

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 19 July 2012

THE APPEALS CHAMBER

Before:

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

SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE

IN THE CASE OF THE PROSECUTOR v. LAURENT KOUDOU GBAGBO

Confidential document

Decision on the "Requête aux fins de suspension des délais prévus par la Règle 154(1) du Règlement de procédure et de preuve et par la Norme 64(5) du Règlement de la Cour jusqu'à la fin des vacances judiciaires, fixée au lundi 6 août 2012"

Decision 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
Mr Emmanuel Altit
Ms Agathe Bahi Baroan

REGISTRY

Registrar
Ms Silvana Arbia



The Appeals Chamber of the International Criminal Court,

Having before it the “Requête aux fins de suspension des délais prévus par la Règle 154(1) du Règlement de procédure et de preuve et par la Norme 64(5) du Règlement de la Cour jusqu’à la fin des vacances judiciaires, fixée au lundi 6 août 2012” of 16 July 2012 (ICC-02/11-01/11-185-Conf),

Renders unanimously the following

DECISION

- 1) The time limit for the filing of the document in support of the appeal against the “Decision on the ‘Requête de la Défense demandant la mise en liberté provisoire du président Gbagbo’” (ICC-02/11-01/11-180-Conf) is extended to 16h00 on 13 August 2012.
- 2) The remainder of the “Requête aux fins de suspension des délais prévus par la Règle 154(1) du Règlement de procédure et de preuve et par la Norme 64(5) du Règlement de la Cour jusqu’à la fin des vacances judiciaires, fixée au lundi 6 août 2012” is rejected.

REASONS

1. On 13 July 2012, Pre-Trial Chamber I rendered the “Decision on the ‘Requête de la Défense demandant la mise en liberté provisoire du président Gbagbo’”¹ (hereinafter: “Decision on Interim Release”), rejecting a request of Mr Laurent Koudou Gbagbo (hereinafter: “Mr Gbagbo”) to be granted interim release.²
2. On 16 July 2012, Mr Gbagbo filed before the Appeals Chamber the “Requête aux fins de suspension des délais prévus par la Règle 154(1) du Règlement de procédure et de preuve et par la Norme 64(5) du Règlement de la Cour jusqu’à la fin des vacances judiciaires, fixée au lundi 6 août 2012”³ (hereinafter: “Request”). He requests the Appeals Chamber to suspend, pursuant to regulation 19 *bis* of the Regulations of the Court, the time limits for the filing of the appeal and of the

¹ ICC-02/11-01/11-180-Conf.

² “Requête de la Défense demandant la mise en liberté provisoire du président Gbagbo”, dated 27 April 2012 and registered on 1 May 2012, ICC-02/11-01/11-105-Conf (OA).

³ ICC-02/11-01/11-185-Conf.



document in support of the appeal against the Decision on Interim Release and to order that those time limits should commence only after the end of the judicial recess on 6 August 2012.⁴ In support of this request, he notes that under rule 154 (1) of the Rules of Procedure and Evidence, the appeal against the Decision on Interim Release must be filed within five days, which, in the case at hand, he interprets to mean by Friday, 20 July 2012.⁵ He also notes that under regulation 64 (5) of the Regulations of the Court, the document in support of the appeal has to be filed within seven days of the notification of the decision, which, in the case at hand, means by Monday, 23 July 2012.⁶ He submits that under regulation 19 *bis* of the Regulations of the Court these time limits can be suspended during the judicial recess at the discretion of the Chamber, and that other Chambers have relied on this provision to suspend time limits.⁷ He also submits that during the current judicial recess, the defence is particularly busy because of the following factors: the defence needs to prepare for the hearing on the confirmation of charges, which is scheduled to commence on 13 August 2012; the Prosecutor recently filed an amended document containing the charges and list of evidence, which have to be analysed and examined; the defence is currently awaiting reports regarding Mr Gbagbo's ability to participate in the confirmation hearing; because the defence has to file, by 20 July 2012, any requests for protective measures or redactions; and the defence has to submit its list of evidence by 27 July 2012 and is currently collecting evidence.⁸

3. On 18 July 2012, the Prosecutor responded to the Request⁹ (hereinafter: "Response"). The Prosecutor states that she does not object to the Request and recalls that Pre-Trial and Trial Chambers "have suspended time limits for applications to seek leave to appeal".¹⁰ She submits that if the Appeals Chamber finds this solution "inadequate", the Request could be treated as a request for an extension of time, to which the Prosecutor would not object either.¹¹

⁴ Request, pp. 7-8.

⁵ Request, paras 10, 16.

⁶ Request, paras 11, 16.

⁷ Request, paras 13, 14, 17-19.

⁸ Request, para. 21.

⁹ "Prosecution's response to the Defence 'Requête aux fins de suspension des délais prévus par la Règle 154(1) du Règlement de procédure et de preuve et par la Norme 64(5) du Règlement de la Cour jusqu'à la fin des vacances judiciaires, fixée au lundi 6 août 2012'", ICC-02/11-01/11-188-Conf (OA).

¹⁰ Response, para. 2.

¹¹ Response, para. 2.



4. The Appeals Chamber notes that Mr Gbagbo's principal arguments in support of the request to suspend time limits relate to the defence's workload in light of the upcoming confirmation hearing and are not based on the fact that the Court is currently in recess. Accordingly, in the circumstances of this case, the Appeals Chamber considers it appropriate to treat the Request not under regulation 19 *bis* but under regulation 35 of the Regulations of the Court. Under that latter provision, the Chamber may extend time limits ordered by a Chamber or prescribed in the Regulations of the Court "if good cause is shown". The Appeals Chamber considers that the defence's workload in light of the upcoming confirmation hearing establishes "good cause" in terms of the first sentence of regulation 35 (2) of the Regulations of the Court.¹² Accordingly, the Appeals Chamber decides to extend the time limit for the filing of the document in support of the appeal under regulation 64 (5) of the Regulations of the Court to 16h00 on Monday, 13 August 2012, i.e. seven days after the end of the judicial recess.

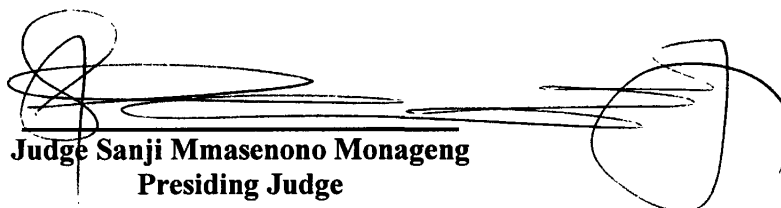
5. As to the time limit for the filing of the appeal itself, which has to be filed, pursuant to rule 154 (1) of the Rules of Procedure and Evidence, within five days of the decision that is the object of the appeal, failing which that decision shall become final,¹³ the Appeals Chamber notes that regulation 35 of the Regulations of the Court provides only for the extension of time limits ordered by a Chamber or prescribed in the Regulations of the Court. Accordingly, the Appeals Chamber does not extend the time limit for the filing of the appeal on that basis. In any event, in the case at hand there is no reason why Mr Gbagbo cannot comply with the time limit for the filing of the appeal. The Appeals Chamber notes that the drafting of an appeal is not necessarily onerous: pursuant to regulation 64 (1) of the Regulations of the Court, the appeal merely has to state the name and number of the case or situation, the title and date of the decision that is being appealed, the specific provision of the Statute pursuant to which the appeal is filed, and the relief sought. The Appeals Chamber

¹² See also *Prosecutor v. Thomas Lubanga Dyilo*, "Decision on the application by Counsel for Mr. Thomas Lubanga Dyilo to extend the time limit for the filing of the response to the Prosecutor's document in support of the appeal", 11 July 2006, ICC-01/04-01/06-190 (OA 3), para. 4; *Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, "Reasons for the 'Decision on the 'Application for Extension of Time Limits Pursuant to Regulation 35 of the Regulations of the Court to Allow the Defence to Submit its Observations on the Prosecutor's Appeal regarding the Decision on Evidentiary Scope of the Confirmation Hearing and Preventative Relocation'", 27 June 2008, ICC-01/04-01/07-653 (OA 7).

¹³ See rule 154 (3) read with rule 150 (4) of the Rules of Procedure and Evidence.

further notes that, pursuant to regulation 33 (1) (d) of the Regulations of the Court, the appeal has to be filed on the first working day following the expiry of the time limit, i.e. in the case at hand on Monday, 23 July 2012. Accordingly, the remainder of the Request, which relates to the time limit for the filing of the appeal, is rejected.

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



Judge Sanji Mmasenono Monageng
Presiding Judge

Dated this 19th day of July 2012

At The Hague, The Netherlands