



Original: English

No. ICC-02/11-01/15 OA14

Date: 23 July 2020

THE APPEALS CHAMBER

Before:

**Judge Chile Eboe-Osuji, Presiding
Judge Howard Morrison
Judge Piotr Hofmański
Judge Luz del Carmen Ibáñez Carranza
Judge Solomy Balungi Bossa**

SITUATION IN THE REPUBLIC OF CÔTE D’IVOIRE

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

Public

**Corrected version of ‘Order on the reclassification of a document and the filing
of public redacted versions of documents’ dated 21 July 2020 (ICC-02/11-01/15-
1367)**

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
Ms Helen Brady

Counsel for Laurent Gbagbo

Mr Emmanuel Altit
Ms Agathe Bahi Baroan

Legal Representatives of Victims

Ms Paolina Massidda

Counsel for Charles Blé Goudé

Mr Geert-Jan Alexander Knoops
Mr Claver N'dry

REGISTRY

Registrar

Mr Peter Lewis

The Appeals Chamber of the International Criminal Court,

In the reconsideration request of Mr Laurant Gbagbo against the ‘Judgment on the Prosecutor’s appeal against the oral decision of Trial Chamber I pursuant to article 81(3)(i) of the Statute’ of 1 February 2019 (ICC-02/11-01/15-1251-Conf),

Having before it the ‘Transmission of the Observations of the Kingdom of Belgium’ of 11 March 2020 (ICC-02/11-01/15-1316-Conf and its annexes),

Having before it the ‘Observations formulées par la Défense à la suite du dépôt par les Autorités Belges d’observations « concernant la modification éventuelle des conditions de libération de M. Laurent Gbagbo » (ICC-02/11-01/15-1316-Conf-AnxII), notifiées le 15 avril 2020’ of 28 April 2020 (ICC-02/11-01/15-1336-Conf),

Having before it the ‘Transmission of a communication from the Kingdom of Belgium’ of 5 June 2020 (ICC-02/11-01/15-1356-Conf),

Pursuant to regulation 23*bis* of the Regulations of the Court,

Issues the following

ORDER

1. The Registrar shall file public redacted versions, or request reclassification as public, of documents of ICC-02/11-01/15-1316-Conf and ICC-02/11-01/15-1316-Conf-AnxI by 19 August 2020.
2. The Registrar shall reclassify document ICC-02/11-01/15-1316-Conf-AnxII as public.
3. Counsel for Mr Gbagbo shall file a public redacted version, or request reclassification as public, of document ICC-02/11-01/15-1336-Conf by 19 August 2020.

REASONS

I. PROCEDURAL HISTORY

1. On 15 January 2019, Trial Chamber I (the ‘Trial Chamber’) issued, by majority, Judge Olga Herrera Carbuccion dissenting, an oral decision acquitting Mr Gbagbo and

Mr Blé Goudé of all charges against them and indicating that full reasons would be filed as soon as possible.¹

2. On 16 January 2019, the Trial Chamber rendered, by majority, Judge Olga Herrera Carbuccion dissenting, an oral decision, pursuant to article 81(3)(c)(i) of the Statute, in which it rejected a request by the Prosecutor to find that there were exceptional circumstances to maintain the detention of Mr Gbagbo and Mr Blé Goudé, and release them subject to conditions, unless no State willing and able to enforce such conditions could be found.²

3. On 1 February 2019, following an appeal by the Prosecutor against that oral decision, the Appeals Chamber delivered its Judgment, in which it amended the oral decision and imposed a number of conditions on the release of Mr Gbagbo and Mr Blé Goudé.³

4. On 7 October 2019, counsel for Mr Gbagbo requested that the Appeals Chamber reconsider the Judgment and order his immediate release without conditions ('Mr Gbagbo's request').⁴

5. On 6 February 2020, following the receipt of written submissions from the Prosecutor and the participants,⁵ the Appeals Chamber heard oral arguments from the parties and participants on the issues arising in Mr Gbagbo's request.⁶

¹ [Transcript of 15 January 2019](#), ICC-02/11-01/15-T-232- ENG, p. 1, line 15, to p. 5, line 7.

² [Transcript of 16 January 2019](#), ICC-02/11-01/15-T-234- ENG, p. 1, line 14 to p. 6, line 21.

³ [Judgment on the Prosecutor's appeal against the oral decision of Trial Chamber I pursuant to article 81\(3\)\(c\)\(i\) of the Statute](#), ICC-02/11-01/15-1251-Conf (public redacted version registered on the same day, ICC-02/11-01/15-1251-Red; a second public redacted version was registered on 21 February 2019, ICC-02/11-01/15-1251-Red2). See, in particular, para. 60.

⁴ [Requête de la Défense afin d'obtenir que la Chambre d'appel restitue à Laurent Gbagbo, acquitté de toutes les charges portées contre lui, l'intégralité de ses droits humains fondamentaux](#), ICC-02/11-01/15-1272-Conf (public redacted version registered on 8 October 2019, ICC-02/11-01/15-1272-Red).

⁵ [CLRV Consolidated Response to Defence's Request No. ICC-02/11-01/15-1272-Conf, No. ICC-02/11-01/15-1273 and No. ICC-02/11-01/15-1275-Conf](#), 16 October 2019, ICC-02/11-01/15-1278-Conf (public redacted version registered on 28 October 2019, ICC-02/11-01/15-1278-Red); [Response to «Requête de la Défense afin d'obtenir que la Chambre d'appel restitue à Laurent Gbagbo, acquitté de toutes les charges portées contre lui, l'intégralité de ses droits humains fondamentaux », 7 October 2019, ICC-02/11-01/15-1272](#), 17 October 2019, ICC-02/11-01/15-1280-Conf (public redacted version registered on 18 October 2019, ICC-02/11-01/15-1280-Red); [Observations de la République de Côte d'Ivoire sur la "Requête de la Défense afin d'obtenir que la Chambre d'appel restitue à Laurent Gbagbo, acquitté de toutes les charges portées contre lui, l'intégralité de ses droits humains fondamentaux", 7 octobre 2019, ICC-02/11-01/15-1272](#)", 21 January 2020, ICC-02/11-01/15-1298.

⁶ Transcript of 6 February 2020, ICC-02/11-01/15-T-237-CONF-ENG.

6. On 14 February 2020, by email sent by a legal officer of the Appeals Division,⁷ the Appeals Chamber instructed the Registry to begin consultations with the Kingdom of Belgium ('Belgium') as to the possible ramifications of a decision of the Appeals Chamber lifting certain conditions in the Judgment.

7. On 11 March 2020, the Registrar transmitted to the Appeals Chamber the confidential *ex parte* observations of Belgium.⁸

8. On 6 April 2020, the Appeals Chamber ordered the Registrar to reclassify as confidential the observations of Belgium and invited counsel for Mr Gbagbo to file observations thereon within ten days notification thereof.⁹

9. On 15 April 2020, the Registrar reclassified the observations of Belgium from confidential *ex parte* to confidential.¹⁰

10. On 28 April 2020, counsel for Mr Gbagbo filed his observations ('Mr Gbagbo's observations').¹¹

11. On 28 May 2020, the Appeals Chamber issued its decision on Mr Gbagbo's request.¹²

12. On 5 June 2020, the Registrar notified the Appeals Chamber that the Belgian authorities agreed to render public their observations (i.e. ICC-02/11-01/15-1316-Conf-AnxII).¹³

⁷ Email sent by a legal officer of the Appeals Division to the Registry, 14 February 2020, at 18:07.

⁸ Transmission of the Observations of the Kingdom of Belgium, ICC-02/11-01/15-1316-Conf-Exp (notified on 12 March 2020; Registry only), with two confidential and *ex parte* annexes, ICC-02/11-01/15-1316-Conf-Exp-AnxI and ICC-02/11-01/15-1316-Conf-Exp-AnxII (reclassified as confidential on 15 April 2020).

⁹ Order on the reclassification of certain documents and setting deadlines for filing of observations, ICC-02/11-01/15-1325-Conf.

¹⁰ See ICC-02/11-01/15-1316-Conf, ICC-02/11-01/15-1316-Conf-AnxI, and ICC-02/11-01/15-1316-Conf-AnxII.

¹¹ Observations formulées par la Défense à la suite du dépôt par les Autorités Belges d'observations « concernant la modification éventuelle des conditions de libération de M. Laurent Gbagbo » (ICC-02/11-01/15-1316-Conf-AnxII), notifiées le 15 avril 2020, ICC-02/11-01/15-1336-Conf.

¹² [Decision on counsel for Mr Gbagbo's request for reconsideration of the 'Judgment on the Prosecutor's appeal against the oral decision of Trial Chamber I pursuant to article 81\(3\)\(c\)\(i\) of the Statute' and on the review of the conditions on the release of Mr Gbagbo and Mr Blé Goudé](#), ICC-02/11-01/15-1355-Conf (public redacted version registered on the same day, ICC-02/11-01/15-1355-Red).

II. MERITS

13. In light of the notification from the Belgian authorities that their confidential observations (ICC-02/11-01/15-1316-Conf-AnxII) may be made public, the Appeals Chamber finds that there is no reason to maintain their current classification, and therefore orders, pursuant to regulation 23*bis*(3) of the Regulations of the Court (the ‘Regulations’), the Registrar to reclassify document ICC-02/11-01/15-1316-Conf-AnxII as public. The Appeals Chamber also orders, under regulation 23*bis*(1) of the Regulations, the Registrar to file public redacted versions, or request reclassification as public, of document ICC-02/11-01/15-1316-Conf and document ICC-02/11-01/15-1316-Conf-AnxI by 19 August 2020.

14. The Appeals Chamber notes that Mr Gbagbo’s observations (ICC-02/11-01/15-1336-Conf) were filed on a confidential basis because they referred to the above mentioned confidential observations of Belgium. Based on the orders in the preceding paragraph, it is appropriate to order counsel for Mr Gbagbo to file a public redacted version, or request reclassification as public, of his observations (document ICC-02/11-01/15-1336-Conf) by 19 August 2020.

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



Judge Chile Eboe-Osuji
Presiding

Dated this 23rd day of July 2020

At The Hague, The Netherlands

¹³ See Transmission of a communication from the Kingdom of Belgium, ICC-02/11-01/15-1356-Conf, para. 3.