

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/11-01/11
Date: 5 February 2014

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

Decision on a Defence request for a status conference

Decision to be notified, in accordance with regulation 31 of the Regulations of the Court, to:

The Office of the Prosecutor

Fatou Bensouda, Prosecutor

James Stewart, Deputy Prosecutor

Counsel for the Defence

Emmanuel Altit

Agathe Bahi Baroan

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

Paolina Massidda

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

States Representatives

Amicus Curiae

REGISTRY

Registrar

Herman von Hebel

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Pre-Trial Chamber I (the “Chamber”) of the International Criminal Court (the “Court”) hereby issues the decision on the “*Requête urgente aux fins d’organisation d’une Conférence de mise en état*” (the “Request”), filed on 30 January 2014.¹

1. On 3 June 2013, the Chamber issued, by majority, Judge Silvia Fernández de Gurmendi dissenting, the “Decision adjourning the hearing on the confirmation of charges pursuant to article 61(7)(c)(i) of the Rome Statute”.²

2. On 13 January 2014, the Prosecutor filed 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”.³

3. On 30 January, the Defence submitted the Request, asking the Chamber to:

- **Ordonner** la tenue d’une audience de mise en état lors de laquelle seront discutés notamment:

- La nécessité d’organiser une véritable audience orale de confirmation des charges ;
- Le temps dont devrait bénéficier le Président Gbagbo pour préparer adéquatement sa défense, en conformité avec l’Article 67(1)(b) du Statut de Rome ;
- Les moyens et le temps dont devrait disposer la défense pour enquêter afin que le Président Gbagbo puisse exercer son droit de contester les charges, de contester les preuves du Procureur et de présenter des éléments de preuve en vertu de l’Article 61(6) du Statut de Rome ;
- La teneur du DCC pour vérifier s’il est conforme aux instructions de la Chambre Préliminaire et aux exigences du Statut ;
- Le format le plus approprié concernant les soumissions écrites de la défense en réponse au DCC.

- **Fixer** la date de cette conférence de mise en état au 7 février 2014.⁴

¹ ICC-02/11-01/11-597. A *corrigendum* was filed on 31 January 2014, see ICC-02/11-01/11-597-Corr.

² ICC-02/11-01/11-432.

³ ICC-02/11-01/11-592 and annexes.

⁴ Request, p. 12.

4. The Defence cites rules 121(2)(b) and 132(1) of the Rules of Procedure and Evidence (the “Rules”) and submits generally with respect to status conferences:

Organiser une conférence de mise en état est souvent indispensable afin de permettre aux parties d’exprimer leurs préoccupations, d’informer la Chambre des obstacles qu’elles rencontrent, de lui faire part des contraintes à régler et donner aux Juges tous les éléments utiles pour qu’ils puissent prendre toutes les décisions nécessaires afin de préserver les droits des parties, en particulier les droits de l’Accusé, et qu’ils puissent éventuellement modifier le rythme de la procédure de façon à laisser chacune des parties libre de faire valoir ses arguments. Il s’agit en effet de s’assurer que le déroulé de la procédure ne porte pas atteinte aux droits fondamentaux de l’Accusé. La discussion permet toujours d’entendre les deux parties, de faire le point sur l’état d’avancement des travaux, de décider éventuellement d’une date d’audience. Une telle concertation entre les parties, organisée sous l’égide des Juges, correspond à la lettre et à l’esprit du Statut. Elle constitue un mécanisme facilitant le bon déroulé de la procédure ; elle est explicitement organisée par le Statut et découle ici des dispositions combinées des règles 121 et 132 du RPP.⁵

5. As concerns the case at hand, the Defence argues that it involves new problems to which a solution must be found so that the proceedings can unfold harmoniously in the respect of the rights of the parties, in particular the suspect.⁶ The Defence submits that the issues proposed for discussion at the status conference are linked and must be discussed together, and that the organisation of a status conference in the present circumstances will save time and avoid the submission of numerous requests, responses and replies.⁷

6. On 3 February 2014, the Prosecutor filed the “Prosecution’s response to the Defence ‘*Corrigendum de la « Requête urgente aux fins d’organisation d’une Conférence de mise en état »*’”, submitting that the Request should be dismissed, and, alternatively, if the Chamber decides to convene a status conference, that

⁵ *Ibid.*, paras 39-41.

⁶ *Ibid.*, para. 44.

⁷ *Ibid.*, para. 46.

“it should limit the ‘issues’ to those items that are appropriate in all of the circumstances”.⁸

7. In the submission of the Prosecutor, a status conference is not needed in order to agree on future procedure, as that procedure has already been established by the Chamber.⁹ The Prosecutor also argues that it is unclear how a status conference will save time or why the suggested issues or topics for discussion cannot be efficiently dealt with in writing.¹⁰ Indeed, the Prosecutor takes the view that the issues proposed by the Defence can be dealt with in writing, and points out that certain Defence requests dealing with these same issues have already been filed before the Chamber.¹¹

8. The Chamber notes article 61 of the Rome Statute and rule 121 of the Rules.

9. In the view of the Chamber, a status conference by way of an oral hearing is not necessary in the present circumstances, as the parties and participants may properly present any relevant submissions to the Chamber by way of written filings in the record of the case.

10. The Chamber notes that while the Request has been pending, the Defence has already filed written requests dealing with most, if not all, of the issues proposed for discussion at the status conference.¹² In the assessment of the Chamber, these written requests, together with any responses by the Prosecutor and by the Office of Public Counsel for victims on behalf of the victims participating in the proceedings, will be sufficient for the Chamber to decide shortly.

⁸ ICC-02/11-01/11-601, para. 10.

⁹ *Ibid.*, para. 3.

¹⁰ *Ibid.*, para. 4.

¹¹ *Ibid.*, paras 5-8.

¹² ICC-02/11-01/11-598-Conf-Corr; ICC-02/11-01/11-599; ICC-02/11-01/11-603.

11. Any other issue which the Defence indicated that it intended to raise in the course of the proposed status conference may be equally addressed in writing, if any remains outstanding.

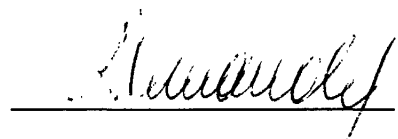
12. In this regard, the Chamber considers that the issues proposed all revolve around the matter of the unfolding of the further confirmation proceedings. In these circumstances, in order to address together all these related matters, the Chamber considers it appropriate to establish a time limit for the Defence to raise in writing the remaining issues, if any, it intended to address at the requested status conference, and set it at the date proposed for the status conference, *i.e.* Friday, 7 February 2014.

FOR THESE REASONS, THE CHAMBER

REJECTS the Request;

DECIDES that the Defence may raise in writing any remaining issues it intended to address at the requested status conference by Friday, 7 February 2014.

Done in both English and French, the English version being authoritative.



Judge Silvia Fernández de Gurmendi

Presiding Judge



Judge Hans-Peter Kaul



Judge Christine Van den Wyngaert

Dated this Wednesday, 5 February 2014

At The Hague, The Netherlands