing on the confirmation of charges and requested the Prosecution to provide further evidence or conduct further investigations and adopted for that purpose a new disclosure calendar (the “Decision of 3 June 2013”).¹ The disclosure calendar included, *inter alia*, a deadline of 15 November 2013 for the Prosecution to file with the Chamber an Amended Document Containing the Charges (the “Amended DCC”) and amended list of evidence.
2. On 8 November 2013, the Chamber issued the “Decision on the ‘Prosecution’s request pursuant to Regulation 35 for variation of time limit to file updated document containing the charges, list of evidence and consolidated elements-based chart’”,² suspending the calendar referred to above.
3. On 17 December 2013, the Chamber issued the “Decision establishing a calendar for further proceedings”,³ pursuant to which the Prosecution must submit by 13 January 2014 its Amended DCC, amended list of evidence and an updated consolidated Elements Based Chart.
4. Pursuant to regulation 37(2) of the Regulations of the Court, the Prosecution requests an extension of the page limit, applicable to the Amended DCC with footnotes to 245 pages or in the alternative, to 100 pages if it is submitted without footnotes.

¹ ICC-02/11-01/11-432.

² ICC-02/11-01/11-557.

³ ICC-02/11-01/11-576.

Submissions

5. This case continues to be very complex and that complexity has increased substantially in light of the Decision of 3 June 2013, the continuing investigation and the further evidence obtained. The Prosecution observes that since the Decision of 3 June 2013, it has disclosed more than 1400 incriminating documents to the Defence, including transcripts of interviews and statements of more than 30 witnesses.

6. In the anticipated Amended DCC, the Prosecution endeavours to respond to the issues and questions raised by the Chamber in its Decision of 3 June 2013, including, *inter alia*, the following:
 - a. Further evidence as to background and context;
 - b. Further evidence as to the widespread or systematic nature of the attack;
 - c. Further evidence as to organised structure of power and the inner circle;
 - d. Further evidence as to the composition and structure of the pro-GBAGBO forces and Laurent GBAGBO's control over these forces;
 - e. Further evidence as to the content of meetings; and,
 - f. Further evidence as to additional modes of liability, including pursuant to Article 28.

7. Consequently, the requested extension of the applicable page limit is required to describe, in detail, the relevant facts and circumstances, and to thus provide the Defence with detailed notice of the charges.

As to the number of pages

8. The Prosecution observes that the Chamber on 18 December 2013 expressed an interest in having the Amended DCC filed with footnotes referring to the evidence relied upon.⁴ The Chamber also asked to be informed of the number of pages that would be necessary to submit such a footnoted version.
9. The Prosecution informs the Chamber that it is indeed able to file the Amended DCC with footnotes. However, taking into account the numerous footnotes (over 700), the word count would be well in excess of the limit of 300 words per page as required by Regulation 36.
10. Taking into consideration these format requirements when calculating the required number of pages, the Prosecution estimates that it would require between 240 and 245 pages in order to provide the Chamber with an Amended DCC with footnotes.
11. Consequently, the Prosecution requests a total extension of the applicable page limit, for the Amended DCC, with footnotes, to 245 pages.

Other considerations

Notice as to the language of the footnotes

12. The Prosecution recalls that the Amended DCC is submitted in French. However the footnoted version, which was previously provided as a courtesy copy, contains footnotes that are predominantly drafted in English. This is because the English language is primarily used for the registration of the metadata in the eCourt (or Ringtail) database. The main information contained in these footnotes refers to the ERN (or numbers) of a document, a page or line number. Additionally, all ERNs are hyperlinked to the actual documents as found in

⁴ E-mail exchange between the Prosecution and the Senior Legal Advisor of the Pre-Trial Division; with copy of the exchange forwarded to the Defence and the OPCV.

eCourt. Consequently, having footnotes with some English text causes no prejudice to the Defence's right to be informed of the facts and circumstances of the charges.

The confidential nature of some of the information in the footnotes

13. Since the footnotes pertain to and often describe evidence which is to be treated as confidential, the Prosecution anticipates the need to apply redactions in order to file a public version of an Amended DCC with footnotes. In order to submit such public version, the Prosecution would need a reasonable delay to properly review each footnote and apply the necessary redactions. Unfortunately, due to the current judicial court recess and competing tasks, the Prosecution would not be in a position to submit such public redacted version by 13 January 2014.
14. The Prosecution will file as soon as practicable, a public redacted version of the Amended DCC with footnotes.

Conclusion

15. For the reasons set out above, the Prosecution requests the Chamber to grant, pursuant to Regulation 37(2), an extension of the page limit applicable to the Amended Document Containing the Charges to 245 pages. In the alternative, grant an extension of the page limit of 100 pages to the Amended Document Containing the Charges (without footnotes).



Fatou Bensouda, Prosecutor

Dated this 19th day of December 2013

At The Hague, The Netherlands