

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 15 May 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

**Decision on the “Requête de la Défense du Président Gbagbo en vue d’une
prorogation de délais pour la soumission d’informations relatives à la
présentation de témoignages *viva voce* lors de l’audience de confirmation
des charges”**

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

The Office of the Prosecutor
Luis Moreno-Ocampo, Prosecutor
Fatou Bensouda, 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

The Office of Public Counsel for the Defence

States Representatives

Amicus Curiae

REGISTRY

Registrar & Deputy Registrar
Silvana Arbia, Registrar
Didier Preira, Deputy Registrar

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 of the International Criminal Court (“Chamber”), 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 *“Requête de la Défense du Président Gbagbo en vue d’une prorogation de délais pour la soumission d’informations relatives à la présentation de témoignages viva voce lors de l’audience de confirmation des charges.”*²

1. On 23 November 2011, Pre-Trial Chamber III issued an arrest warrant for Laurent Gbagbo (“Mr Gbagbo”),³ who was transferred to the Court on 30 November 2011. On 5 December 2011, the first appearance of Mr Gbagbo was held before the Court. During the first appearance hearing, Pre-Trial Chamber III scheduled the commencement of the confirmation of charges hearing (“Hearing”) for 18 June 2012.⁴

2. On 24 January 2012, the Single Judge issued the “Decision establishing a disclosure system and a calendar for disclosure” (“Decision on Disclosure”) in order to ensure, in compliance with Rule 121(2)(b) of the Rules of Procedure and Evidence (“Rules”), that disclosure take place under satisfactory conditions while safeguarding the interests at stake.⁵ The Decision on Disclosure set 16 May 2012 as the deadline for the filing of the Prosecutor’s Document Containing the Charges and List of Evidence.

3. On 16 April 2012, the Victims and Witnesses Unit (“VWU”) filed the “Victims and Witnesses Unit’s Unified Protocol on the practices used to prepare and familiarise witnesses for giving testimony and Protocol on the

¹ Décision portant la désignation d’un juge unique, ICC-02/11-01/11-61.

² ICC-02/11-01/11-114.

³ Warrant of Arrest For Laurent Gbagbo, 23 November 2011, ICC-02/11-01/11-1.

⁴ ICC-02/11-01/11-T-1-ENG, p. 8.

⁵ ICC-02/11-01/11-30 and Annex.

vulnerability assessment and support procedure used to facilitate the testimony of vulnerable witnesses” (“Protocols”).⁶

4. On 4 May 2012, the Single Judge issued the “Decision requesting observations from the parties on the schedule of the confirmation of charges hearing”⁷ whereby she ordered the Prosecutor and the Defence to inform the Chamber no later than Monday, 14 May 2012 as to whether they intend to call *viva voce* witnesses and, if so, to provide an estimate of the time required for the questioning of witnesses.

5. On 14 May 2012, the Prosecutor filed the “Prosecution’s observations on the schedule of the confirmation of charges hearing” informing the Chamber that he “does not wish to call any *viva voce* witnesses” at the Hearing.⁸

6. On the same day, the Defence submitted the “*Requête de la Défense du Président Gbagbo en vue d’une prorogation de délais pour la soumission d’informations relatives à la présentation de témoignages viva voce lors de l’audience de confirmation des charges*” (“Defence Request”).⁹ The Defence requests an extension of the time limit for the submission of information as to whether it intends to call *viva voce* witnesses and the estimated time for questioning these witnesses, if any, to 25 May 2012.

7. The Single Judge notes articles 61, 67 and 68 of the Rome Statute (“Statute”) and regulation 35 of the Regulations of the Court (“Regulations”).

8. The Single Judge takes note of the Defence’s submission that the requested extension of the time limit will enable it to assess the need to call

⁶ ICC-02/11-01/11-93 and its two annexes.

⁷ ICC-02/11-01/11-107.

⁸ ICC-02/11-01/11-113.

⁹ ICC-02/11-01/11-114.

viva voce witnesses against the backdrop of the Document Containing the Charges and the List of Evidence to be filed by the Prosecutor no later than 16 May 2012.

9. The Single Judge recalls that the initial time limit was set in light of the scheduled date of the Hearing and the time needed to implement the procedures outlined in the Protocols. In particular, the Protocols stress that “in order to facilitate the logistical arrangements and to ensure the timely appearance of a witness, the [Witness Information Form] needs to be submitted to the VWU not less than 35 days before the witness is scheduled to arrive at the location of testimony.”¹⁰

10. In light of the reasons provided by the Defence, the Single Judge considers it appropriate to grant a delay for the submissions on *viva voce* witnesses only to the extent that such delay does not prevent the VWU’s from putting in place the necessary logistical arrangements to ensure the timely appearance of the witness(es) before the Chamber at the scheduled date for the Hearing.

11. The Single Judge deems it important to reiterate that she “expects that oral testimony at the hearing, if any, will be narrowly relied on and only to the extent that it cannot be properly substituted by documentary evidence or a written statement.”¹¹

FOR THESE REASONS,

¹⁰ ICC-02/11-01/11-93-Anx1, para.14.

¹¹ ICC-02/11-01/11-107, para.11.

PARTLY GRANTS the Defence Request for extension of time-limit and authorises the Defence to provide the Chamber no later than Wednesday 23 May 2012 with the following information:

- (i) whether they intend to hear *viva voce* witnesses; and
- (ii) an estimate of the time required for the questioning of witnesses, if any.

ORDERS the Defence to contact the VWU as soon as practicable in order to facilitate the logistical arrangements to ensure the appearance of any witness(es) at the Hearing scheduled to start on 18 June 2012.

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



Judge Silvia Fernández de Gurmendi

Single Judge

Dated this 15 May 2012

At The Hague, The Netherlands