

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/11-01/11
Date: 14 November 2012

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 document

**Decision on the OPCV's "Request in relation to the 'Decision on the fitness of
Laurent Gbagbo to take part in the proceedings before this Court'"**

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 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 & Deputy Registrar

Silvana Arbia

Didier Preira

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Judge Silvia Fernández de Gurmendi, Single Judge for Pre-Trial Chamber I (the “Chamber”) of the International Criminal Court (the “Court”), responsible for carrying out the functions of the Chamber in relation to the situation in the Republic of Côte d’Ivoire and the cases emanating therefrom,¹ hereby issues the decision on the “Request in relation to the ‘Decision on the fitness of Laurent Gbagbo to take part in the proceedings before this Court’” (the “Request”),² submitted by the Office of Public Counsel for victims (the “OPCV”).

1. On 4 June 2012, the Single Judge granted 139 victims the right to participate at the confirmation of charges hearing and in related proceedings and appointed the OPCV as their common legal representative.³
2. On 2 November 2012, the Chamber issued the “Decision on the fitness of Laurent Gbagbo to take part in the proceedings before this Court”.⁴
3. On 12 November 2012, the Defence filed, as “confidential”, the “*Demande d’autorisation d’interjeter appel de la « Decision on the fitness of Laurent Gbagbo to take part in the proceedings before this Court » (ICC-02/11-01/11-286-Conf)*” (the “Application for Leave to Appeal”).⁵
4. On 13 November 2012, the OPCV filed its Request. It submits that it is “unaware at this point in time of whether an application for leave to appeal the Decision has been filed before the Chamber” but argues that, in accordance with regulations 24(2) and 65(3) of the Regulations of the Court victims have the right to file a response.⁶ On this basis, the OPCV requests the Single Judge:

¹ ICC-02/11-01/11-61.

² ICC-02/11-01/11-293.

³ ICC-02/11-01/11-138.

⁴ ICC-02/11-01/11-286-Conf.

⁵ ICC-02/11-01/11-292-Conf.

⁶ Request, paras 11-12.

- a) To verify whether [the Application for Leave to Appeal] – which in principle should deal with legal issues – could be reclassified as public or could be made accessible to her even in its confidential version. In the negative, to order the party who has filed the application for leave to appeal to file a suitable redacted version of the document in the record of the case within a deadline to be determined by the Chamber;
- b) To order the other party to file its response in a version which can be notified to the Common Legal Representative; and
- c) To order that the deadline of three days for the submission by the Common Legal Representative of the response to the application for leave to appeal the Decision shall run from the notification of the document to the OPCV.⁷

5. The Single Judge notes article 68 of the Rome Statute and regulations 23 *bis* and 65(3) of the Regulations of the Court.

6. The Single Judge considers that while the Application for Leave to Appeal does make reference to certain confidential information and cannot be reclassified as “public” or notified as such to the OPCV, its content largely consists of discussion and legal argument which can be made public at no risk. It is therefore appropriate that a public redacted version is filed. Indeed, the Single Judge notes that the Defence itself states that it has the intention of filing a public redacted version.⁸

7. In addition, the Single Judge is of the view that an appropriately short time limit must be set for the filing of the public redacted version, in order to enable the OPCV to respond pursuant to regulation 65(3) of the Regulations of the Court.

8. Furthermore, should the Prosecutor choose to file her response to the Application for Leave to Appeal as “confidential”, the Single Judge reminds her of her duty to also file a public redacted version.

9. Similarly, the Single Judge considers it unnecessary to make any order in relation to the time limit for the response of the OPCV to the Application for

⁷ *Ibid.*, para. 14.

⁸ Application for Leave to Appeal, para. 1.

Leave to appeal as the OPCV requests the Single Judge to merely restate the text of the regulation 65(3) of the Regulations, which provides that “[p]articipants may file a response within three days of notification of the application [for leave to appeal]”.

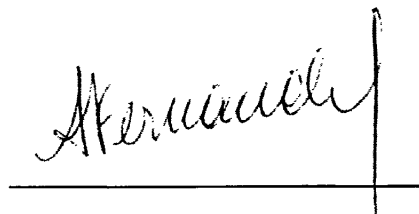
FOR THESE REASONS, THE SINGLE JUDGE

ORDERS the Defence to file a public redacted version of the Application for Leave to Appeal by 15 November 2012;

ORDERS the Prosecutor, in case her response to the Application for Leave to Appeal were to be filed as “confidential”, to simultaneously file a public redacted version of the response, and

REJECTS the remainder of the Request.

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

A handwritten signature in black ink, appearing to read 'S. Fernández de Gurmendi', is written over a horizontal line. A vertical line extends downwards from the right side of the signature.

Judge Silvia Fernández de Gurmendi

Single Judge

Dated this 14 November 2012

At The Hague, The Netherlands