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**International
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TRIAL CHAMBER I

Before: Judge Cuno Tarfusser, Presiding Judge
Judge Olga Herrera Carbuccion
Judge Geoffrey Henderson

SITUATION IN CÔTE D'IVOIRE

**IN THE CASE OF
*THE PROSECUTOR v. LAURENT GBAGBO AND CHARLES BLÉ GOUDÉ***

Public Redacted Version of Filing No. ICC-02/11-01/15-1011-Conf

**New Submissions for the purpose of article 60(3) of the Statute pursuant to
Decision ICC-02/11-01/15-993**

Source: Office of Public Counsel for Victims

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

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I. Introduction

1. The Common Legal Representative of the victims admitted to participate in the proceedings (the “Legal Representative”)¹ submits that Mr Gbagbo shall remain in detention.

2. The Legal Representative argues that the evaluation of the factors identified by the Appeals Chamber as needing a further assessment by the Trial Chamber, namely the age and/or state of health of the Accused, still allow to conclude that there have been no changed circumstances in the sense of article 60(3) of the Rome Statute since the last review of Mr Gbagbo’s detention which could justify a modification of the current ruling.

3. Indeed, the existence and the recent activities of Mr Gbagbo’s network of supporters, coupled with the gravity of the crimes charged and the possible length of Mr Gbagbo’s sentence in case of a conviction, confirm that the risks enumerated in article 58(1)(b) of the Rome Statute are still present as to this date. Moreover, the Legal Representative contends that Mr Gbagbo’s health issues and age do not negate the risks that he might abscond or obstruct the proceedings.

4. Furthermore, the length of Mr Gbagbo’s detention, when considered in light of all the relevant factors and specificities of this trial, including the risks enumerated in article 58(1)(b) of the Rome Statute, is not unreasonable.

II. Background

5. On 2 November 2015, Trial Chamber I (the “Chamber”) issued the “Tenth decision on the review of Mr Laurent Gbagbo’s detention pursuant to Article 60(3) of

¹ See the “Decision on victim participation” (Trial Chamber I), No. ICC-02/11-01/11-800, 6 March 2015; and the “Decision on victims’ participation status” (Trial Chamber I), No. ICC-02/11-01/15-379, 7 January 2016, p. 23.

the Statute” (the “Tenth Decision on Detention”),² deciding that the Mr Gbagbo shall remain in detention.

6. On 27 November 2015, the Chamber issued the “Decision on the fitness of Laurent Gbagbo to stand trial”, deciding that the Mr Gbagbo was fit to stand trial and to attend trial proceedings.³

7. On 6 December 2015, the Chamber rendered the “Decision on the ‘Requête de la Défense à la suite de la transmission par le Greffe d’un rapport médical concernant Laurent Gbagbo’”,⁴ ordering the parties and participants to file any submissions for the purpose of article 60(3) of the Rome Statute by 3 February 2017.

8. On 3 February 2017, the Prosecution,⁵ the Defence of Mr Gbagbo,⁶ and the Legal Representative⁷ filed their submissions.

9. On 10 March 2017, the Chamber, Judge Tarfusser dissenting, issued the “Decision on Mr Gbagbo’s Detention”,⁸ deciding that the circumstances justifying the detention of Mr Gbagbo have not changed to such an extent as to warrant his provisional release (the “Decision on Mr Gbagbo’s Detention”).

² See the “Tenth decision on the review of Mr Laurent Gbagbo’s detention pursuant to Article 60(3) of the Statute” (Trial Chamber I), No. ICC-02/11-01/15-328, 11 November 2015 (the “Tenth Decision on Detention”).

³ See the “Decision on the fitness of Laurent Gbagbo to stand trial” (Trial Chamber I), No. ICC-02/11-01/15-349, 27 November 2015.

⁴ See the “Decision on the ‘Requête de la Défense à la suite de la transmission par le Greffe d’un rapport médical concernant Laurent Gbagbo’” (Trial Chamber I), No. ICC-02/11-01/15-770-Conf, 6 December 2016.

⁵ See the “Prosecution’s 11th submission for the purpose of article 60(3)”, No. ICC-02/11-01/15-794-Conf, 3 February 2017 (the “Prosecution’s submissions of 3 February 2017”).

⁶ See the “Soumissions de la défense portant sur les conditions d’application des articles 60(3) et 58(1)(b), présentées à la suite de l’ordonnance rendue par la Chambre le 6 décembre 2016”, No. ICC-02/11-01/15-793-Red, 3 February 2017 (“Mr Gbagbo’s submissions of 3 February 2017”).

⁷ See the “Submissions for the purpose of article 60(3) of the Statute pursuant to Decision ICC-02/11-01/15-770-Conf”, No. ICC-02/11-01/15-792-Conf, 3 February 2017 (the “Submissions of 3 February 2017”).

⁸ See the “Decision on Mr Gbagbo’s Detention” (Trial Chamber I), No. ICC-02/11-01/15-846, 10 March 2017 (the “Decision on Mr Gbagbo’s Detention”).

10. On 20 March 2017, the Defence of Mr Gbagbo appealed the Decision on Mr Gbagbo's Detention.⁹ On 27 March 2017, the Prosecution¹⁰ and the Legal Representative¹¹ filed their responses to the appeal.

11. On 19 July 2017, the Appeals Chamber issued the "Judgment on the appeal of Mr Laurent Gbagbo against the decision of Trial Chamber I of 10 March 2017 entitled 'Decision on Mr Gbagbo's Detention'",¹² concluding that the Chamber erroneously considered that Mr Gbagbo's age militated in favour of maintaining his detention; that the Chamber erroneously relied on the fact that Mr Gbagbo has denied responsibility and that the Chamber failed to consider the duration of Mr Gbagbo's detention and his state of health. The Appeals Chamber found appropriate to remit the matter to the Chamber for a new review of the ruling on Mr Gbagbo's detention (the "Judgment of 19 July 2017").

12. On 20 July 2017, the Chamber issued the "Decision requesting new submissions for purposes of Article 60(3) of the Statute",¹³ ordering the parties and participants to file new submissions for the purpose of article 60(3) of the Rome Statute by 23 August 2017, *"in particular considering the factors addressed by the Appeals Chamber"*.¹⁴

⁹ See the "Version publique expurgée de l'Acte d'appel de la Défense relative à la « Decision on Mr Gbagbo's Detention » (ICC-02/11-01/15-846) de la Chambre de première instance I décidant du maintien en détention de Laurent Gbagbo", No. ICC-02/11-01/15-858-Red, 20 March 2017, and the "Version publique expurgée du Document à l'appui de l'appel de la « Decision on Mr Gbagbo's Detention » (ICC-02/11-01/15-846) du 10 mars 2017", No. ICC-02/11-01/15-857-Red, 20 March 2017 ("Mr Gbagbo's appeal of 10 March 2017").

¹⁰ See the "Public redacted version of Response to Laurent Gbagbo's appeal against the 'Decision on Mr Gbagbo's Detention'", No. ICC-02/11-01/15-865-Red, 27 March 2017.

¹¹ See the "Redacted version of the Response to Mr Gbagbo's document in support of the appeal against the "Decision on Mr Gbagbo's Detention" (ICC-02/11-01/15-857-Conf)", No. ICC-02/11-01/15-864-Red, 27 March 2017.

¹² See the "Public redacted version of Judgment on the appeal of Mr Laurent Gbagbo against the decision of Trial Chamber I of 10 March 2017 entitled 'Decision on Mr Gbagbo's Detention'" (Appeals Chamber), No. ICC-02/11-01/15-992-Red, 19 July 2017 (the "Judgment of 19 July 2017").

¹³ See the "Decision requesting new submissions for purposes of Article 60(3) of the Statute" (Trial Chamber I), No. ICC-02/11-01/15-993, 20 July 2017.

¹⁴ *Idem*, para. 3.

13. In accordance with the instructions of the Chamber, the Legal Representative respectfully submits the following observations.

III. Confidentiality

14. Pursuant to regulation 23*bis*(2) of the Regulations of the Court, this submission is filed confidentially because it makes reference to submissions filed with the same classification. A public redacted version will be filed in due course.

IV. Submissions

15. The Legal Representative recalls *in toto* her Submissions of 3 February 2017;¹⁵ and considers that the conclusions of the Chamber in its previous decisions on the matter are still valid today.¹⁶

16. Indeed, the notion of “changed circumstances” within the meaning of article 60(3) of the Rome Statute “*imports either a change in some or all of the facts underlying a previous decision on detention, or a new fact satisfying a Chamber that a modification of its*

¹⁵ See the Submissions of 3 February 2017, *supra* note 7.

¹⁶ See the Tenth Decision on Detention, *supra* note 2; the “Public redacted version of Ninth Decision on Detention, on the review of Mr Laurent Gbagbo’s detention pursuant to article 60(3) of the Statute” (Trial Chamber I), No. ICC-02/11-01/15-127-Red, 8 July 2015; and the “Eighth Decision on Detention, on the review of Mr Laurent Gbagbo’s detention pursuant to article 60(3) of the Statute” (Trial Chamber I), No. ICC-02/11-01/11-808, 11 March 2015, paras. 24-30, 35 and 39. See also the “Seventh decision on the review of Mr Laurent Gbagbo’s detention pursuant to article 60(3) of the Statute” (Trial Chamber I), No. ICC-02/11-01/11-718-Red, 11 November 2014, paras. 43, 60 and 65; the “Sixth decision on the review of Laurent Gbagbo’s detention pursuant to article 60(3) of the Rome Statute” (Pre-Trial Chamber I, Single Judge), No. ICC-02/11-01/11-668, 11 July 2014, para. 42; the “Fifth Decision on Review of Detention” (Pre-Trial Chamber I), No. ICC-02/11-01/11-633, 12 March 2014, para. 34; the “Fourth Decision on Review of Detention” (Pre-Trial Chamber I), No. ICC-02/11-01/11-558, 11 November 2013, paras. 43, 46 and 52; the “Third decision on the review of Laurent Gbagbo’s detention pursuant to article 60(3) of the Rome Statute” (Pre-Trial Chamber I), No. ICC-02/11-01/11-454, 11 July 2013, paras. 37, 44 and 50; the “Public redacted version of the Second decision on the review of Laurent Gbagbo’s detention pursuant to article 60(3) of the Rome Statute” (Pre-Trial Chamber I, Single Judge), No. ICC-02/11-01/11-417-Red, 12 March 2013, paras. 30, 39 and 40-41; and the “Decision on the review of Laurent Gbagbo’s detention pursuant to article 60(3) of the Rome Statute” (Pre-Trial Chamber I, Single Judge), No. ICC-02/11-01/11-291, 12 November 2012, para. 61.

prior ruling is necessary”;¹⁷ “[i]f there are changed circumstances, the Pre-Trial or Trial Chamber will need to consider their impact on the factors that formed the basis for the decision to keep the person in detention”, otherwise, the “Chamber is not required to further review the ruling on release or detention”.¹⁸

17. The Appeals Chamber has further clarified that it is first for the relevant Chamber “to determine whether changed circumstances exist to warrant the disturbing of a previous ruling on detention, rather than addressing each factor underpinning detention in a *de novo* manner to determine whether any of these have changed”.¹⁹

18. In this regard, the Legal Representative contends that the need to maintain Mr Gbagbo in detention in order to ensure his appearance at trial and that he does not obstruct or endanger the proceedings, still exists, that neither his age nor his state of health may annihilate said risk; and that the duration of the Accused’s detention is not unreasonable in the circumstances of this case.

19. In particular, Mr Gbagbo’s network of supporters is still very active and had even increase its activism during the trial,²⁰ [REDACTED],²¹ [REDACTED].²²

¹⁷ See the “Judgment on the appeal of the Prosecutor against Pre-Trial Chamber II’s “Decision on the Interim Release of Jean-Pierre Bemba Gombo and Convening Hearings with the Kingdom of Belgium, the Republic of Portugal, the Republic of France, the Federal Republic of Germany, the Italian Republic, and the Republic of South Africa” (Appeals Chamber), No. ICC-01/05-01/08-631-Red OA2, 8 December 2009, para. 60.

¹⁸ See the “Judgment on the appeal of Mr Jean-Pierre Bemba Gombo against the decision of Trial Chamber III of 6 January 2012 entitled ‘Decision on the defence’s 28 December 2011 ‘Requête de Mise en liberté provisoire de M. Jean-Pierre Bemba’” (Appeals Chamber), No. ICC-01/05-01/08-2151-Red OA10, 5 March 2012, paras. 1 and 31.

¹⁹ See the “Judgment on the appeal of Mr Laurent Gbagbo against the decision of Pre-Trial Chamber I of 11 July 2013 entitled ‘Third decision on the review of Laurent Gbagbo’s detention pursuant to article 60(3) of the Rome Statute’” (Appeals Chamber), No. ICC-02/11-01/11-548-Red OA4, 29 October 2013, para. 1.

²⁰ See the Submissions of 3 February 2017, *supra* note 7, paras. 11-12.

²¹ [REDACTED].

²² [REDACTED].

20. These submissions led the majority of the Chamber to conclude that Mr Gbagbo still enjoys the support of a large group of persons, that there is *“little doubt concerning their willingness to assist him in any way possible”*, and that the Chamber could not rule out the possibility that his supporters are willing to break the law for his sake.²³

21. The Legal Representative recalls that *“the question revolves around the possibility, not the inevitability, of a future occurrence”*,²⁴ and that *“it is sufficient to show that it is possible that members of that network of supporters could break the law for the detainee”*;²⁵ and contends that the conclusions by the Chamber on the existence and nature of the network fully justify maintaining the Accused in detention.

22. Moreover, the charges Mr Gbagbo faces are extremely grave and he might be sentenced to a lengthy sentence in case of a conviction. The Appeals Chamber has confirmed that these two elements can validly be considered in the assessment of the risks mentioned in article 58(1)(b) of the Rome Statute.²⁶ Therefore, the Legal Representative submits that these elements, viewed in conjunction with the existence and activities of Mr Gbagbo’s network of supporters as described *supra*, confirm that the circumstances justifying Mr Gbagbo’s detention continue to be met.

23. Said conclusions remain valid even considering Mr Gbagbo’s age and/or his state of health.

24. The Legal Representative recalls the findings of the Appeals Chamber, according to which *“there is no provision in the Court’s legal texts that specifically provides for the interim or conditional release of a detained person on health grounds”*,²⁷ but that *“the*

²³ See the Decision on Mr Gbagbo’s Detention, *supra* note 8, paras. 15-16.

²⁴ See the Judgment of 19 July 2017, *supra* note 12, para. 43.

²⁵ *Idem*.

²⁶ *Ibidem*, paras. 54, 66-67.

²⁷ See the “Public redacted version of the Judgment on the appeal of Mr Laurent Koudou Gbagbo against the decision of Pre-Trial Chamber I of 13 July 2012 entitled “Decision on the ‘Requête de la

*medical condition of a detained person may have an effect on the risks under article 58 (1) (b) of the Statute, for instance on his or her ability to abscond, potentially negating those risks”.*²⁸ Therefore, and as specifically mentioned by the Appeals Chamber, the relevant question relating to the health of Mr Gbagbo with regard to his detention is “*whether circumstances had changed such that the risk enumerated in article 58 (1) (b) (i) and (ii) of the Statute were impacted*”.²⁹

25. The Legal Representative submits that there has been no new development with regard to Mr Gbagbo’s state of health that could lead to the conclusion that his medical condition is such that it would prevent him from absconding or obstructing the proceedings. Especially when considering [REDACTED].

26. While the report [REDACTED] states that Mr Gbagbo [REDACTED],³⁰ [REDACTED].

27. In this regard, it is also relevant that even the Defence never clearly argued that Mr Gbagbo’s medical conditions prevent him from absconding or obstructing the proceedings, as also recognised by the Appeals Chamber.³¹

28. The Legal Representative wishes to recall that in the report it is also indicated that [REDACTED]” and [REDACTED].³² A circumstance that further militates for the appropriateness of Mr Gbagbo’s detention regime.

Défense demandant la mise en liberté provisoire du président Gbagbo”” (Appeals Chamber), No. ICC-02/11-01/11-278-Red, 26 October 2012, para. 86 (the “Judgment of 26 October 2012”); see also the Judgment of 19 July 2017, *supra* note 12, para. 55.

²⁸ See the Judgment of 26 October 2012, *supra* note 27, para. 87; see also the Judgment of 19 July 2017, *supra* note 12, para. 55.

²⁹ See the Judgment of 19 July 2017, *supra* note 12, para. 59.

³⁰ [REDACTED].

³¹ See the Judgment of 19 July 2017, *supra* note 12, para. 58.

³² [REDACTED].

29. Concerning the age of Mr Gbagbo - even taking into consideration the guidance of the Appeals Chamber which found that the Chamber erred in considering the age as a factor that increase the Accused's desire to abscond - rather than one that may potentially mitigate the possibility of absconding,³³ said factor alone cannot overcome all other factors which indicate that Mr Gbagbo shall continue to be detained.

30. The Legal Representative also recalls that the Appeals Chamber ruled that *"taken on its own, it cannot be said that a person's advanced age means per se that he or she will be less likely to abscond or less likely to obstruct the proceedings"*.³⁴ Nevertheless, in its previous submissions the Defence of Mr Gbagbo limited his arguments to the fact that [REDACTED].³⁵ Therefore, and even if the age may be a factor for consideration, the Defence of Mr Gbagbo never substantiated the alleged impact of the Accused's age on the risks enumerated in article 58(1)(b) of the Rome Statute.³⁶

31. Finally, in relation to the duration of Mr Gbagbo's detention, according to the Appeals Chamber, the *"duration of time in detention pending trial is a factor that needs to be considered along with the risks that are being reviewed under article 60 (3) of the Statute"*³⁷ and the Chamber *"should have determined whether, all factors being considered, Mr Gbagbo's detention continues to be reasonable"*.³⁸ The Appeals Chamber also determined that *"[i]nterim release and the issue of the reasonableness of the period of*

³³ *Idem*, para. 54.

³⁴ *Ibidem*, para. 53.

³⁵ [REDACTED].

³⁶ See ICTY, *Prosecutor v. Milutinović et al.*, Case No. IT-05-87-T, Decision on Milutinović Motion for Provisional Release, 22 May 2007, paras. 14.

³⁷ See the "Judgment on the appeals against Pre-Trial Chamber II's decisions regarding interim release in relation to Aimé Kilolo Musamba, Jean-Jacques Mangenda, Fidèle Babala Wandu, and Narcisse Arido and order for reclassification" (Appeals Chamber), No. ICC-01/05-01/13 OA 5, OA 6, OA 7, OA 8, OA 9, 29 May 2015, para. 45 (the "Kilolo Appeals Judgment"); see also the Judgment of 19 July 2017, *supra* note 12, para. 76.

³⁸ See the Judgment of 19 July 2017, *supra* note 12, para. 79.

*detention are fact intensive and case specific and that the circumstances of the specific case as a whole will always be the guiding factor”.*³⁹

32. Mr Gbagbo has been detained since 30 November 2011 and the trial began on 28 January 2016.⁴⁰ Given all the circumstances and the specificities of this case, the Legal Representative submits that the period spent to date by Mr Gbagbo in detention is not unreasonable.

33. In this sense, the Legal Representative argues that a lengthy trial detention should always be considered in light of other factors such as the seriousness of the charges, the general complexity of the case⁴¹ and the potential penalty for the offences charged.⁴²

34. The complexity of the case, especially during the pre-trial phase,⁴³ the junction of the trials of both Accused, the quantity of evidence presented by the Prosecution during the trial, which includes, *inter alia*, massive amounts of documentary and video evidence,⁴⁴ the gravity of the charges faced by Mr Gbagbo, allow to conclude that the 5 years and a half spent by the Accused in detention is not an unreasonable period of time in the specific circumstances of this case. In this regard, it is worth noting that other international jurisdictions have found that given the complexity of the case, the pre-trial detention of an accused for more than five years does not

³⁹ *Idem*, para. 77.

⁴⁰ *Ibidem*, para. 78.

⁴¹ See ICTR, *Prosecutor v. Mugenzi et al.*, Case No. ICTR-99-50-I, Trial Chamber, Decision on Justin Mugenzi’s motion for stay of proceedings or in the alternative provisional release (rule 65) and in addition severance (rule 82(B)), 8 November 2002, para. 36.

⁴² See the Kilolo Appeals Judgment, *supra* note 37, para. 45.

⁴³ See the “Dissenting opinion of Judge Cuno Tarfusser”, No. ICC-02/11-01/15-846-Anx, 10 March 2017, para. 10 (the “Dissenting opinion of Judge Tarfusser”).

⁴⁴ See for instance the “Prosecution’s application for the introduction of video evidence under paragraphs 43-44 of the directions on the conduct of the proceedings and notice that it will not call Witness P-0541 to testify”, No. ICC-02/11-01/15-998, 1 August 2017, and its related Annexes; see also the “Prosecution’s application for the introduction of documentary evidence under paragraphs 43-44 of the directions on the conduct of the proceedings”, No. ICC-02/11-01/15-895, 28 April 2017, with its related Annexes.

amount to undue delay such as to warrant his provisional release.⁴⁵ It is also relevant that the Defence recognised itself the complexity of this case in a recent filing.⁴⁶

35. The Legal Representative also submits that the recent reduction of the expected time required by the Prosecution to present its evidence should be taken into consideration in this assessment. The Prosecution is now expected to conclude its presentation of evidence at the end of the present year, whereas it was previously noted by Judge Tarfusser, in his dissenting opinion, that the *“Prosecutor’s case would only finish in mid-2019 at the earliest”*.⁴⁷

36. This changed circumstance should militate for maintaining Mr Gbagbo in detention. In this regard, the Legal Representative recalls her previous arguments according to which the ongoing trial should be considered as a factor militating for maintaining Mr Gbagbo in detention,⁴⁸ as it increases the likelihood that the Accused might abscond.⁴⁹ Moreover, the Legal Representative submits that an accused should be present at his trial, *“and authorizing provisional release during the course of ongoing procedures, especially the presentation of evidence, should be the exception”*.⁵⁰

⁴⁵ See ICTR, *Prosecutor v. Ngirumpatse et al.*, Case No. ICTR-98-44-PT, Trial Chamber, Decision on the Motion by Ngirumpatse’s Defence to Find the Accused’s Detention Unlawful, or in the Alternative, to Order his Provisional Release, 18 August 2003; see also ICTR, *Prosecutor v. Kanyabashi*, Case No. ICTR-96-15-T, Decision on the Defence Motion for the Provisional Release of the Accused, 21 February 2001.

⁴⁶ See the “Réponse de la Défense à la «Prosecution’s application for testimony by means of video-link technology for Witness P-0047» (ICC-02/11-01/15-1002-Conf)”, No. ICC-02/11-01/15-1006-Conf, 21 August 2017, para. 22

⁴⁷ See the Dissenting opinion of Judge Tarfusser, *supra* note 43, para. 16.

⁴⁸ See the Submissions of 3 February 2017, *supra* note 7, para. 10.

⁴⁹ See the “Judgment on the appeal of the Prosecutor against Pre-Trial Chamber II’s “Decision on the Interim Release of Jean-Pierre Bemba Gombo and Convening Hearings with the Kingdom of Belgium, the Republic of Portugal, the Republic of France, the Federal Republic of Germany, the Italian Republic, and the Republic of South Africa”, *supra* note 17, para. 70. See also the “Review of the “Decision on the Application for the Interim Release of Thomas Lubanga Dyilo” (Pre-Trial Chamber I), No. ICC-01/04-01/06-826, 14 February 2007, p. 6; and the “Second Review of the Decision on the Conditions of Detention of Germain Katanga” (Trial Chamber II), No. ICC-01/04-01/07-794-tENG, 12 December 2008, paras. 9-10.

⁵⁰ See MICT, *Prosecutor v. Stanisic and Simatovic*, Case No. MICT-15-96-PT, Trial Chamber, Decision on Stanisic’s Motion for extension of provisional release, 19 May 2017, para. 16.

37. Finally, the Legal Representative stresses that the victims participating in this case remain concerned by the possibility that Mr Gbagbo is granted provisional release. Considering the sensitivity surrounding this trial, as recognised by Judge Tarfusser in his dissenting opinion,⁵¹ there is a real risk that such a provisional release be exploited for political purposes. This would undoubtedly affect the confidence of the victims in the proper administration of justice by the Court. The Legal Representative therefore submits that the sensitivity around this trial and the risks associated thereof should also be considered as a factor militating in favour of maintaining Mr Gbagbo in detention.

V. Conclusion

38. The Legal Representative submits that the presence of Mr Gbagbo's network of supporters and the possibility that they assist him in absconding or obstructing the proceedings, the gravity of the charges that Mr Gbagbo is facing and the possible length of sentence if he is convicted, militate for the conclusion that the conditions of article 58(1)(b) of the Rome Statute are still met today. This finding remains valid even considering Mr Gbagbo's age and/or his state of health. Furthermore, and after evaluating all the factors in a holistic approach, the Legal Representative concludes that the length of detention of Mr Gbagbo is reasonably justified by the specific circumstances of this case.



Paolina Massidda
Principal Counsel

Dated this 30th day of January of 2018

At The Hague, The Netherlands

⁵¹ See the Dissenting opinion of Judge Tarfusser, *supra* note 43, para. 22.