



Original: English

No.: ICC-02/11-01/11
Date: 6 February 2014

PRE-TRIAL CHAMBER I

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

SITUATION IN CÔTE D'IVOIRE

**IN THE CASE OF
*THE PROSECUTOR v. LAURENT GBAGBO***

Public

**Response to the Defence's
« Demande afin que soit organisée la continuation de l'audience orale de
confirmation des charges »**

Source: Office of Public Counsel for Victims

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 the Defence

Mr. Emmanuel Altit

Ms. Agathe Bahi Baron

Ms. Natacha Fauveau Ivanovic

Legal Representatives of the Victims

Ms. Paolina Massidda

Mr. Enrique Carnero Rojo

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. PROCEDURAL BACKGROUND

1. On 13 January 2014, after the adjournment of the confirmation of the charges hearing¹, the Prosecution filed its *Document amendé de notification des charges*, the *Inventaire amendé des éléments de preuve à charge*, and the *Tableau amendé des éléments constitutifs des crimes*.² The Prosecution filed *corrigenda* for some of these documents one day later.³ On 20 January 2014, the Prosecutor filed a second corrected version of the *Document amendé de notification des charges*, with footnotes (the “Amended DCC”).⁴

2. On 27 January 2014, the Single Judge rejected the Defence’s request to declare inadmissible the Amended DCC on formal grounds.⁵

3. On 30 January 2014, the Defence filed a request to hold a status conference to urgently discuss a number of issues related to the adjournment of the confirmation hearing, the rights of the Defence and the Amended DCC (the “Status Conference

¹ See the “Decision adjourning the hearing on the confirmation of charges pursuant to article 61(7)(c)(i) of the Rome Statute” (Pre-Trial Chamber I), No. ICC-02/11-01/11-432, 3 June 2013 (the “Adjournment Decision”), p. 22.

² See the “Prosecution’s Submission of *Document amendé de notification des charges*, *l’Inventaire amendé des éléments de preuve à charge*, and *le Tableau amendé des éléments constitutifs des crimes*, and Response to issues raised by Pre-Trial Chamber I”, No. ICC-02/11-01/11-592, 13 January 2014, with eight annexes, including “Annexe 1 : Document amendé de notification des charges”, No. ICC-02/11-01/11-592-Anx1, 13 January 2014.

³ See the « Annexe 2 - Correction de ICC-02/11-01/11-592-Conf-Anx2 : Document amendé de notification des charges avec notes de bas de page », No. ICC-02/11-01/11-592-Conf-Anx2-Corr, 14 January 2014; the « Annexe 3 - Correction de ICC-02/11-01/11-592-Conf-Anx3 : Inventaire amendé des éléments de preuve à charge », No. ICC-02/11-01/11-592-Conf-Anx3-Corr, 14 January 2014; the « Annexe 4 - Correction de ICC-02/11-01/11-592-Conf-Anx4 : Tableau amendé des éléments constitutifs des crimes », No. ICC-02/11-01/11-592-Conf-Anx4-Corr, 14 January 2014; and the « Annexe 6 - Correction de ICC-02/11-01/11-592-Conf-Anx6 : Rapport sur des groupes rebelles actifs à Abidjan durant la violence post-électorale », No. ICC-02/11-01/11-592-Conf-Anx6-Corr, 14 January 2014.

⁴ See the « Annexe 2 - Correction de la correction de ICC-02/11-01/11-592-Conf-Anx2 : Document amendé de notification des charges avec notes de bas de page », No. ICC-02/11-01/11-592-Conf-Anx2-Corr2, 20 January 2014 (the “Amended DCC”).

⁵ See the “Decision on the ‘Requête afin que le « Document amendé de notification des charges » déposé par le Procureur le 13 janvier 2014 et les documents afférents soient déclarés irrecevables et écartés par la Chambre préliminaire.” (Pre-Trial Chamber I, Single Judge), No. ICC-02/11-01/11-595, 27 January 2014.

Request”).⁶ The Prosecution responded to the Status Conference Request on 3 February 2014.⁷ On 5 February 2014, the Chamber rejected the Request.⁸

4. On 3 February 2014, the Defence filed a “Demande afin que soit organisée la continuation de l’audience orale de confirmation des charges”.⁹ The Prosecution responded on 5 February 2014.¹⁰

5. The Principal Counsel of the OPCV, acting as Common Legal Representative of Victims (the “Common Legal Representative”),¹¹ submits the following response to the Defence’s Request to continue the confirmation of the charges hearing.

II. SUBMISSIONS

6. The Common Legal Representative considers that the procedure established by the Chamber fully preserves the rights and prerogatives of the parties and participants. As a consequence, she submits that there is no need to convene a further oral hearing.

7. In addition, the Common Legal Representative wishes to underline that victims have constantly, and continue to express, concerns about the length of the

⁶ See the “Corrigendum de la « Requête urgente aux fins d’organisation d’une Conférence de mise en état », No. ICC-02/11-01/11-597-Corr, 30 January 2014 (the “Status Conference Request”).

⁷ See the “Prosecution’s response to the Defence ‘Corrigendum de la « Requête urgente aux fins d’organisation d’une Conférence de mise en état »”, No. ICC-02/11-01/11-601, 3 February 2014.

⁸ See the “Decision on a Defence request for a status conference”, No. ICC-02/11-01/11-604, 5 February 2014.

⁹ See the “Demande afin que soit organisée la continuation de l’audience orale de confirmation des charges”, No. ICC-02/11-01/11-599, 3 February 2014.

¹⁰ See the « Prosecution Response to the Defence « Demande afin que soit organisée la continuation de l’audience orale de confirmation des charges », No. ICC-02/11-01/11-606, 5 February 2014.

¹¹ See the “Decision on Victims’ Participation and Victims’ Common Legal Representation at the Confirmation of Charges Hearing and in the Related Proceedings” (Pre-Trial Chamber I, Single Judge), No. ICC-02/11-01/11-138, 4 June 2012, pp. 25-26. See also the “Second decision on victims’ participation at the confirmation of charges hearing and in the related proceedings” (Pre-Trial Chamber I, Single Judge), No. ICC-02/11-01/11-384-Corr, 6 February 2013, pp. 22-23.

confirmation of the charges proceedings and that they have indicated that they wish that said proceedings be concluded in a reasonable time.

8. The holding of a further hearing will undoubtedly impact on the schedule established by the Chamber for the conclusion of the confirmation of the charges hearing. Incidentally, the Common Legal Representative notes that the Defence has also filed a request for extension of time to file its written submissions¹² and that some concerns expressed by the Defence might be addressed, if need be, by ordering a limited extension of time.

9. Should the Chamber decide to hold a further oral hearing, the Common Legal Representative endorses the Prosecution's submissions as to the scope and timing of the said oral hearing.

Respectfully submitted.



Paolina Massidda
Principal Counsel

Dated this 6th day of February 2014

At The Hague, The Netherlands

¹² See the « Demande de prorogation des délais fixés par la Chambre préliminaire le 17 décembre 2013 afin de permettre à la défense de déposer des observations écrites sur la preuve du Procureur », No. ICC-02/11-01/11-603, 4 February 2014.