

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/11-01/11
Date: 23 January 2013

PRE-TRIAL CHAMBER I

Before: Judge Silvia Fernández de Gurmendi, Single Judge

**SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE
IN THE CASE OF
*THE PROSECUTOR v. LAURENT GBAGBO***

Public

Decision on the *"Demande aux fins de prorogation du délai fixé pour le dépôt par la défense d'observations concernant les demandes de participation des victimes transmises par le Greffe le 18 janvier 2013"*

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

The Office of the Prosecutor

Fatou Bensouda

Counsel for the Defence

Emmanuel Altit

Agathe Bahi Baroan

Legal Representatives of Victims

Legal Representatives of 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

Silvana Arbia

Detention Section

Victims and Witnesses Unit

Others

**Victims Participation and
Reparations Section**

Judge Silvia Fernández de Gurmendi, Single Judge for Pre-Trial Chamber I of the International Criminal Court (“Chamber” and “Court” respectively), responsible for carrying out the functions of the Chamber in relation to the situation in Côte d’Ivoire and the cases emanating therefrom,¹ hereby renders this decision on the *“Demande aux fins de prorogation du délai fixé pour le dépôt par la défense d’observations concernant les demandes de participation des victimes transmises par le Greffe le 18 janvier 2013”* (the “Request”).²

1. On 4 December 2012, the Registry transmitted to the Chamber and the Prosecutor unredacted copies of three victims’ applications for participation, including supplementary information, which were previously rejected or deferred by the Single Judge.³ Redacted copies of these applications were transmitted to the Defence.⁴

2. On 14 December 2012, the Single Judge issued the “Decision on the date of the confirmation of charges hearing and proceedings leading thereto”, in which she decided that the hearing on the confirmation of charges shall commence on 19 February 2013.⁵ The Single Judge held that further applications for victims’ participation received by the Registry shall be transmitted to the Chamber and the parties by 18 January 2013 and that the parties must be allowed to submit their observations, if any, by 25 January 2013.⁶

¹ ICC-02/11-01/11-61.

² ICC-02/11-01/11-368.

³ ICC-02/11-01/11-309 and its confidential and *ex parte* annexes.

⁴ ICC-02/11-01/11-311 and its confidential annexes.

⁵ ICC-02/11-01/11-325, p. 14.

⁶ ICC-02/11-01/11-325, p. 15.

3. On 18 January 2013, the Registry transmitted to the Chamber and the Prosecutor unredacted copies of 59 applications for victims' participation⁷ and redacted copies thereof were transmitted to the Defence.⁸

4. On 21 January 2013, the Defence filed the Request, in which the Defence seeks an extension of time, pursuant to regulation 35(2) of the Regulations of the Court (the "Regulations"), to file its observations on the 59 victims' applications transmitted by the Registry.⁹ The Defence requests the Single Judge to set 5 February 2013 as the new deadline to file its observations.¹⁰

5. The Single Judge notes regulation 34 and 35(2) of the Regulations. According to the latter provision, the Chamber may extend or reduce a time limit if good cause is shown and, where appropriate, after having given the participants an opportunity to be heard.

6. The Single Judge observes that, in support of its Request, the Defence invokes a series of circumstances that allegedly make the current deadline for the submission of observations on the 59 applications for victims' participation hardly feasible. These circumstances include the number of victims' applications received, the last batch of evidence disclosed by the Prosecutor to the Defence between 15 and 17 January 2013, the amended version of the Document Containing the Charges ("DCC") filed by the Prosecutor on 17 January 2013, a Defence mission in Côte d'Ivoire that will take place between 24 January and 4 February 2013 and other deadlines related to the preparation of the upcoming confirmation of charges hearing.¹¹

⁷ ICC-02/11-01/11-364 and its confidential and *ex parte* annexes.

⁸ ICC-02/11-01/11-366 and its annexes.

⁹ ICC-02/11-01/11-368, para. 2 and p. 8.

¹⁰ *Ibid.*, p. 8.

¹¹ *Ibid.*, para. 8.

7. The Single Judge notes that the Request is largely based on the same arguments advanced by the Defence in its *“Requête aux fins de prorogation des délais de dépôt des demandes d’expurgations, de soumission d’informations relatives à la présentation de témoignages viva voce et de dépôt de la liste amendée de preuves”*,¹² which was rejected by the Single Judge on the basis that the Defence did not identify any “good cause” within the meaning of regulation 35(2) of the Regulations.¹³ The Single Judge reiterates her findings that the Defence arguments with regard to the workload deriving from the Prosecutor’s last disclosure of incriminating evidence, the filing of the amended DCC, the investigative steps currently undertaken by the Defence and the other deadlines for the Defence before the confirmation of charges hearing do not constitute “good cause” so as to justify an extension of time pursuant to regulation 35(2) of the Regulations.

8. The only new factor in the Request that could affect the ability of the Defence to meet the current deadline to submit observations is the amount of victims’ applications transmitted by the Registry and the necessity for the Defence to analyse these applications in light of the amended DCC.¹⁴ However, the Single Judge considers that, in the circumstances of the case, the material scope of the case against the suspect remains the same as in previous versions of the DCC¹⁵ and the number of victims’ applications for participation is relatively low.

9. Nevertheless, the Single Judge notes the discrete variation of time requested by the Defence and the fact that the current deadline overlaps with the mission planned by the Defence team in Côte d’Ivoire. Therefore, the

¹² ICC-02/11-01/11-355.

¹³ Pre-Trial Chamber I, “Decision on the ‘*Requête aux fins de prorogation des délais de dépôt des demandes d’expurgations, de soumission d’informations relatives à la présentation de témoignages viva voce et de dépôt de la liste amendée de preuves*’”, ICC-02/11-01/11-361, paras 12-15.

¹⁴ ICC-02/11-01/11-368, para. 3.

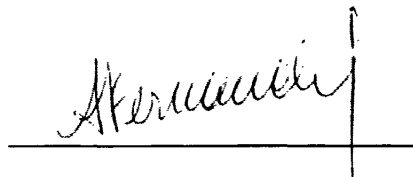
¹⁵ See ICC-02/11-01/11-357-Conf-Anx1 and ICC-02/11-01/11-184-Anx1-Red.

Single Judge considers that an extension of the time until 5 February 2013 may be granted with a view to assisting the Defence in the preparation for the confirmation of charges hearing, insofar as such variation does not affect the rights of the victims that could be admitted as participants in the proceedings. In this respect, the Single Judge is of the view that receiving the Defence observations on the 59 victims' applications for participation by 5 February 2013 would still allow the Single Judge to issue a decision on whether these applicants qualify as victims under rule 85 of the Rules of Procedure and Evidence (the "Rules") sufficiently in advance to enable these victims, should they be recognized as such, to properly exercise their right to attend and participate in the confirmation of charges hearing through their legal representative, in accordance with rule 91(2) and 89(1) of the Rules.¹⁶

FOR THESE REASONS THE SINGLE JUDGE HEREBY

GRANTS the Defence until 5 February 2013 to submit its observations, if any, on the 59 victims' applications for participation.

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



Judge Silvia Fernández de Gurmendi

Single Judge

Dated this 23 January 2013

At The Hague, the Netherlands

¹⁶ ICC-02/11-01/11-138, paras 48-52.