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TRIAL CHAMBER I

Before: Judge Geoffrey Henderson, Presiding Judge
Judge Olga Herrera Carbuccion
Judge Bertram Schmitt

SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE

IN THE CASE OF

THE PROSECUTOR

v. LAURENT GBAGBO and CHARLES BLÉ GOUDÉ

Public

Prosecution's Request for an Extension of the Page Limit

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 7 May 2015, the Trial Chamber ordered the Office of the Prosecutor (“Prosecution”) to file a Pre-Trial Brief.¹ Pursuant to regulation 37(2) of the Regulations of the Court (“RoC”), the Prosecution requests that the 20-page limit prescribed in regulation 37(1) of the RoC be extended to a maximum of 300 pages (with footnotes) for the Pre-Trial Brief.

Prosecution Submissions

2. On 7 May 2015, the Chamber ordered that the Pre-Trial Brief include “for each count, a summary of the relevant evidence to be relied on, explaining how the evidence relates to the charges, as confirmed by the Pre-Trial Chamber”.²
3. In the *Ruto* case, the Trial Chamber granted the Prosecution’s request for an extension of the page limit for its Pre-Trial Brief based on (i) the length and complexity of the charges, (ii) the fact that there were multiple accused in the case, and (iii) the benefits to the Defence and the Chamber of a more detailed articulation of the Prosecution’s case.³ In the *Ntaganda* case, the Trial Chamber was satisfied that exceptional circumstances warranted granting the Prosecution an extension of pages up to 250 pages after noting “the scope of the charges to be addressed in the Pre-Trial Brief, as well as the requirement that for each count the Prosecution set out the relevant evidence upon which it intends to rely, and how that evidence relates to the charges”.⁴
4. This case is complex, involving two Accused⁵ charged with four counts of crimes against humanity, which are alleged to have taken place in pursuance of a

¹ ICC-02/11-01/15-58, para.26.

² ICC-02/11-01/15-58, para.26.

³ ICC-01/09-01/11-532, para.4. In the *Ruto* case, the page limit was extended to 75 pages, upon the Prosecution’s request. *See also*, in the *Kenyatta* case: ICC-01/09-02/11-590, para.4.

⁴ ICC-01/04-02/06-500, para.9.

⁵ On 11 March 2015, the Chamber joined the cases pursuant to article 64(5) of the Rome Statute and rule 136 of the Rules of Procedure and Evidence: ICC-02/11-02/11-222.

common plan to maintain the Accused Gbagbo in power by all necessary means.⁶ The Accused are charged (as confirmed by the Pre-Trial Chamber) both as co-perpetrators under article 25(3)(a) of the Statute, and under different, alternative modes of liability under article 25(3). The total time currently anticipated for the presentation of the Prosecution evidence is 552 hours.⁷

5. The Prosecution acknowledges that the quality and effectiveness of the Pre-Trial Brief is not contingent on its length and it will therefore keep it as concise as possible. However, the Prosecution does not want to omit relevant information or references to key evidence that could provide a more clear and cogent overview of its case.
6. The Document Containing the Charges (“DCC”) against the Accused Gbagbo was 150 pages (with footnotes),⁸ and against the Accused Blé Goudé, 234 pages (with footnotes).⁹ Since the two cases were joined after confirmation of the charges, the Prosecution intends, in its Pre-Trial Brief, to set out a summary of the evidence as it relates to both Accused in one, comprehensive document, including with reference to evidence obtained after the confirmation hearing. In addition, the Prosecution will endeavour to source in the Pre-Trial Brief the majority, if not all, of the documents appearing on its List of Evidence, filed on 30 June 2015.¹⁰
7. Finally, the Pre-Trial Brief will address in detail the Prosecution case in relation to each of the modes of liability with which the Accused are charged, including the alternative modes of criminal responsibility under article 25(3)(b) and (d), together with article 25(3)(c) in respect of the Accused Blé Goudé. The Prosecution will also set out its case under article 28, in respect of the Accused

⁶ ICC-02/11-01/11-656-Conf, para.268; ICC-02/11-02/11-186, para.184.

⁷ ICC-02/11-01/15-114, para.6. As indicated in the submission of its List of Witnesses and List of Evidence, the Prosecution will endeavour to reduce this number of hours after the filing of the Pre-Trial Brief, following its discussions with the Defence relating to agreements as to evidence and with the submission of requests pursuant to rules 68(2) and 68(3); ICC-02/11-01/15-114, para.6.

⁸ ICC-02/11-01/11-592-Conf-Anx2-Corr2 (amended).

⁹ ICC-02/11-02/11-124-Conf-Anx2-Corr (amended).

¹⁰ ICC-02/11-01/15-114, *Confidential* Annex C.

Gbagbo. The alternative modes of liability will require both an analysis of the law, and evidence relevant to each Accused. A more comprehensive and complete overview of the Prosecution evidence and case will assist the Chamber, Defence and participants in their preparation in readiness for trial.

Relief Requested

8. Based on the foregoing and pursuant to regulation 37(2) of the RoC, the Prosecution requests the Chamber to grant an extension of the page limit applicable to the Pre-Trial Brief to a maximum of 300 pages.



Fatou Bensouda, Prosecutor

Dated this 3rd day of July 2015

At The Hague, The Netherlands