



Original: English

No.: ICC-02/11-01/15

Date: 31 July 2017

TRIAL CHAMBER I

Before: Judge Cuno Tarfusser, Presiding Judge
Judge Olga Herrera-Carbuccia
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

With Public Annexes A, B1, B5, B6, C2 and C3 and Confidential Annexes B2, B3, B4, C1 and D

Prosecution's application for the introduction of video evidence under paragraphs 43-44 of the directions on the conduct of the proceedings and notice that it will not call Witness P-0541 to testify

Source: Office of the Prosecutor

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

The Office of the Prosecutor

Ms Fatou Bensouda
Mr James Stewart
Mr Eric MacDonald

Counsel for Mr Laurent Gbagbo

Mr Emmanuel Altit
Ms Agathe Bahi Baroan

Counsel for Mr Charles Blé Goudé

Mr Geert-Jan Alexander Knoops
Mr Claver N'dry

Legal Representatives of the Victims

Ms Paolina Massidda

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section Other**

I. INTRODUCTION

1. Pursuant to the Trial Chamber's Order of 24 January 2017,¹ the Prosecution seeks the submission of video evidence and related material ("Items") retrieved from the *Radiodiffusion-Télévision Ivoirienne* ("RTI") and other sources ("Application").²
2. These Items are admissible because they are relevant to issues in the case, and because they are probative and reliable as detailed in the annexed tables.³
3. The Prosecution also provides a searchable Excel spreadsheet recording relevant details for each news broadcast from the RTI sought to be submitted for the period of 28 November 2010 to 12 April 2011 ("relevant period").⁴ This is provided as a tool to assist the Chamber in its consideration of the Application.
4. Not all Items in this Application have been disclosed as incriminating material and included on the Prosecution's List of Evidence ("LoE"). There are 16 Items disclosed under rule 77 of the Rules of Procedure and Evidence ("Rules") or as potentially exonerating material.⁵ The Prosecution concurrently requests an extension of time, under articles 64(2) and 64(3)(c) of the Rome Statute ("Statute"), rule 84 of the Rules and regulation 35 of the Regulations of the Court ("Regulations"), to re-disclose these 16 Items as incriminating material and to add them to its LoE. If this request is granted, the Prosecution seeks introduction of these 16 Items, under paragraphs 43 and 44 of the Directions.⁶ Alternatively, the Prosecution asks that the Chamber allow submission of the 16 Items in the exercise of its own functions and powers under articles 64(6)(d) and 69(3) of the Statute, and in furtherance of the determination of the truth.

¹ Order requesting the Parties and participants to submit information for the purposes of the conduct of the proceedings pursuant to article 64(2) of the Statute and rule 140 of the Rules of Procedure and Evidence ("Order"), ICC-02/11-01/15-787, para. 11 (notified on 24 January 2017).

² Submission is sought under paragraphs 43 and 44 of the directions on the conduct of the proceedings, ICC-02/11-01/15-498-AnxA ("Directions").

³ See Annexes B, C and D.

⁴ See Annex A.

⁵ CIV-OTP-0061-0556, CIV-OTP-0061-0604, CIV-OTP-0064-0119, CIV-OTP-0069-0369, CIV-OTP-0069-0370, CIV-OTP-0069-0372, CIV-OTP-0069-0373, CIV-OTP-0075-0072, CIV-OTP-0100-0434 and CIV-OTP-0100-0435 disclosed under rule 77; and CIV-OTP-0074-0082, CIV-OTP-0075-0054, CIV-OTP-0075-0055, CIV-OTP-0075-0056, CIV-OTP-0075-0069 and CIV-OTP-0075-0071, disclosed as potentially exonerating material.

5. While the Prosecution has endeavoured to provide transcripts of all video evidence relied upon and submitted in this Application, this has not yet been possible in light of the remaining number of hours required to be transcribed and the resources of the unit responsible for transcriptions.⁷ The Prosecution estimates that all transcripts will be disclosed on a rolling basis as per the current practice and released in e-Court by the end of October 2017.

II. CONFIDENTIALITY

6. Annexes B2, B3, B4 and C1 and D are filed as “Confidential”, pursuant to regulation 23bis(1) of the Regulations, as they also contain identifying information about protected witnesses and/or because they refer to testimony of witnesses given in private session.

III. SUBMISSION OF VIDEO EVIDENCE

7. The Prosecution tenders all Items listed at Annexes B, C and D and requests that they be considered submitted in their entirety. Where applicable, the Prosecution has identified in bold the most relevant video excerpts within a news broadcast for the Chamber’s convenience.

8. The Items in Annexes B3 and D have already been disclosed to the Defence, and are being provided to the Chamber and participants by CD.⁸ All other Items that form part of this Application are available to the Trial Chamber, the Parties and participants in e-Court.

A. Overview of the Annexes

1. Annex A

9. Annex A to this motion is a searchable Excel spreadsheet recording the details of each 20h00 news broadcasts during the relevant period (for example, persons speaking,

⁶ The Prosecution would also apply at a later time for the corresponding transcripts to be introduced under paragraphs 43 and 44 of the Directions.

⁷ The Prosecution’s Transcription Unit also caters to the needs of other investigations and cases of the OTP.

⁸ These Items can also be uploaded in e-Court at the request of the Chamber.

location, description of news broadcast) in the Prosecution's possession. Where the Prosecution does not have the 20h00 news broadcast for a given day, the 13h00 news broadcast of the next day is included if available. This is because the 13h00 news broadcasts usually consist largely of re-transmissions of items from the previous 20h00 news broadcast. All but 14 of the news broadcasts contained in the spreadsheet are on the Prosecution's LoE.⁹ Annex A to the present Application is provided to assist the Chamber in navigating the RTI broadcasts for the relevant period. Whereas Annex B focuses on the relevance and probative value of each video excerpt for the purposes of submission, Annex A provides additional details which could not physically fit into one table in a legible fashion and which are easily searchable in Excel format.

2. Annex B

10. Annex B contains all RTI video evidence and related material that the Prosecution is seeking to submit in this Application. It consists of six individual tables, as outlined below.

- (i) Annex B1 contains a summary overview of all RTI news broadcasts ordered by date, sought to be submitted within Annex B. This annex briefly itemises the videos, providing date, ERN, description, disclosure date and available transcripts, and also indicates the annex (B2 – B4) where the video appears. It does not contain the detailed presentation of relevance and probative value / reliability that the following annexes (B2 – B4) do.
- (ii) Annex B2 contains all RTI 13h00 and 20h00 news broadcasts on the Prosecution's LoE for the relevant period.
- (iii) Annex B3 contains 14 RTI news broadcasts of 13h00 and 20h00 that are not on the Prosecution's LoE, and in respect of which the Prosecution makes its request under regulation 35.

⁹ These 15 videos are subject to the request under regulation 35, contained at Part V of this Application.

- (iv) Annex B4 contains RTI news broadcasts that pre-date the relevant period, as well as two additional RTI programmes shown during the relevant period: one documentary on the Accused Charles Blé Goudé and one edition of the talk show “*Raison d’État*”.
- (v) Annex B5 relates to the collection process of the videos and includes an investigator report and evidence logs as to their chain of custody.
- (vi) Annex B6 contains the transcripts of the videos offered at Annexes B2 and B4, as available.

11. Annexes B2 and B3 mirror the videos listed at the Excel spreadsheet in Annex A, with the one discrepancy set out at paragraph 24 below. The videos listed in Annex B4 do not appear in the Excel spreadsheet at Annex A.

3. Annex C

12. Annex C contains all remaining video evidence sought for submission that is not RTI video evidence. These include videos obtained from open sources and from witnesses. It consists of three individual tables, as outlined below.

- (i) Annex C1 contains the video evidence itself.
- (ii) Annex C2 contains documents relating to the chain of custody of these videos.
- (iii) Annex C3 contains the transcripts of the videos offered at Annex C1, as available.

4. Annex D

13. Annex D contains an additional video and related collection document subject to the regulation 35 request at Part V below. The video is a higher quality version of a video depicting part of the 25 February 2011 incident, already on the Prosecution’s LoE.

B. The Directions

14. Paragraph 43 of the Directions allows the Parties to “introduce documentary evidence directly, without producing it by or through a witness.”¹⁰ Pursuant to the requirements of paragraph 44 of the Directions, the Prosecution provides at Annexes B, C and D (i) each item’s relevance and probative value, including authenticity; and (ii) the first “INCRIM” disclosure date.¹¹ In relation to Annexes B3 and D, since the Prosecution is requesting their addition pursuant to regulation 35, it provides instead their first disclosure date, whether “Rule 77” or “PEXO”.

15. The Prosecution has endeavoured to submit with this Application all video evidence and related material it wishes to submit by way of written submissions, with the exception of pending transcripts (see paragraph 5 above). However, as recognised by the Chamber, the Prosecution may, should the need arise, make further submissions of additional documentary evidence before the close of its case.¹²

C. Videos already submitted

16. This Application includes certain videos already submitted on the record, where a fuller analysis of the video is necessary. This is particularly the case where only one excerpt of a multi-excerpt video has been shown to a witness during the proceedings and thereby submitted. In relation to the RTI video evidence in Annex B2, the Prosecution also chose to include the already submitted material to illustrate the chronology of events and to place the material in its context. The Prosecution has not included already submitted videos where it has no further analysis to provide. It also has not included transcripts of videos or documents pertaining to the collection of videos, where these have already been submitted.

¹⁰ ICC-02/01-01/15-498-AnxA, para.43.

¹¹ ICC-02/01-01/15-498-AnxA, para. 44.

¹² Order, para. 11: “This consolidated submission is without prejudice to the further submission of additional documentary evidence if necessary.”

17. The Prosecution further notes that it has already submitted RTI video evidence relevant to the speech of the Accused Blé Goudé at *Bar Le Baron* in Yopougon on 25 February 2011, including its analysis.¹³ These excerpts are therefore not further analysed in the present Application.

D. Description of columns in the Annexes

18. All Annexes are organised by date. They include for each video the ERN, the date, the description, the relevance to the charges, the authenticity and reliability, the transcript reference (where available), and the first “INCRIM” disclosure date (for Annexes B3 and D the first “Rule 77” of “PEXO” disclosure date).

1. Date of broadcast

19. For RTI broadcasts, both the date and time of the broadcast are given.

20. For non-RTI video evidence, the date of broadcast (as far as ascertainable) is given. If the date of the broadcast cannot be ascertained, or indeed the video was not broadcast, then the date of publication is given instead (for example, the date of upload to YouTube) and the date of the footage itself (again, as far as ascertainable) is stated in the Relevance column.

2. RTI Videos: Excerpts

21. Annexes B2, B3 and B4 contain an additional “Excerpts” column clearly setting out the individual excerpts upon which the Prosecution relies within a news broadcast. An “excerpt” is to be understood as an individual news item (or “*reportage*”). Each broadcast contains multiple stand-alone excerpts, not all of which are relevant nor therefore sought to be admitted.

¹³ ICC-02/11-01/15-875.

3. RTI Videos: Authenticity and Reliability

22. In compiling its collection of RTI videos, the Prosecution has sought to obtain all available news broadcasts for the period of 28 November 2010 to 12 April 2011, with a priority for the 20h00 editions. To this end, it has collected broadcasts from the Ivorian *Cellule Spéciale d'Enquête* ("CSEI")/Ministry of Justice, the United Nations and the RTI itself. Documents relating to the collection of these videos, including a report¹⁴ and a declaration,¹⁵ are referenced in the Authenticity and Reliability column; these are also submitted by way of a separate table in Annex B5. The declaration is signed and confirms the authenticity of the report submitted. A similar approach was adopted with respect to the paragraph 43 filing of reports relating to Witnesses P-0549 and P-0550,¹⁶ and the Trial Chamber considered the relevant declarations to be submitted.¹⁷

23. The Prosecution also collected from the RTI itself dated running sheets (*films conducteurs*), showing the planned running order of news items (*reportage*) for the 20h00 broadcasts. Although the planned running order was not always strictly observed, the *films conducteurs* provide a reliable indication of the dates of broadcasts in the RTI collection, when cross-referenced to the videos themselves.

24. There is a minor disparity between the broadcasts contained in Annexes B2 and B3 on the one hand, and those included in the spreadsheet in Annex A on the other hand. The spreadsheet in Annex A contains all available 20h00 broadcasts for each day of the relevant period, plus certain 13h00 broadcasts where the 20h00 broadcast from the previous evening is not available. This means that the spreadsheet in Annex A does not contain all 13h00 broadcasts in the Prosecution's possession. This methodological decision was made because the 13h00 broadcasts largely consist of items from the 20h00 broadcasts of the previous evening, as well as some from the coming evening. The Prosecution submits through Annex B2 all additional 13h00 broadcasts on its LoE, to ensure that a

¹⁴ CIV-OTP-0073-0938.

¹⁵ CIV-OTP-0097-0222.

¹⁶ See ICC-02/11-01/15-582-Conf-Anx3, p. 1, items CIV-OTP-0092-0251 and CIV-OTP-0092-0252, and p. 4, items CIV-OTP-0092-0254 and CIV-OTP-0092-0255.

fuller collection from the relevant period is presented to the Chamber, and also to demonstrate the looping nature of RTI broadcasts.

25. The Prosecution recalls that the Accused have relied to date upon excerpts from a combined total of 10 RTI videos from the Prosecution's collection during their examinations of witnesses called by the Prosecution. While no assumptions are made about the Defence's position as to the relevance of videos offered in this motion, it appears, at a minimum, that the reliability of the collections from the UN, the RTI and the CSEI / Ministry of Justice are not in question.¹⁸

4. Non-RTI Videos: Authenticity and Reliability

26. Any video evidence relating to the collection of non-RTI videos is referenced in the Authenticity and Reliability column for the relevant video Item, and also submitted by way of a separate table in Annex C2.

5. Transcripts

27. Where available, the ERN of the transcript corresponding to the relevant video Item (or excerpt thereof) is referenced in the Transcript column. The transcripts themselves are submitted by way of a separate table in Annexes A6 and C3.

E. Relevance of video evidence

28. The video evidence submitted in this motion is relevant to a wide range of issues in this case, including but not limited to: the implementation of the common plan; mobilisation of the youth for violent acts; the use of the FDS; the use of militias and mercenaries; the denial of crimes and cover-ups; the activities of members of the Inner Circle including the Accused; the Accused's orders, instructions and incitements; as well

¹⁷ ICC-02/11-01/15-629-Conf, paras. 38-40.

¹⁸ These are the broadcasts contained at CIV-OTP-0064-0083, CIV-OTP-0064-0087, CIV-OTP-0064-0101, CIV-OTP-0064-0113, CIV-OTP-0069-0371, CIV-OTP-0074-0049, CIV-OTP-0074-0083 (from across the four UN collections), CIV-OTP-0075-0058 (from the RTI collection), and CIV-OTP-0026-0016 (from one of the two CSEI / Ministry of Justice collections).

as their knowledge of incidents as reported by the media. The specific relevance of each video Item is developed in the tables at Annexes B2, B3, B4, C1 and D.

1. The RTI as a tool in the implementation of the common plan¹⁹

29. The collection of RTI broadcasts for the period of the post-electoral crisis, viewed in their totality, demonstrates the use of the state television itself as a tool in the implementation of the common plan. As detailed in relation to relevant excerpts throughout Annexes B2 and B3, the RTI was used to:

-) direct violent rhetoric and often xenophobic hate speech against perceived Ouattara supporters and the international community, accusing them of posing a genocidal threat to the Accused Laurent Gbagbo's supporters;
-) through this rhetoric, demonise perceived Ouattara supporters as the enemy and legitimate targets for attack under the guise of protecting Ivorian sovereignty;
-) consolidate the notion of "*Ivoirité*" and patriotism to exclude perceived Ouattara supporters, who were dismissed as "foreigners", as well as "rebels", "terrorists" and "bandits";
-) justify the use of violence against perceived Ouattara supporters, presenting such violence as legitimate self-defence;
-) convey instructions and orders from the Accused and the Inner Circle to their supporters and the militias, particularly concerning the Accused Blé Goudé's mobilisation of the youth; and
-) deny the commission of crimes by supporters of the Accused Gbagbo and the FDS and propagate among the population the pro-Gbagbo line that any allegations of state crimes were pure fabrication, most notably in relation to the charged incidents

¹⁹ See, generally, Section III.C.4.(a) of the Prosecution's Pre-Trial Brief: ICC-02/11-01/15-148-Conf-Anx2-Corr.

of 16 December 2010,²⁰ 3 March 2011²¹ and 17 March 2011.²² In particular, the RTI sought to discredit the UNOCI and the international community, with a view to dismissing their reports of crimes and their opposition to Gbagbo's claim to power.

30. As demonstrated by the references to retransmissions throughout Annexes B2 and B3, these messages were re-transmitted in loop between the various 13h00 and 20h00 editions – sometimes over a number of days – to increase the dissemination and impact of the message.

31. The RTI's use as a mouthpiece for pro-Gbagbo interests is not only to be inferred from the content and positioning of its reporting, but from overt statements about the responsibility of the press – particularly the RTI – to defend the government and the institutions of the Republic. Many of these statements came directly from Gnonzie Ouattara, Simone Gbagbo's deputy Secretary-General of the CRND,²³ who was appointed by the Accused Gbagbo as the Minister of Communications on 6 December 2010,²⁴ and who visited the Presidential Residence at least 10 times during the post-electoral crisis.²⁵

J On 16 December 2010, the Minister visited the RTI itself to pass on President Gbagbo's congratulations to the staff, who had maintained transmissions throughout the day and were "determined to serve the state of Côte d'Ivoire". The Minister told staff that the President of the Republic supports and encourages them, and that what they are doing is to defend their country and its institutions. The reporter concludes by commenting that "(a)s state media, the RTI has decided

²⁰ See RTI broadcast of 30 December 2010 at 20h00, CIV-OTP-0064-0101 at 00:30:06 – 00:38:40.

²¹ See RTI broadcasts of 4 March 2011 at 13h00, CIV-OTP-0026-0006 at 00:22:00 – 00:25:39 and at 20h00, CIV-OTP-0026-0018 at 00:52:16 – 00:55:27 and 00:55:27 – 01:00:06.

²² See RTI broadcast of 22 March 2011 at 20h00, CIV-OTP-0069-0376 at 00:06:30 – 00:11:40.

²³ See CIV-OTP-0018-0339 at 0339; CIV-OTP-0018-0406 at 0407; CIV-OTP-0018-0426 at 0427; and CIV-OTP-0022-1442 at 1442.

²⁴ *Décret n. 2010-312 portant nomination des membres du Gouvernement*, CIV-OTP-0018-0046 at 0051.

²⁵ 6 December 2010 (CIV-OTP-0067-0402 at 0463); 11 December 2010 (CIV-OTP-0067-0402 at 00470, CIV-OTP-0067-0003 at 0355); 12 December 2010 (CIV-OTP-0067-0402 at 0472, CIV-OTP-0067-0003 at 0358); 16 January 2011 (CIV-OTP-0067-0402 at 0520); 22 January 2011 (CIV-OTP-0067-0402 at 0529); 24 January 2011 (CIV-OTP-0067-0402 at 0532, CIV-OTP-0067-0643 at 0664); 25 January 2011 (CIV-OTP-0067-0402 at 0533, CIV-OTP-0067-0643 at 0664); 27 January 2011 (CIV-OTP-0067-0402 at 0536); 27 February 2011 (CIV-OTP-0067-0402 at 0580); and 30 March 2011 (CIV-OTP-0067-0402 at 0618).

through its leadership to continue to serve the Republic with loyalty and dedication".²⁶

J On 1 January 2011, members of the *Comité de direction* of the RTI visited the RTI to encourage its staff in their work. The reporter refers to the importance of the RTI in the construction of a strong and unified Côte d'Ivoire, and comments that the work of its journalists "*est conforme au cahier des charges de la RTI qui n'a pas d'autres choix que de se ranger du côté des institutions de la République.*"²⁷

J On 21 January 2011, the Minister again visited the RTI to congratulate staff for not transmitting "seditious words", or initiatives that hurt the Constitution, Ivorians and the institutions of the Republic. Instead, he told them, "*Vous faites votre travail conformément au cahier des charges et missions que le gouvernement a élaboré pour la RTI.*"²⁸

J On 23 February 2011, in an extraordinary session of the *Assemblée Nationale*, the Minister delivered a public statement congratulating, *inter alia*, all staff of the RTI who had mobilised for the Republican cause, for the respect of the sovereignty and the independence of "our" country.²⁹

32. The role of the RTI was one part of a larger strategy for information control. As the RTI broadcasts demonstrate, the press – and particularly the international press – was instructed by Gbagbo's government to respect the sovereignty and institutions of the Republic.

J On 14 December 2010, the Minister of Communications exhorted journalists to "do their work, but above all to defend the institutions of the Republic".³⁰ He told the organs of the private press to respect the Constitution of the country and warned them against demoralising "our compatriotes" by spreading fake news. In a

²⁶ RTI broadcast of 16 December 2010 at 20h00, CIV-OTP-0074-0055 at 00:19:51 – 00:21:59.

²⁷ RTI broadcast of 1 January 2011 at 20h00, CIV-OTP-0064-0103 at 01:04:12 – 01:07:29.

²⁸ RTI broadcast of 21 January 2011 at 20h00, CIV-OTP-0064-0112 at 00:10:58 – 00:13:20.

²⁹ RTI broadcast of 23 February 2011 at 20h00, CIV-OTP-0074-0082 at 00:21:08 – 00:25:52.

reference to the role of the media in the Rwandan genocide, he singled out UNOCI FM radio as being worse than *Radio des Mille Collines*.

J On 18 February 2011, the Minister met with the accredited international press, reportedly to deliver the message “Help us to help you to fully accomplish your mission in Côte d’Ivoire in the best conditions.” The Minister told international journalists: “We are respectful of press freedom. But at the same time, we – I mean President Gbagbo – jealously guard the sovereignty of Côte d’Ivoire. He insists upon respect for the institutions of the Republic [...] if you are respectful about the sovereignty of the Republic of Côte d’Ivoire, if you respect the institutions of our country, if you respect those who embody those institutions, I can tell you that you will not encounter any problem in Côte d’Ivoire with Laurent Gbagbo and his government. To the contrary [...] we can help you to enrich your reports.”³¹

33. Media agencies and other sources who did not present the same pro-Gbagbo version of events as the RTI were discredited, and – in some cases – censored by the *Conseil National de la Presse*.³² This was particularly the case for UNOCI FM, as the Minister of Communications’ statement of 14 December 2010 (referred to above at paragraph 32) demonstrates.³³ In a studio interview on 21 March 2011, Blé Goudé dismissed stations other than the RTI “whose aim is to panic the population”, and instead told viewers: “*Vous regardez la RTI, vous écoutez Radio Côte d’Ivoire, et puis c’est terminé.*”³⁴

34. The final RTI news broadcasts during the post-electoral crisis in early April 2011 bring into sharp relief the station’s function as a vehicle for instructions from the State and military apparatus, as well as the leadership of the *Galaxie Patriotique*. In an irregular 23h00 broadcast of 2 April 2011, a scrolling text banner asks all FDS soldiers in Abidjan to return to their barracks and asks the population to come out massively in support of the

³⁰ RTI broadcast of 14 December 2010 at 20h00, CIV-OTP-0061-0568 at 00:13:02 – 00:16:22.

³¹ RTI broadcast of 18 February at 20h00, CIV-OTP-0074-0079 at 00:31:14 – 00:34:06.

³² See, for example, RTI broadcast of 2 March 2011 at 20h00, CIV-OTP-0064-0125 at 00:07:54 – 00:13:42.

³³ See also broadcast of 9 February 2011 at 20h00, CIV-OTP-0064-0118 at 00:22:50 – 00:27:42.

Republic.³⁵ Footage of uniformed FDS members in the RTI studio is shown while the “*Devant, c’est mais*” song – from a slogan of the Accused Blé Goudé – is played.³⁶ A further banner indicates that the Accused Gbagbo is “*bien en place et à son poste*”.³⁷

35. In a broadcast of the next day, 3 April 2011 at 16h00, a series of personalities appear in the news anchor’s chair in the RTI studio to call for a popular mobilisation to the Presidential Residence to support the Accused Gbagbo. These persons include *Galaxie Patriotique* leaders Navigue Konate,³⁸ Serge Koffi,³⁹ and Damana Pickass,⁴⁰ as well as Women Patriots leader Geneviève Bro-Grébé.⁴¹ An FDS Colonel also delivers a communiqué from the studio, surrounded by uniformed FDS officers.⁴²

36. In the 20h00 edition of the same day, Interior Minister Emile Guirieoulou appears in the news anchor’s chair in the RTI studio to call for Ivorians to help the FDS defend the country against the rebels, and to mobilise around the public institutions including the Presidential Palace and the Presidential Residence.⁴³ This is followed by footage of the Accused Blé Goudé from a dimly-lit location, wearing his “David and Goliath” t-shirt, expressing his support and congratulations for the army, and calling on the population to support the army by standing up in their neighbourhoods, as “no-one other than we ourselves can liberate Côte d’Ivoire”.⁴⁴

³⁴ RTI broadcast of 21 March 2011 at 20h00, CIV-OTP-0069-0375 at 00:25:50 – 00:27:50 (citation at 00:27:33 – 00:27:37); Transcript CIV-OTP-0087-0741 at 0742, ln. 34.

³⁵ RTI broadcast of 2 April 2011 at 23h, CIV-OTP-0064-0129 at 00:00:00 – 00:12:40.

³⁶ RTI broadcast of 2 April 2011 at 23h, CIV-OTP-0064-0129 at 00:00:00 – 00:1:26.

³⁷ RTI broadcast of 2 April 2011 at 23h, CIV-OTP-0064-0129 at 00:01:26 – 00:1:29.

³⁸ RTI broadcast of 3 April 2011 at 16h, CIV-OTP-0064-0130 at 00:04:03 – 00:05:06; Transcript CIV-OTP-0086-1157 at 1158, lns. 14-25.

³⁹ RTI broadcast of 3 April 2011 at 16h, CIV-OTP-0064-0130 at 00:11:20 – 00:12:55; Transcript CIV-OTP-0086-1157 at 1160, lns. 87-104.

⁴⁰ RTI broadcast of 3 April 2011 at 16h, CIV-OTP-0064-0130 at 00:12:56 – 00:15:30; Transcript CIV-OTP-0086-1157 at 1160, lns. 109-129.

⁴¹ RTI broadcast of 3 April 2011 at 16h, CIV-OTP-0064-0130 at 00:08:07 – 00:11:19; Transcript CIV-OTP-0086-1157 at 1159, lns. 63-82.

⁴² RTI broadcast of 3 April 2011 at 16h, CIV-OTP-0064-0130 at 00:05:06 – 00:07:15; Transcript CIV-OTP-0086-1157 at 1158-1159, lns. 30-45.

⁴³ RTI broadcast of 3 April 2011 at 20h00, CIV-OTP-0064-0131 at 00:00:07 – 00:08:04; Transcript CIV-OTP-0086-1165 (all).

⁴⁴ RTI broadcast of 3 April 2011 at 20h00, CIV-OTP-0064-0131 at 00:08:05 – 00:11:17 (citation at 00:10:40 – 00:10:44); Transcript CIV-OTP-0086-1168 (all).

F. Further tools to assist the Chamber

37. The Prosecution hereby notifies the Chamber that it is in the process of finalising a photobook which will serve as an *aide-mémoire*. The photobook will contain screenshots from the RTI news bulletins submitted in this Application which will show an image of each of the main actors in the post-electoral violence with their titles as described by the RTI. The Prosecution intends to file this photobook shortly after the summer recess.

IV. REQUEST FOR AN EXTENSION OF TIME

38. The Prosecution was directed to file its LoE no later than 30 June 2015.⁴⁵ It hereby seeks an extension of time under articles 64(2) and 64(3)(c) of the Statute, rule 84 of the Rules and regulation 35 of the Regulations, to re-disclose i) 14 additional video Items of RTI broadcasts; and ii) one additional non-RTI video Item along with one related collection document, as incriminating material and to add them to its LoE. In the alternative, the Prosecution asks that the Chamber request submission of these 16 Items, in the exercise of its own functions and powers under articles 64(6)(d) and 69(3) of the Statute, and in furtherance of the determination of the truth.

A. Fourteen additional video Items of RTI broadcasts

39. The 14 additional RTI news broadcasts subject to this request are:

- (i) CIV-OTP-0075-0054: video of RTI broadcast of 28 November 2010 at 20h00;
- (ii) CIV-OTP-0075-0055: video of RTI broadcast of 29 November 2010 at 20h00;
- (iii) CIV-OTP-0075-0056: video of RTI broadcast of 30 November 2010 at 20h00;
- (iv) CIV-OTP-0061-0604: video of RTI broadcast of 26 December 2010 at 20h00;
- (v) CIV-OTP-0075-0069: video of RTI broadcast of 31 January 2011 at 20h00;
- (vi) CIV-OTP-0075-0071: video of RTI broadcast of 2 February 2011 at 20h00;

- (vii) CIV-OTP-0075-0072: video of RTI broadcast of 8 February 2011 at 20h00;
- (viii) CIV-OTP-0064-0119: video of RTI broadcast of 10 February 2011 at 20h00;
- (ix) CIV-OTP-0074-0082: video of RTI broadcast of 23 February 2011 at 20h00;
- (x) CIV-OTP-0061-0556: video of RTI broadcast of 28 February 2011 at 13h00 (Part II);⁴⁶
- (xi) CIV-OTP-0069-0369: video of RTI broadcast of 12 March 2011 at 20h00;
- (xii) CIV-OTP-0069-0370: video of RTI broadcast of 13 March 2011 at 20h00;
- (xiii) CIV-OTP-0069-0372: video of RTI broadcast of 15 March 2011 at 20h00; and
- (xiv) CIV-OTP-0069-0373: video of RTI broadcast of 16 March 2011 at 20h00.

40. Addition to the LoE and submission of these news broadcasts would present the Chamber with the greatest possible number of RTI broadcasts aired at 20h00 during the relevant period of the charges, allowing it to consider all such broadcasts in the Prosecution's possession. Access to the fullest collection possible is important for two reasons. Firstly, it will allow the Chamber to assess, on the basis of all relevant evidence, the Prosecution's ultimate submission that the RTI was used as a tool of the Accused Gbagbo and his supporters, including the Accused Blé Goudé, in the implementation of the common plan.⁴⁷ Secondly, it provides an effective chronology and evolution of events during the post-electoral crisis, reliably chronicling the dates, locations and actors involved in the events, and corroborating other related evidence.

41. Whilst the criterion under regulation 35(2), second sentence, of the Regulations may not be met, the Prosecution nevertheless submits firstly, that there is good cause for

⁴⁵ ICC-02/11-01/15-59, para. 25.

⁴⁶ Part I (CIV-OTP-0061-0555) and Part III (CIV-OTP-0061-0557) of the 28 February 2011 at 13h00 broadcast are on the LoE and therefore included in Annex B2. This 13h00 edition is included because the Prosecution is not in possession of the 27 February 2011 at 20h00 edition, and it is anticipated that most of the items from that broadcast are reproduced in the 28 February 2011 at 13h00 edition.

the re-disclosure of the video Items and their addition to the LoE, and secondly, that it is in the interests of justice for the Chamber to have before it all RTI broadcasts in the Prosecution's possession for the period of the post-electoral crisis. Having in mind the Chamber's decision of 13 May 2016,⁴⁸ as cited to by the Chamber in its Decision of 8 March 2017,⁴⁹ the Prosecution, alternatively, asks that the Chamber request submission of these video Items in the exercise of its own functions and powers under articles 64(6)(d) and 69(3) of the Statute.⁵⁰

42. The extension of time to re-disclose and add the video Items to the LoE and/or their submission into evidence would not be prejudicial to the Accused, who have already been in a position to examine and investigate the evidence for well over two years. The video Items were all disclosed by the Prosecution, either under rule 77 of the Rules or as potentially exonerating evidence, to the Gbagbo Defence between 18 December 2014 and 19 June 2015, and to the Blé Goudé Defence between 19 February 2015 and 19 June 2015.⁵¹

B. One additional non-RTI video Item (CIV-OTP-0100-0434) with related Item⁵²

43. This video item depicting events from 25 February 2011 in Yopougon (on the *Boulevard Principale* near the Lem mosque) contains duplicate footage to video Item CIV-OTP-0061-0379, disclosed as incriminating material and included in the Prosecution's LoE. Both videos were uploaded onto YouTube on 25 February 2011, but by different users. The Prosecution is seeking submission of video Item CIV-OTP-0100-0434, along with a related collection document,⁵³ because it has higher sound and image quality than CIV-OTP-0061-

⁴⁷ See Section III.C.4.(a) of the Prosecution's Pre-Trial Brief: ICC-02/11-01/15-148-Conf-Anx2-Corr.

⁴⁸ ICC-02/11-01/15-524, paras. 21-22.

⁴⁹ See ICC-02/11-01/15-T-130-ENG CT, p. 2. Ln. 21 – p. 3, ln. 3.

⁵⁰ See ICC-02/11-01/15-T-130-ENG CT, p. 4, ln. 3 – p. 5, ln. 11; and ICC-02/11-01/15-T-142-Red-ENG WT, p. 47, lns. 14-21.

⁵¹ See final column of the table contained in Annex B.

⁵² CIV-OTP-0100-0435.

⁵³ CIV-OTP-0100-0435.

0379. Much of the images shown and dialogue transcribed,⁵⁴ as outlined by the Prosecution in Annex D, are not discernable in video Item CIV-OTP-0061-0379.

44. Once more, whilst the criterion under regulation 35(2), second sentence, of the Regulations may not be met, there is good cause for the re-disclosure of this video Item and related document and their addition to the LoE. It is in the interests of justice for the Chamber to have the best quality audio version available of this video depicting part of the charged incident of 25 February 2011. With reference to the Chamber's recent jurisprudence outlined in paragraph 41 above, the Prosecution, alternatively, asks that the Chamber request submission of these Items in the exercise of its own functions and powers under articles 64(6)(d) and 69(3) of the Statute.

45. Further, the extension of time to re-disclose and add the Items to the LoE and/or their submission into evidence would not be prejudicial to the Accused, who have been in possession of video Item CIV-OTP-0061-0379 since it was disclosed as incriminating material to the Gbago Defence on 9 July 2014, and to the Blé Goudé Defence on 1 September 2014.

V. NOTICE RELATING TO WITNESS P-0541

46. In its 31 January 2017 notice of information, the Prosecution announced that it intended to submit a report with respect to a video analysis conducted by Witness P-0541.⁵⁵ However, in light of the current filing, the Prosecution notifies that it does not intend to call Witness P-0541 to testify. With respect to the reports the Witness drafted about the chain of custody of videos collected, the Prosecution is submitting them via this motion pursuant to paragraph 43 of the Directions.

⁵⁴ See Transcript CIV-OTP-0063-2804 (re-disclosed with additional text on 28 July 2017).

⁵⁵ ICC-02/11-01/15-787, para. 18.

VI. CONCLUSION

47. For the foregoing reasons, the Prosecution tenders all the video evidence and related material listed at Annexes B, C and D, and requests the Chamber to consider them as submitted in the record of the case.



Fatou Bensouda, Prosecutor

Dated this 31st day of July 2017

At The Hague, The Netherlands