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

**With Annexes 1 and 2 – Confidential and
Annex 3 – Confidential, *ex parte*, only available to the Office of the Prosecutor**

**Prosecution's request pursuant to Regulation 35 for the extension of time for
disclosure and for variation of time limit to submit a request for redactions**

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. On 3 June 2013, Pre-Trial Chamber I 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").¹ The Chamber also requested the Prosecution to submit "as soon as practicable and no later than Friday, 5 July 2013 any requests for redactions with regards to the evidence which is in her possession and on which she intends to rely for the purposes of the confirmation of charges".²
2. Pursuant to Regulation 35(2) of the Regulations of the Court, the Prosecution hereby requests the Chamber for an extension of the time limit to disclose one video, which was collected before the 3 June 2013. Without presuming the decision of the Chamber on this request, the Prosecution also simultaneously requests permission to redact information to the metadata of the said video.

Confidentiality

3. Pursuant to Regulation 23*bis* of the Regulations of the Court and the instruction of the Single Judge in her Decision establishing a disclosure system,³ the Prosecution files annexes 1 and 2 as confidential since they relate to evidentiary material. Annex 3 is classified as confidential, *ex parte*, only available to the Prosecution, as knowledge by the Defence of its content would defeat the purpose of the request for redactions.

¹ ICC-02/11-01/11-432.

² ICC-02/11-01/11-432, page 22, c)(ii).

³ ICC-02/11-01/11-30, paras.54-55.

Application to extend the time limit for disclosure

4. The video CIV-OTP-0043-0269 was registered in the Prosecution's evidence management database on 28 May 2013.⁴ However, the video was not part of the Prosecution's redactions request dated 5 July 2013,⁵ due to an oversight. The Prosecution became aware of this oversight when it reviewed for disclosure the transcript of the video,⁶ which was only received on 14 August 2013.
5. A copy of the video is provided in Annex 1. Annex 1A is the image of the DVD that contains the video and Annex 1B is the video file itself. The transcript of the video is also provided in Annex 2.
6. The Prosecution submits that the Defence will not suffer any prejudice as a result of this late disclosure. The video lasts an hour and three minutes and is provided with the transcript of 27 pages. Some excerpts of this video were already disclosed to the Defence as follows:
 - a. The interview of Sagou Charles and the speech of Charles Blé Goudé which appears from 00:09:36 to 00:15:06 of video CIV-OTP-0043-0269⁷ is already disclosed in video CIV-OTP-0002-0351.⁸
 - b. Part of the speech of Serge Koffi, which appears from 00:48:37 to 00:51:47 of video CIV-OTP-0043-0269⁹ is already disclosed in video CIV-OTP-0026-0020, from 01:36:15 to 01:38:35.¹⁰

⁴ Also known as Ringtail.

⁵ ICC-02/11-01/11-450.

⁶ CIV-OTP-0047-0611.

⁷ See also transcript CIV-OTP-0047-0611 of video CIV-OTP-0043-0269, p. 0617, line 175 to p. 0618, line 241.

⁸ See also transcript CIV-OTP-0007-0177 of video CIV-OTP-0002-0351, p. 0177-0180. CIV-OTP-0002-0351 was on the amended list of evidence filed on 17 January 2013.

⁹ See also transcript CIV-OTP-0047-0611 of video CIV-OTP-0043-0269, p. 0633, lines 801-836.

¹⁰ See also transcript CIV-OTP-0044-2534 of video CIV-OTP-0026-0020, p. 2564, line 1203 to p. 2565, line 1231. This video will be added to the amended list of evidence to be filed by 15 November 2013.

- c. The speech of Laurent Gbagbo which appears from 00:52:40 to 01:00:30 of video CIV-OTP-0043-0269¹¹ is already disclosed in video CIV-OTP-0018-0005 from 00:07:40 to 00:15:25.¹²

Additionally, since the deadline for the amended list of evidence is no later than 15 November 2013,¹³ the Defence will have ample time to analyse the video.

7. The video is useful to understand some of the context and facts of the case and is relevant to the Chamber's assessment of the Prosecution's evidence. In particular, Serge Koffi's speech in relation to the population of Abobo¹⁴ shows the mindset of one of the leaders of the young patriots during the post-electoral violence in Côte d'Ivoire.

Request for redactions to metadata

8. Without presuming the Chamber's decision on the Prosecution's request for an extension of the time limit submitted above, in order to expedite the disclosure process if granted, the Prosecution hereby seeks the authorisation to redact the name of the investigator who obtained the video and the identity of the provider from its metadata. These redactions are sought pursuant to Rule 81(2) to protect further and ongoing investigations.
9. The redactions sought are consistent with prior Decisions of the Chamber that authorised similar redactions for other evidentiary material, including to names of investigators and sources.¹⁵

¹¹ See also transcript CIV-OTP-0047-0611 of video CIV-OTP-0043-0269, p. 0634, line 861 to p. 0635, line 914.

¹² See also transcript CIV-OTP-0019-0007 of video CIV-OTP-0018-0005, p. 0009, line 54 to p. 0010, line 106. CIV-OTP-0018-0005 was on the amended list of evidence filed on 17 January 2013.

¹³ ICC-02/11-01/11-432, p. 23, c) ix).

¹⁴ See video, from 00:50:21 to 00:50:48. See also transcript CIV-OTP-0047-0611, p. 0633, lines 820-823.

¹⁵ ICC-02/11-01/11-74-Red, ICC-02/11-01/11-106 and ICC-02/11-01/11-465 for instance.

10. Annex 3 to this filing contains a table that identifies the precise redactions requested to the metadata of the video and provides the factual and legal basis for these redactions.

Conclusion

11. For the reasons set out above, the Prosecution requests the Chamber to:

- a. grant, pursuant to Regulation 35, the extension of time for the disclosure of the video submitted in Annex 1;
- b. grant, pursuant to Rule 81(2), the Prosecution's request for redactions to the metadata of the video in Annex 1, as described in Annex 3.



Fatou Bensouda, Prosecutor

Dated this 11th day of September 2013

At The Hague, The Netherlands