



Original: English

No.: ICC-02/11-01/11
Date: 20 October 2014

TRIAL CHAMBER I

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

SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE

IN THE CASE OF THE PROSECUTOR v. LAURENT GBAGBO

PUBLIC

**With Annex A - confidential *EX PARTE*, only available to the Prosecution and
Annex B - confidential**

Public redacted version of Prosecution's submissions on the detention review

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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Detention Section

**Victims Participation and Reparations
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Other

1. The circumstances that led to the detention of Mr Laurent GBAGBO (“Mr GBAGBO”) continue to be met. The Office of the Prosecutor (“Prosecution”) submits that there has not been any change since the last decision on the review of the detention of Mr GBAGBO (“Sixth Decision”).

Confidentiality

2. The Prosecution submits Annex A as confidential *ex parte*, only available to the Prosecution as it contains [REDACTED] unredacted *procès-verbaux d’audition* of a Prosecution witness.¹ Annex B is filed as confidential and contains the same [REDACTED] *procès-verbaux d’audition* with limited *prorio motu* redactions [REDACTED]. This submission is also filed as confidential as its content includes references to evidence that should be treated as confidential. A public redacted version will be filed.

Submissions

3. On 11 July 2014, Pre-Trial Chamber I issued its Sixth Decision on the review of the detention of Mr GBAGBO.² The Pre-Trial Chamber reviewed the circumstances of Mr GBAGBO’s detention and concluded that there had been “no change in the relevant circumstances concerning the apparent necessity of Mr Gbagbo's detention to ensure his appearance before the Court, and to ensure that he does not obstruct or endanger the investigation or the court proceedings. The grounds justifying detention under Article 58(l)(b)(i) and (ii) of the Statute continue to exist, and interim release cannot be granted.”³
4. The Prosecution recalls that it has the obligation to “make submissions as to whether there has been any change in the circumstances that previously justified

¹ Document CIV-OTP-0057-0754 contains two *Procès-verbaux*.

² ICC-02/11-01/11-668.

³ *Ibid.*, para. 42.

detention and [it] must bring to the attention of the Chamber any other relevant information of which [it] is aware that relates to the question of detention or release.”⁴

No change since the Sixth Decision

5. The Prosecution submits that there have been no changes since the Pre-Trial Chamber’s Sixth Decision. The Prosecution recalls that on 2 June 2014, the Pre-Trial Chamber, by majority, confirmed all charges against Mr GBAGBO. As such the grounds justifying detention under Article 58(l)(b)(i) and (ii) of the Rome Statute (“Statute”) continue to exist, and interim release should not be granted. As noted in the Sixth Decision: “[...]the confirmation of charges against Mr Gbagbo has, if anything, increased the risk of absconding.”⁵ This factor continues to apply in particular because the confirmation of charges is now final as the Defence request to appeal the confirmation decision was denied.⁶

Update on the network of supporters

6. The Prosecution observes that Mr GBAGBO’s network of supporters has regularly been considered by Pre-Trial Chamber I.⁷ Most recently in its Sixth Decision, the Pre-Trial Chamber found that it “cannot ascertain any changed circumstances”.⁸
7. In confidential Annex B the Prosecution provides further evidence of the network of supporters of Mr GBAGBO [REDACTED].
8. [REDACTED].
9. [REDACTED].⁹ [REDACTED].

⁴ ICC-01/05-01/08-1019, para.51.

⁵ ICC-02/11-01/11-668, para.41.

⁶ ICC-02/11-01/11-680.

⁷ See for instance decision ICC-02/11-01/11-180-Conf.

⁸ ICC-02/11-01/11-668, para.31.

⁹ See for instance CIV-OTP-0057-0754, at pages 0760 to 0763 and CIV-OTP-0060-0028, at page 0030.

The FPI and its current activities

10. In its last submission, the Prosecution noted that the FPI had not cut its ties with Mr GBAGBO.¹⁰ The Prosecution has recently observed media coverage of political infighting within the FPI between the “hardliners” and those who favour engagement in the political and reconciliation process.
11. Two key events are noted in this regard. In July 2014, the FPI president’s efforts to reorganise the party’s “*secrétariat général*” were condemned by senior members, including party vice-president Simone Gbagbo, who resigned from the FPI general secretariat.¹¹ The party’s mediation committee chairman, who called for a party convention before the end of the year reaffirmed unequivocally that Mr GBAGBO’s release remained a “priority”.¹²
12. In August 2014, the FPI president announced that the FPI would join the *Commission électorale indépendante*, in preparation for the planned 2015 presidential elections. However, the announcement was denounced within the FPI, and on 13 September 2014, the FPI voted to withdraw from the Commission.¹³ One party hardliner described the efforts of the FPI president at “compromise” with the government as “*ambition morbide assimilable à un parricide*.”¹⁴
13. The Prosecution also notes that the FPI created a committee tasked with the “*coordination des actions pour la libération du Président Gbagbo*” and a national secretary was appointed in August 2014 to chair this committee.¹⁵ According to one media report, during a meeting held in Mr GBAGBO’s village of Mama on

¹⁰ ICC-02/11-01/11-661, para.10.

¹¹ [Démission de Simone Gbagbo du Secrétariat général du Fpi: L’intégralité du courrier de la première dame ; http://news.abidjan.net/h/505526.html](http://news.abidjan.net/h/505526.html); http://www.ladepechedabidjan.info/EXCLUSIF-Simone-Gbagbo-demissionne-de-la-direction-du-FPI_a18163.html; <http://www.linodrome.com/vie-politique/16665-crise-au-fpi-affi-crache-ses-verites-au-comite-de-contrôle>.

¹² <http://lintelligentdabidjan.ci/component/k2/2051-a-la-une-de-l-ia/7573-crise-au-fpi-apres-un-mois-de-mediation.html>.

¹³ <http://ivoirebusiness.net/?q=content/rebondissement-%E2%80%93-le-fpi-se-retire-de-la-cei-par-136-voix-contre-119-le-comit%C3%A9-central-du-fpi>.

¹⁴ See <http://www.rfi.fr/afrique/20140915-cote-ivoire-le-retrait-cei-reflet-crise-sein-fpi>; <http://www.rfi.fr/afrique/20140831-crise-fpi-deux-membres-viennent-mains-pleine-reunion-laurent-gagbo-cote-ivoire/>.

¹⁵ See <http://www.5minutesinfos.net/agoh-marthe-nommee-premier-secretaire-nationale-chargee-actions-liberation-gbagbo>; <http://news.abidjan.net/h/510909.html>.

3 October attended by the new national secretary, more than “40 *secrétaires fédéraux*” within the party proposed nominating Mr GBAGBO as FPI president at the next party congress and for the 2015 presidential elections.¹⁶

14. While the Prosecution views the activities of the FPI as relevant to the issue of the extent of Mr GBAGBO’s network of supporters, it also observes that the FPI has publically and politically advocated for Mr GBAGBO’s release. The Prosecution submits that attempted political influence of the judicial process is inappropriate and any such political considerations should not be considered as relevant to the judicial issue of Mr GBAGBO’s continued detention.¹⁷

Conclusion

15. The Prosecution submits that the grounds pursuant to Article 58(1)(b)(i) and (ii) of the Statute continue to be met and the continued detention is necessary.



Fatou Bensouda, Prosecutor

Dated this 20th day of October 2014

At The Hague, The Netherlands

¹⁶ See <http://ivoirebusiness.net/?q=articles/s%C3%A9isme-politique-fpi-plus-de-40-secr%C3%A9taires-f%C3%A9d%C3%A9raux-choisissent-laurent-gbagbo-comme>.

¹⁷ ICC-02/11-01/11-T-22-CONF-ENG, p.18, line 24 to p.19, line 3.