

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No. ICC-02/11-01/11 OA 2

Date: 31 August 2012

THE APPEALS CHAMBER

Before:
Judge Anita Ušacka, Presiding Judge
Judge Sang-Hyun Song
Judge Sanji Mmasenono Monageng
Judge Akua Kuenyehia
Judge Erkki Kourula

SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE

IN THE CASE OF THE PROSECUTOR v. LAURENT GBAGBO

Public document

Directions on the submissions of observations



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

The Office of the Prosecutor
Ms Fatou Bensouda, Prosecutor
Mr Fabricio Guariglia

Counsel for the Defence
Emmanuel Altit
Agathe Bahi Baroan

The Office of Public Counsel for Victims
Paolina Massidda

States Representatives
Jean-Pierre Mignard
Jean-Paul Benoit

REGISTRY

Registrar
Ms Silvana Arbia



The Appeals Chamber of the International Criminal Court,

In the appeal of Mr Gbagbo against the decision of Pre-Trial Chamber I, entitled “Decision on the ‘Corrigendum of the challenge to the jurisdiction of the International Criminal Court on the basis of articles 12(3), 19(2), 21(3), 55 and 59 of the Rome Statute filed by the Defence for President Gbagbo (ICC-02/11-01/11-129)’” of 15 August 2012 (ICC-02/11-01/11-212),

Issues the following

DIRECTIONS

- 1) The victims who were allowed to file observations pursuant to Pre-Trial Chamber I’s 15 June 2012 “Decision on the conduct of the proceedings following the defence challenge to the jurisdiction of the Court pursuant to article 19 of the Rome Statute” (ICC-02/11-01/11-153) may submit observations on Mr Gbagbo’s document in support of the appeal and on the Prosecutor’s response by no later than 5 October 2012, 16h00.
- 2) The Republic of the Côte d’Ivoire is invited, pursuant to rule 103 (1) of the Rules of Procedure and Evidence, to submit observations on Mr Gbagbo’s document in support of the appeal. These observations shall be filed by no later than 28 September 2012, 16h00.
- 3) Mr Gbagbo and the Prosecutor may each file a single response to the observations referred to at paragraphs 1 and 2, above, by no later than 12 October 2012, 16h00.

REASONS

1. The present Directions relate to the participation of victims and of the Republic of the Côte d’Ivoire (hereinafter: “Côte d’Ivoire”) in the proceedings arising from an appeal¹ brought under articles 19 (6) and 82 (1) (a) of the Statute against the

¹ “Defence appeal against Pre-Trial Chamber I’s *Decision on the ‘Corrigendum of the challenge to the jurisdiction of the International Criminal Court on the basis of articles 12(3), 19(2), 21(3), 55 and 59 of the Rome Statute filed by the Defence for President Gbagbo’* (ICC-02/11-01/11-212)”, 21 August 2012, ICC-02/11-01/11-225.



“Decision on the ‘Corrigendum of the challenge to the jurisdiction of the International Criminal Court on the basis of articles 12(3), 19(2), 21(3), 55 and 59 of the Rome Statute filed by the Defence for President Gbagbo (ICC-02/11-01/11-129)’” of 15 August 2012 (ICC-02/11-01/11) (hereinafter: “Impugned Decision”).

2. The Impugned Decision was rendered in proceedings before Pre-Trial Chamber I (hereinafter: “Pre-Trial Chamber”) relevant to Mr Gbagbo’s “Corrigendum of the challenge to the jurisdiction of the International Criminal Court on the basis of articles 12(3), 19(2), 21(3), 55 and 59 of the Rome Statute filed by the Defence for President Gbagbo (ICC-02/11-01/11-129)” (hereinafter: “Jurisdictional Challenge”), filed on 29 May 2012.² On 15 June 2012, the Pre-Trial Chamber issued the “Decision on the conduct of the proceedings following the defence challenge to the jurisdiction of the Court pursuant to article 19 of the Rome Statute”.³ In that decision, it appointed the Office of Public Counsel for Victims (hereinafter: “OPCV”) to represent victims admitted to participate in the proceedings related to the confirmation of charges⁴ and victims “who submitted applications to participate in the proceedings and whose applications have not yet been assessed by the Chamber”⁵ for the purpose of the proceedings relating to the Jurisdictional Challenge of Mr Gbagbo. On 27 June 2012, the OPCV filed submissions on the jurisdictional challenge of Mr Gbagbo with the Pre-Trial Chamber.⁶

3. According to the Appeals Chamber’s jurisprudence on the participation of victims in appeals under articles 19 (6) and 82 (1) (a) of the Statute, victims who made observations according to article 19 (3) of the Statute and rule 59 (3) of the Rules of Procedure and Evidence in the proceedings before the Pre-Trial or Trial Chamber may submit observations before the Appeals Chamber.⁷ For the purpose of regulating and expediting the conduct of the proceedings arising from this appeal, the

² ICC-02/11-01/11-129-Corr-tENG.

³ ICC-02/11-01/11-153.

⁴ See “Decision on the conduct of the proceedings following the defence challenge to the jurisdiction of the Court pursuant to article 19 of the Rome Statute”, 15 June 2012, ICC-02/11-01/11-153, para. 7.

⁵ “Decision on the conduct of the proceedings following the defence challenge to the jurisdiction of the Court pursuant to article 19 of the Rome Statute”, 15 June 2012, ICC-02/11-01/11-153, p. 5.

⁶ “Observations on behalf of victims regarding the Defence Challenge to the Jurisdiction of the Court”, 27 June 2012, ICC-02-11-01/11-165.

⁷ See *Prosecutor v. William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang* “Decision on the ‘Observations on the “Directions on the submission of observations pursuant to article 19 (3) of the Rome Statute and rule 59 (3) of the Rules of Procedure and Evidence””, 20 February 2012, ICC-01/09-01/11-390 (OA3, OA4), para. 13.

Appeals Chamber in these Directions determines that the victims who were represented by the OPCV in proceedings on the Jurisdictional Challenge before the Pre-Trial Chamber and made observations pursuant to article 19 (3) of the Statute may also submit observations on the document in support of the appeal and the response thereto. Mr Gbagbo and the Prosecutor are given the opportunity to respond to the victims' observations.

4. The Impugned Decision addressed Mr Gbagbo's Jurisdictional Challenge in two parts, which are both relevant to actions taken by Côte d'Ivoire and conduct attributed by Mr Gbagbo to Côte d'Ivoire. The first part related foremost to the question how the three letters of Côte d'Ivoire relevant to article 12 (3) of the Statute should be interpreted.⁸ The second part discussed whether Côte d'Ivoire violated Mr Gbagbo's human rights (before his surrender) in a way that should lead to a stay of the Court's proceedings.⁹ Therefore, it appears not only desirable, but rather, essential for the proper determination of this appeal to hear the observations of Côte d'Ivoire on Mr Gbagbo's document in support of the appeal. Accordingly, and acting pursuant to rule 103 (1) to (3) of the Rules of Procedure and Evidence, the Appeals Chamber invites Côte d'Ivoire to submit observations on Mr Gbagbo's document in support of the appeal and sets a time frame for the responses of Mr Gbagbo and the Prosecutor.

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



Judge Anita Ušacka
Presiding Judge

Dated this 31st day of August 2012

At The Hague, The Netherlands

⁸ Impugned Decision, paras 27-67.

⁹ Impugned Decision, paras 68-112.