

Ex Parte Status Conference (Private Session)
(Prosecution, Gbagbo Defence and Registry only)

ICC-02/11-01/15

- 1 International Criminal Court
- 2 Trial Chamber I - Courtroom 1
- 3 Situation: Republic of Côte d'Ivoire
- 4 In the case of The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé
- 5 ICC-02/11-01/15
- 6 Presiding Judge Geoffrey Henderson, Judge Olga Herrera-Carbuccia and
- 7 Judge Bertram Schmitt
- 8 Ex Parte Status Conference - (Registry, Prosecution and Gbagbo Defence only)
- 9 Tuesday, 16 June 2015
- 10 (The hearing starts in private session at 9.37 a.m.)
- 11 THE COURT USHER: All rise.
- 12 The International Criminal Court is now in session.
- 13 Please be seated.
- 14 PRESIDING JUDGE HENDERSON: Good morning. Good morning, everyone. The
- 15 hearing is open.
- 16 Would the court officer please call the case.
- 17 THE COURT OFFICER: Thank you, Mr President. The situation in the Republic of Côte
- 18 d'Ivoire in the case of The Prosecutor versus Laurent Gbagbo and Charles Blé Goudé,
- 19 ICC-02/11-01/15.
- 20 For the record we are in private session.
- 21 PRESIDING JUDGE HENDERSON: Thank you. I would like to start by welcoming
- 22 Mr Gbagbo to the courtroom.
- 23 Given that this is your first appearance before the Trial Chamber, so Mr Gbagbo, the Court
- 24 and the Chamber welcomes you. We are happy -- thank you.
- 25 All right. Let me start again. Mr Gbagbo, we would just like to begin by

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1 welcoming you to the courtroom given that this is the first time that you have come
2 before this Chamber and, therefore, the Court is pleased, we're happy that you are
3 here with us today.

4 So let me begin by introducing you to the Bench. On my right is
5 Judge Herrera-Carbuccia, and on my left is Judge Schmitt and I am
6 Geoffrey Henderson.

7 Now, the Chamber also welcomes of course the Gbagbo Defence team, the Office of
8 the Prosecutor and the Registry to this ex parte hearing this morning in the case of
9 The Prosecutor versus Laurent Gbagbo and Blé Goudé.

10 So for the record can counsel please introduce themselves starting with the
11 Prosecution.

12 MR MACDONALD: Good morning, your Honour. The Prosecution today present in the
13 courtroom -- for the Prosecution, sorry, you have Mrs Andreina Rodriguez, to my left, and
14 our case manager, Mrs Neera Mandavia. Myself, Eric MacDonald. Thank you.

15 PRESIDING JUDGE HENDERSON: Thank you.

16 And for the Defence for Mr Gbagbo.

17 MR ALTIT: (Interpretation) Good morning, your Honour. Next to me Jennifer Naouri,
18 Professor Jacobs, behind me Noémie Turgis and Barbara Le Guennec, who you already know.
19 And I am Emmanuel Altit. I am the lawyer for Laurent Gbagbo, counsel for
20 Laurent Gbagbo.

21 PRESIDING JUDGE HENDERSON: Thank you.

22 The Registry.

23 MR DUBUISSON: (Interpretation) Thank you very much, your Honour. Your Honours,
24 for the Registry today with me today there is Dahirou Sant-Anna, who is legal officer for
25 detention; Peter Vanaverbeke, who is the coordinator within my office; and myself,

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1 Marc Dubuisson, director of the Division of Court Services for the Registrar,
2 Herman von Hebel.
3 PRESIDING JUDGE HENDERSON: All right. Thank you.
4 Well, let's start by letting me inform you of some housekeeping matters. Now, as the
5 Chamber indicated last week, we shall sit in sessions of one hour each and we shall therefore
6 take a break of one half an hour, one half hour. So we sit in hour sessions and a break of a
7 half an hour, and that will be between, of course, each session.
8 I will now give the reasons for the Chamber's decision on the request of the Gbagbo
9 Defence contained in its filing 87, filed on 9 June 2015. So this is an oral decision and
10 clarification of status of medical release.
11 On 6 May 2015, the Single Judge on behalf of the Chamber issued an order convening
12 today's status conference, to be attended by the Defence, Registry, and Prosecution, in
13 relation to Mr Gbagbo's current health condition and on possible practical modalities
14 to be put in place to facilitate his attendance at trial.
15 In light of the confidential nature of the information to be provided and discussed, the
16 Single Judge held that it should be held ex parte and in private session.
17 The Single Judge also ordered the Registry to provide updated information on
18 Mr Gbagbo's health-related needs and on the advancement of arrangements made to
19 meet them.
20 On 28 May this year, the Registry provided updated information and filed a report by
21 the deputy medical officer of the detention centre. The medical officer indicated,
22 amongst other factors, that Mr Gbagbo has been assessed as being currently able to
23 attend hearings of the Court. Furthermore, in its filing, the Registry recommended
24 that some measures, which may be -- open quotation marks, which "may be similar to
25 those implemented at the confirmation hearing or varied according to the

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1 circumstances of Mr Gbagbo," closed quotation marks, be implemented to facilitate
2 his attendance.

3 On 9 June 2015, the Defence for Mr Gbagbo filed a request seeking, firstly, a
4 postponement of today's conference, which the Gbagbo Defence argued should take
5 place after Mr Gbagbo has been treated and after having obtained an expert opinion
6 on his fitness to stand trial; and secondly, an ex parte status conference to pursue
7 discussions on certain issues in connection with the Ninth Joint Report.

8 I will refer to these as the first and second limbs of the Defence request. In the
9 alternative, the Defence had requested that if the Chamber elected to proceed with the
10 hearings as planned, that the Prosecution should not be present and that the same
11 measures adopted during the confirmation of charges hearing to facilitate his
12 attendance be put in place today. I will refer to these as the first and second limbs of
13 the "Alternative Defence Request".

14 After deliberation, on 11 June 2015, the Chamber informed the Gbagbo Defence that it
15 would decide whether an ex parte status conference, Defence and Registry only, shall
16 be necessary at the conclusion of today's hearing. The Chamber rejected the
17 remainder of the request but indicated that, to facilitate the attendance of Mr Gbagbo,
18 the Chamber will conduct the hearing in shortened sessions of one hour each and
19 order any further measures necessary during the hearing as required to enable
20 Mr Gbagbo's attendance. The Chamber now provides reasons for this ruling.

21 The Chamber will first address the issue of the presence of the Prosecution at today's
22 status conference. The Chamber notes that, in the first limb of the Alternative
23 Defence Request, the Defence requested an ex parte hearing excluding the
24 Prosecution in order to discuss issues in connection with Mr Gbagbo's medical
25 treatment. The Chamber wishes to emphasise at the outset that it is aware of, and

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1 shall seek to be responsive to, the needs -- responsive to, the sensitivities around the
2 discussion of the medical information of Mr Gbagbo. The Chamber acknowledges
3 that certain matters of a sensitive nature may arise in the context of discussions about
4 Mr Gbagbo's medical treatment that may not be appropriately discussed before the
5 Prosecution at this stage.

6 However, the Chamber considers that the presence of the Prosecution today is
7 otherwise justified, appropriate and entirely necessary in order to discuss and
8 respond to any proposals on the possible practical modalities to be put in place to
9 facilitate Mr Gbagbo's attendance at the trial.

10 The Chamber wishes to emphasise that it considers the Prosecution -- the Chamber
11 wishes to emphasise that it considers the Prosecution has the right to be heard on any
12 measures concerning Mr Gbagbo's release or detention, as provided for in Article 60(3)
13 of the Statute and Rule 119(3) of the Rules, or which will significantly impact upon the
14 conduct of the trial; for example, convening shorter court sessions due to health issues
15 faced by the accused. The Chamber does not consider that there are any compelling
16 reasons to exclude the Prosecution from such discussions that touch upon their core
17 functions within the general conduct of proceedings. The Chamber therefore rejects
18 this limb of the Alternative Defence Request.

19 Noting that the Chamber has provided for certain measures to accommodate the
20 attendance of Mr Gbagbo today, such as holding shortened sessions of one hour, the
21 Chamber considers the second limb of the alternative Defence request to have been
22 partially granted. Further appropriate modalities to facilitate Mr Gbagbo's
23 attendance shall be accommodated as the need arises and, in fact, shall indeed be the
24 topic of the discussions later this morning.

25 I shall now turn to the reasons for rejecting the first limb of the Defence request, in

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1 which the Defence sought postponement of today's status conference until after

2 Mr Gbagbo has been treated and after having obtained an expert opinion on his

3 fitness to stand trial.

4 With respect to this issue, the Chamber notes that the Chamber invited submissions on the

5 possible modalities to assist Mr Gbagbo's attendance at trial at a status conference convened

6 on 21 April 2015, and in fact scheduled today's hearing well over a month ago, on 6 May 2015.

7 The Registry report was filed on 28 May 2015. The Chamber therefore considers that, in

8 order to facilitate the expeditiousness of the current proceedings, the Defence request could

9 have been filed at an earlier stage.

10 In addressing the substance of the Defence request, the Chamber recalls that

11 Mr Gbagbo was assessed by Pre-Trial Chamber I as fit to stand trial in

12 November 2012. And to that I refer to filing number 286 in the Gbagbo case. While

13 the medical treatment of Mr Gbagbo has been the subject of several filings, the

14 Chamber has not been seized of any motion by the Gbagbo Defence to date

15 requesting that Mr Gbagbo's fitness to stand trial be considered. In this regard, the

16 Registry report clearly indicates that Mr Gbagbo has been assessed as being currently

17 able to attend hearings of the Court, subject to certain measures being put into place

18 to facilitate this attendance. The medical report is not detailed, but it is indeed

19 conclusive. The Chamber considers that the existence of such a report from the

20 Detention Centre Medical Officer, who is charged with assessing the daily health

21 needs of Mr Gbagbo and has firsthand exposure to the accused, is indeed a report

22 upon which this Chamber can rely. The Chamber was not, therefore, persuaded that

23 today's hearing should be postponed in order to obtain any alternative medical

24 assessment, and thus the Chamber rejected this limb of the Defence request.

25 Notwithstanding, the Chamber notes that the nature and location of Mr Gbagbo's

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1 ongoing medical treatment has not been resolved and is an issue that is encompassed
2 in the second limb of the Defence request. To this end the Defence has sought an ex
3 parte status conference to pursue discussions on certain issues in connection with the
4 Ninth Joint Report. The Chamber shall decide whether or not such an ex parte
5 hearing is necessary at the conclusion of the present session. The Chamber thus
6 reserves its ruling on the second limb of the Defence request until it has heard from
7 the parties today. This ends the ruling of the Chamber and this oral decision.

8 Now, consequent upon this decision, it follows that the Prosecution must be given the
9 opportunity to respond to any requests made by the Gbagbo Defence with respect to
10 Mr Gbagbo's treatment outside the detention centre, or with respect to fitness to stand
11 trial. With respect to the first of these issues, which is referred to in the Ninth Joint
12 Report, the Chamber clarifies that the legal framework for any treatment of
13 Mr Gbagbo outside the detention centre would be that pertaining to conditional
14 release, that is, under Article 60(3) of the Statute, read in conjunction with Rule 119 of
15 the Rules.

16 While the Chamber notes the process that has been in train between the Defence and
17 the Registry since the confirmation stage of proceedings to discuss appropriate
18 medical treatment, culminating in the nine joint reports, the Chamber does not
19 consider that it is currently seized of any such current request for conditional release
20 for Mr Gbagbo's medical treatment outside the detention centre. The Chamber notes
21 that it has generally dealt with the issues stemming from the joint reports in the
22 context of Mr Gbagbo's periodic reviews of detention under Article 60(3) of the
23 Statute, the next of which shall be issued by the Chamber prior to 9 July 2015, though
24 any requests for conditional release can of course be made at any time.

25 Having clarified the legal basis for any potential release for treatment outside the

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1 detention centre, the Chamber also wishes to emphasise that, if such request for
2 conditional release were to be made, the Chamber would be required to seek the
3 views of the Prosecution and affected victims under Rule 119(3) of the Rules.
4 Therefore, the Chamber considers that future proceedings linked to any such request
5 should be inter partes. Accordingly, the Chamber instructs the Defence to ensure it
6 has notified all supporting material that forms the basis for any request for
7 conditional release to the Prosecution, with any appropriate redactions being applied
8 only to the supporting material notified to the Legal Representatives of Victims.
9 Now, for clarity, I will read it again: The Chamber considers that future proceedings
10 linked to any such request should be inter partes. Accordingly, the Chamber
11 instructs the Defence to ensure it has notified all supporting material that forms the
12 basis for any request for conditional release to the Prosecution, with any appropriate
13 redactions being applied only to the supporting material notified to the legal
14 representative of victims.
15 Now, having so clarified, the Chamber wishes to express its concern at the length of
16 time taken in the joint reporting process and with the lack of any concrete outcome
17 that has resulted to date. I would like to emphasise that, in the face of the most
18 recent Registry report and the fact that the trial commencement date has been set, the
19 Chamber questions the appropriateness of Mr Gbagbo's treatment outside of the
20 detention centre, with the trial commencing in a matter of months.
21 Notwithstanding, the Chamber will adjudicate such a request, if and when it is seized of a
22 concrete proposal, and shall provide for the Prosecution and Legal Representative to make
23 submissions thereto. The Chamber stresses that any such request for conditional release or
24 any motion relating to Mr Gbagbo's fitness to stand trial, that such request or application
25 should be made in a timely manner.

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1 The Chamber notes that any dissatisfaction with the medical treatment of the accused,
2 Mr Gbagbo, at the detention centre should be raised by the Defence with the Registry
3 in the first instance, and only thereafter with the Chamber.

4 Those are matters I wished to clarify. Now, are there any questions in relation to this
5 issue before turning to the substance of today's hearing, starting with the modalities
6 to facilitate Mr Gbagbo's attendance at trial?

7 Perhaps, Mr Altit, I perhaps might start with you. Any issues for which you wish
8 clarification or any questions which arise out of that?

9 MR ALTIT: (Interpretation) Thank you, Mr President. Your decision is clear and the
10 substance of the reasoning is clear and we will draw the consequences thereof or the
11 conclusions.

12 PRESIDING JUDGE HENDERSON: Thank you, Mr Altit.

13 Mr MacDonald?

14 MR MACDONALD: Thank you, your Honour. I see that the Chamber has just delivered a
15 very comprehensive decision and schedule in a way actually on issues that the Prosecution
16 wanted to raise having this opportunity to be present before you for the first time in two and
17 a half years on this question of fitness.

18 I want to come back on this question of fitness. I understand the Chamber says in a
19 timely fashion, but I think the Chamber should order a calendar. We're starting on
20 10 November with the opening statements. So the start of the trial begins on that
21 day and then there is a postponement until the first witnesses will be heard.

22 This leaves us very little time. If there is a request that is filed or intended to be filed,
23 maybe the Defence can tell us immediately if they do intend to file one. If they don't,
24 I sit down. If they do intend, then I think we need to have a schedule, because
25 experts will have to be involved. There will have to be a decision as to which experts.

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1 Prosecution would propose that the same ones that saw Mr Gbagbo two and a half
2 years ago see him again. And then there will have to be obviously hearings, debates
3 and so on. (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted). But

9 again, as you just pointed out, the trial is starting, your Honour, on 10 November and
10 these are issues that do take time to litigate and for the Chamber to rule upon. So
11 again, when the Chamber refers to timely fashion, I think that it may be wise for a
12 schedule to be maybe imposed on the parties in this regard.

13 Now, last but not least, again, I think your decision was pretty clear, but I understand
14 speaking for the Prosecution only that any medical information related to the fitness
15 or the release should not be redacted from the Prosecution, if I understand your
16 decision correctly.

17 I see that the Presiding Judge is nodding. So -- because I was about to refer to an ICTR
18 decision this morning exactly on this point. Now, I will refer to that decision, and I have
19 copies, and just very briefly, I don't want to take the Court's time too much on this, but in the
20 Karemera decision at the ICTR --

21 PRESIDING JUDGE HENDERSON: Mr MacDonald, since we have already -- the Court has
22 already ruled that the Defence, if it is to make in fact such an application, must provide the
23 full medical basis, is there really any need to refer to an authority which says what we just
24 said?

25 MR MACDONALD: I just wanted to draw your attention that there is a co-accused and this

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1 decision refers to that. And just was to give it to you for the Chamber to appreciate this
2 decision and the impact it may have, of course, any decision as to postponements or
3 accommodations also may have an impact on -- not so far the Prosecution doesn't believe that
4 we're in this situation, but it's something to keep in mind. And this is in that context that the
5 Prosecution wanted to give you the decision. I'm not -- I don't want to quote from it, but just
6 give you a copy, hard copy of it.

7 PRESIDING JUDGE HENDERSON: We would be grateful. You can pass the hard copy up
8 and the Chamber will take it, take appropriate account of it.

9 MR MACDONALD: There is also two copies for the Defence.

10 PRESIDING JUDGE HENDERSON: Thank you, Mr MacDonald.

11 (Trial Chamber confers)

12 PRESIDING JUDGE HENDERSON: Yes, Mr MacDonald, Monsieur Altit, with respect to
13 Mr MacDonald's submission that a timetable be set by the Court, on medical issues, the
14 Chamber is reluctant to set a strict timetable. The Chamber, however, would expect that if
15 there is an application to be made, that responsible counsel as soon as he is seized, if he is
16 seized with the material, acting in a responsible way would do so in a very timely manner
17 and would not in fact wait for the 11th hour and 59th minute and 59th second.

18 Now, having said that, and I think my position is -- Monsieur Altit, you wish to say
19 something?

20 MR ALTIT: (Interpretation) Yes. Thank you, Mr President. With regard to this schedule
21 which is a very important problem, issue, it is important to understand that this is a process.
22 A process is a logical undertaking but involves a number of stages, and we shouldn't get
23 ahead of ourselves. That was the meaning of the successive decisions that the Pre-Trial
24 Chamber supervised in terms of a process. So we can't have a fixed schedule and we can
25 only do that once we have decided upon the stages that we are to go through. And we can

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1 only agree on these stages if we explain to the Chamber in detail what the issue is. So we
2 should need to have a completely open dialogue with the Chamber with a view to explaining
3 those issues at hand and for the Chamber to give us its opinion. This discussion can only
4 take place in closed session. Because no decision will be taken on each stage, we need to
5 define what those various stages are first and then we can see where we are.

6 So as a result, the idea of a schedule or a calendar is a good one, but it can only be
7 undertaken if the process or the last stages of the process, because we have gone
8 through a number of them already, can only be undertaken once the final stages of
9 the process are decided upon and deliberated and only once we know what we are up
10 against, because these are of course very important decisions and it is fundamental
11 for us to respect this adversarial situation, then we'll be able to discuss this with the
12 Prosecution under the control of the Chamber.

13 Of course, that goes without saying, but to decide upon these stages and to give these
14 various stages content and to make sure that we move forward, this is part, we
15 believe, and also the Pre-Trial Chamber believes, this is part of the report -- or the
16 rapport we should have with the Judges because it is of course the health of a man
17 and the life of a man that is at stake here. And that is why we wanted to broach this
18 issue of the various stages of the calendar, notably the ex parte stage that you planned,
19 we wanted to broach this in order for us to discuss all elements and make sure that
20 the Chamber was precisely informed on the matter.

21 PRESIDING JUDGE HENDERSON: Thank you, Mr Altit. I would just simply remind you
22 and of course primarily the Defence of the Chamber's ruling on the need for a formal process.
23 Before we go on to the modalities discussion, Mr Dubuisson, Monsieur Dubuisson, is
24 there anything that you would wish arising out of the Chamber's oral ruling?

25 MR DUBUISSON: (Interpretation) Mr President, for the time being everything is crystal

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1 clear and I thank you.

2 PRESIDING JUDGE HENDERSON: Thank you.

3 All right. So I shall now turn to the issues of potential modalities to assist

4 Mr Gbagbo's appearance at trial. The Chamber is cognizant of the measures adopted

5 during the confirmation phase of these proceedings in order to facilitate

6 Monsieur Gbagbo's attendance to hearings.

7 Monsieur Altit, the Chamber shall hear from you first. Are there any specific

8 modalities to facilitate Monsieur Gbagbo's attendance at trial that you wish to

9 propose?

10 Now, please note that we will address the issue of Mr Gbagbo's treatment later on so that you

11 are to focus your response on the modalities of attendance at trial only.

12 MR ALTIT: (Interpretation) Mr President, your Honours, pursuant to your wish, we can

13 talk about these practical measures or modalities without having to reveal any details covered

14 by medical privacy or the privacy of Mr Laurent Gbagbo. We have noted what you told us

15 in an email on 11 June 2015 that a conference -- or, rather, a session during which we would

16 be able to discuss directly with the Judges, that would be ex parte Registry and Defence only,

17 would be organised and that would be the opportunity for us to talk with the Registry and the

18 Chamber about pending medical issues. Any question that is not possible for us -- to be

19 discussed at this stage of proceedings, notably in the presence of the Prosecution because this

20 would be to reveal for -- out any reason information that is covered by medical secrecy and

21 the protection of Mr Gbagbo's private life.

22 Now, with regard to the elements that are at the disposal of the Registry and the

23 Defence, we can only talk about these in an ex parte Registry and Defence situation.

24 May I recall before I answer your question that to request that the Registry and the

25 Defence discuss this information where -- or, some of this information, only in the

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1 presence of the Prosecution would be to place them in an impossible situation
2 because then the Registry and the Defence would not have any choice and they would
3 have to reveal confidential information and they would have to also betray medical
4 secrecy, or they might not talk to you about it at all and then not be able to present
5 you with a situation in minute detail.

6 So the idea of a Registry and Defence ex parte hearing at the end of this hearing
7 would seem to us to be an excellent idea because it is the only way that the Registry
8 and especially the Defence would be in a position to be able to expose to you the
9 complete or comprehensive situation at hand, and this would be the only opportunity
10 that would enable them to discuss with you the way forward in order to be able as
11 requested --

12 (Trial Chamber confers)

13 PRESIDING JUDGE HENDERSON: Sorry, Monsieur Altit. Proceed.

14 MR ALTIT: (Interpretation) I thank you, Mr President.

15 -- in order to make it possible, as the Pre-Trial Chamber requested, to complete the
16 proceedings that were commenced two and a half years ago under the auspices of the
17 Pre-Trial Chamber. Once the process of the implementation of measures in order to improve
18 the state of health of Mr Gbagbo are completed, then we will be in a position to be able to
19 discuss this with the Prosecution, as the Pre-Trial Chamber said in its decision of 11
20 December 2013, but even so the discussion will only be able to continue on the basis of
21 medical details that have been disclosed to the Prosecution after distinct consent on the part of
22 the interested party.

23 I shall not return to the jurisprudence and the decisions and the various instruments to protect
24 human rights that we've already given to the Chamber with regard to the protection of the
25 private life of the accused and medical secrecy.

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1 So, it behoves the Chamber and the Court to protect the fundamental principles of all
2 judicial proceedings, that those are to respect the private life of an individual and
3 medical secrecy.

4 Now, with regard to the state of health or with regard, rather, to the modalities and
5 the practical modalities and measures that need to be put in part in order to facilitate
6 his appearance or partaking in the trial, the Judge Gurmendi, Presiding Judge, during
7 the pre-trial phase, decided on 12 February 2013 in agreement with the Defence to
8 take the following measures: Hearings would be held but not exceed three hours in
9 duration per day and they would only be held in the afternoon; they would be
10 divided into sessions that would not exceed one hour per session; and furthermore,
11 Laurent Gbagbo would be provided with a room close to the hearing, or the
12 courtroom, where he would be able to withdraw and rest if need be; and, finally,
13 there would be the possibility for him to be able to follow the hearing from the
14 detention centre via video conference.

15 The Defence respectfully suggests that we return to these various measures that
16 enabled Laurent Gbagbo to take part in the confirmation of charges hearing. This is
17 also the position of the Registry in its report of 22 May 2015 that says that two
18 possibilities are to be envisaged.

19 Firstly, that arrangement be made for a physical presence of Mr Gbagbo to be ensured. The
20 Registry indicates that measures similar to those taken during the confirmation of charges
21 hearing may be applied and, secondly, also says that it could be possible to organise his
22 participation via video link.

23 The Defence believes that these measures could be of use. However, these measures
24 do not enable -- to make up for the PTSD syndrome and they are only short-term
25 measures, notably, to enable Mr Laurent Gbagbo to take part in a status conference.

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1 The Single Judge, on 12 February 2013, said specifically that the various practical
2 arrangements that had been decided upon were only short-term arrangements with a
3 view to -- with a view only to being used during the confirmation of charges hearing.

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted) trial itself because they

11 would not only be inefficient in nature, but also they would be counterproductive.

12 How could they be counterproductive? Well, in physical terms in the sense that the
13 hospitalisation syndrome has not disappeared and it would aggravate his physical
14 situation.

15 Now, it is also counterproductive in psychological terms in the sense that the PTSD is
16 ongoing, and this would run the risk of Mr Gbagbo becoming exhausted
17 psychologically. In other terms, one can only envisage practical measures on a
18 provisional basis and nothing can replace adequate treatment and Mr Gbagbo
19 actually improving or healing as such.

20 If you would enable me to make a brief comment, one sentence.

21 PRESIDING JUDGE HENDERSON: Mr Altit, I'm looking at the time, I'm looking at the time.
22 It's 9.30. And while we started at 9.37, we did say that we would have -- we would break at
23 10.30 to honour the half hour break to start back at -- to resume at 11.

24 Now, when we come back from the break I want you just to consider two things and
25 assist us. Firstly, you referred to the Pre-Trial Chamber's position, which was

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1 in 2013, but should the Chamber shut its eyes to the medical report of a medical
2 officer who is charged with the day-to-day care of Mr Gbagbo, who sees him and who
3 has said that -- who has provided -- that provided that hearings are conducted in a
4 particular way that he is well and able to attend trial, attend sittings? That's the first
5 thing.

6 And in the context of your shortened-sittings submission, you had suggested a return to the
7 Pre-Trial Chamber's option of sitting in the evening.

8 Now, provided that the Chamber takes into account that sitting early in the morning
9 may not be the best for Mr Gbagbo, Monsieur Gbagbo, would it be better use of the
10 day and at the same time also taking into account Mr Gbagbo's concerns if the
11 Chamber were not to sit in the afternoon but, perhaps, were to start later in the
12 morning, 10.30, as a better use of the day?

13 So it's now 10.30. We will take the break. And when we resume, you could address me on
14 those two issues as well as the other matters which you wish to raise.

15 THE COURT USHER: All rise.

16 (Recess taken at 10.30 a.m.)

17 (Upon resuming in private session at 11.02 a.m.)

18 THE COURT USHER: All rise.

19 Please be seated.

20 PRESIDING JUDGE HENDERSON: Right. Welcome back. We will resume the sitting.

21 Monsieur Altit, you were on your feet, so you may continue.

22 MR ALTIT: (Interpretation) Thank you, your Honour. First of all, a linguistic remark if
23 you don't mind. I was saying a few moments ago that the panic attacks due to
24 post-traumatic stress syndrome could happen at any time and thus the measures that we've
25 been discussing here are really just half-baked measures applied on a very exceptional basis

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1 and cannot guarantee proper participation.

2 I would add that not only would it not be possible to ensure proper participation,

3 what is more -- and I think we will be seeing this in the future -- this will actually be

4 counterproductive, because the possibility of hospitalisation has not been ruled out

5 and the presence even with various measures would lead to physical exhaustion and

6 presence of Mr Gbagbo, even with measures being taken would lead to nervous

7 exhaustion or a breakdown because the PTSS will continue.

8 Allow me to reiterate, we have seen that the interpretation of what I said was not

9 perfect and I believe that it is still not perfect.

10 I beg your pardon. I beg your pardon, your Honour. It has just been

11 translated -- what I just said was translated as follows: The option of hospitalisation

12 has not been ruled out. And this has nothing to do with what I just said, with the

13 substance, nothing to do with that at all.

14 If the interpreter wishes, I can rephrase, but I think that this is an important point, and

15 allow me to express my views, our views. So I don't know what the interpreter

16 thinks, but I can put it in other words if necessary, if that is desired.

17 PRESIDING JUDGE HENDERSON: I think we get the gist of what you want to say, but if

18 you think it may be helpful to recast it in different terms so that we clearly understand you,

19 your submission, you may do so.

20 MR ALTIT: (Interpretation) Thank you, Mr President. Let me do this as simply as

21 possible. We are talking about useful measures that will not settle anything, because they

22 are not going to be striking at the heart of the matter. These are measures that might deal

23 with a few problems, ad hoc measures, what I would call a stopgap measure. Not only these

24 measures will deal with nothing, settle nothing, but if we consider a trial, they will not be

25 sufficient to alleviate the whole issue of PTSS.

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1 What's more, they could be counterproductive. Why? Because if one were to allow
2 Mr Gbagbo to take part in the trial under those circumstances, and indeed thanks to
3 these very measures over a longer period of time, longer than the period of the
4 confirmation of charges, ten days, ten afternoons, that could lead to -- well, you see,
5 because of the hospitalisation, you see, this is an illness, a pathology. We're not
6 talking about hospitalisation in a hospital. This is a syndrome. And so you see, the
7 person who has been -- spent -- kept immobile for days loses the ability to move
8 about. That is what the hospitalisation syndrome is all about. He has not been
9 healed or cured. The person cannot remain immobile for long periods of time
10 without suffering.

11 Have I been clear? Is the interpretation clearer? This is an important point.

12 And what is more, because the whole issue of the whole syndrome hasn't been treated,
13 Mr Gbagbo has not been healed, and measures that might allow for occasional or one-off
14 attendance, really that just isn't on, because the fundamental issue is that if the period of time
15 is extended, all these traumatising events will come back and this will lead to exhaustion,
16 utter nervous exhaustion and breakdown.

17 I am talking about the risk of continuing without taking the trouble to deal with the root
18 causes. We are talking about a number of measures, yes, very well, but no doubt those
19 measures will be useful for the upcoming status conferences. There is no doubt of that.

20 They could be quite useful for a few days, hearings over a few days, but not for an entire trial,
21 particularly such a long trial as the one we are preparing for. The root causes must be dealt
22 with, and these are fundamental, fundamental.

23 So that was the interpretation. I beg your pardon.

24 If you don't mind, your Honour, I will return to your two questions, the first one being as
25 follows: The medical officer, the medical officer.

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1 Now, your question was: What are we to base ourselves upon to determine Laurent
2 Gbagbo's state of health?

3 There was a recent report from the Registry and there have been a number of expert reports,
4 and which shall prevail? Well, I think the answer is easy: The expert reports. Why?

5 Because there were many of them, they were written one after another, they were unanimous
6 and they have the expertise required to make a diagnosis.

7 The diagnosis has been made. Laurent Gbagbo is suffering from two serious health
8 conditions: First of all, hospitalisation syndrome; and, secondly, post-traumatic
9 stress syndrome.

10 The PTSS is a problem, a very serious problem, very serious, because the patient
11 re-experiences, as the experts have said, re-experience -- at any time, any and all time
12 of day, re-experiences the traumatic events that caused the illness. And what were
13 these traumatic events? The experts have said what they were here: Attacks by
14 several days led by French commandos upon the presidential residence where many
15 civilians had taken refuge, men, women and children.

16 And the attack of the 11th of -- and above all --

17 PRESIDING JUDGE HENDERSON: Proceed, Monsieur Altit. Proceed.

18 MR ALTIT: (Interpretation) Thank you. The bloody source -- correction, the bloody
19 attack on 11 April 2011 along with acts of violence and abuse and murder committed before
20 the very eyes of Mr Gbagbo and above all, the eight months in detention, a very difficult time
21 for Mr Gbagbo, experienced by Mr Gbagbo, in Korhogo in the north of the country under
22 very poor conditions. Mr Gbagbo did not see daylight for eight months. He did not see
23 daylight for eight months.

24 Experts have explained to us that post-traumatic stress syndrome is a psychological
25 background noise, sometimes less, sometimes deafening. And a person can tune it

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1 out for a while and live almost a normal life, but sometimes this problem can be
2 extremely difficult and sometimes the person re-experiences the traumatic events
3 once again, goes through them again, and in that case the background noise grows so
4 loud that it takes over the person's entire mind and the person cannot lead a normal
5 life. And the person finds himself re-experiencing the trauma time and time again.
6 Experts have explained that the only way of treating and dealing with PTSS -- correction,
7 PTSD is to put the person into the proper conditions so he utterly forgets the traumatic events
8 that led -- the traumatic events. This is what the experts have told us. That is diagnosis that
9 they have made.

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted). That is

20 what the experts have told us.

21 But there is more. This is not really the forum but, in any event, if you don't mind,
22 we would like to have an open discussion about this. So, you see, the diagnosis has
23 been made. The medical advisor --

24 PRESIDING JUDGE HENDERSON: Monsieur Altit, the issue is that this is the forum
25 because we are discussing the modalities and it is something that we wish when setting how

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1 we would be proceeding going forward to hear from you and to hear from the Prosecution
2 with the Registry's assistance. So this really is the forum.

3 And it is also important that when we are hearing submissions that things are put on
4 the proper basis so that -- you're referring to, for example, medical conditions, but the
5 Chamber, for the purposes of this, we don't really have any formal reports before us.
6 But proceed.

7 MR ALTIT: (Interpretation) Thank you. I shall conclude. As I was saying, well, I will
8 also respond to the question you just put to me. Thus, the diagnosis has been made and the
9 diagnosis was made by experts, a great many experts over several stages and they all agree.
10 The diagnosis is found in a number of reports. These are official reports. They were
11 requested by the Chamber. I've made mention of them. I believe you have them in your
12 files. We have mentioned them in our applications. You also can find these reports or
13 mention of them in earlier decisions. These are experts appointed by the Chamber.
14 (Trial Chamber confers)

15 PRESIDING JUDGE HENDERSON: Thank you, Mr Altit.
16 Perhaps before hearing from the Prosecution, I should hear from Mr Dubuisson if
17 there is anything that you wish to address us on.

18 MR ALTIT: (Interpretation) I beg your pardon.

19 THE INTERPRETER: Overlapping speakers.

20 MR ALTIT: If I could have two or three minutes I will be able to conclude my arguments.

21 PRESIDING JUDGE HENDERSON: (Overlapping speakers)... proceed.

22 THE INTERPRETER: Overlapping speakers.

23 MR ALTIT: (Interpretation) So on the one hand we have this diagnosis that was made by
24 an expert -- or, experts, correction, in the plural, appointed by the Chamber and they have
25 made their diagnosis. On the other hand, you have a memo of sorts written and signed by a

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1 medical officer. We don't even know if this person is a physician. Is he a -- well, if he's a
2 physician, all very well, but he is not an expert. He is not an expert. He does not have the
3 information to make any kind of assessment. Perhaps he can say that this person is a bit
4 tired, he has a cold. This person -- well, we're not talking about that sort of thing.
5 We are talking about a very serious disabling condition, a serious illness. We are talking
6 about experts, experts who have come, who have observed, who have drawn up reports.
7 You have those reports. Their opinion should prevail. Otherwise, what is the point of
8 having an expert if the first physician who happens along provides unanimous -- so I think
9 this answers your question about the medical officer who is an entirely interesting person, but
10 his opinion should not be considered here because we have two experts who deal with these
11 diseases, who have specific expertise. That is my first point.

12 Secondly - secondly - you asked me about the afternoon, and my answer is this: We
13 discussed this point with the Pre-Trial Chamber to determine when hearings should
14 be organised so that things would unfold properly and the decision was to sit in the
15 afternoon because everything is much easier that way.

16 Perhaps on a particular day, the morning, late in the morning, 11 o'clock, Mr Gbagbo
17 (Redacted)
18 (Redacted)
19 (Redacted)

20 And it seemed to us at the time, and it also seemed to the Pre-Trial Chamber, that it
21 would be wiser to organise hearings in the afternoon so that we would have an
22 opportunity to respond, the Chamber could respond if necessary without being taken
23 short.

24 And we believe -- and this was on the basis of a number of observations made by
25 experts. We think, to answer your question, we think it would be better to have

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1 hearings in the afternoon. Perhaps on an exceptional basis, when necessary, we
2 could have hearings late in the morning but, in principle, we think it would be
3 preferable and it would avoid -- it would give us some time so that we could respond
4 if there was a problem.

5 So simply put, the afternoons would be much better, a much wiser or more prudent
6 course of action.

7 PRESIDING JUDGE HENDERSON: Thank you, Mr Altit.

8 Let me just make a correction for the record. I had said we don't have any formal
9 reports, what I perhaps really meant to say is we don't have any formal requests
10 before us, all right.

11 So now having heard you, let me hear from Mr Dubuisson.

12 MR DUBUISSON: (Interpretation) Thank you, your Honour. I think that everyone here
13 agrees that we need to move forward. The start date of the trial is drawing near and I think
14 we need to begin discussions.

15 The Registry is neutral and is in a very poor position because I believe it will require the
16 consent of the Defence but, without disclosing any information in the reports, I think we can,
17 well, say that medical treatment, as everyone knows, is provided in The Netherlands and can
18 be provided elsewhere.

19 As the Prosecution said earlier, this treatment, be it in The Netherlands or elsewhere,
20 can be done within a penitentiary or as part of a conditional release.

21 An aside, if you don't mind, our physician at the detention centre is a qualified person
22 and, according to the Dutch logic, he has done the appropriate studies. He is what
23 we would call a GP in English, a family doctor in other words, who also has
24 something of a specialisation in psychology. But he is not qualified as an expert
25 when it comes to trauma and indeed, what -- this physician, yes, is the kind of doctor

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1 who will say what sort of plaster should be put on a particular part of the body for
2 example but, yes, he is entirely able to assess the fitness of someone to attend
3 hearings.

4 In relation to what you said earlier, now, you say that you have not received any
5 applications and you believe that there is no legal basis. I believe the problem is that
6 making an application and choosing a legal basis and disclosing is, well, a possibility,
7 and I think that is why the Defence would like to have an ex parte hearing without
8 the Prosecution present regarding, to be very clear, regarding the medical issues, or
9 the medical file, and the medical conditions.

10 This is very personal information. And to say where a person could possibly receive
11 treatment, I am of the view that that could not be disclosed. And if we want to move
12 forward, we do have to disclose that information to the Prosecution, but it is not up to the
13 Registry to make an agreement or to agree to such a thing. That is the Defence's role.
14 But indeed, yes, if we are to move ahead, I believe the Chamber does need to rule
15 because right now we are at an impasse. We have a number of solutions. And to
16 move forward with a solution, we have to meet two conditions. We have to deal
17 with treatment, we have to treat a person so that this person is fit to experience -- to
18 experience his detention and fit to stand trial.

19 Receiving visitors at the detention centre and having a very pleasant chat with a
20 friend is one thing, but it is not the same thing as hearing information here in the
21 courtroom that could spark traumatic events. There is a clear distinction to be made
22 there.

23 Furthermore, indeed, if one is to hear such things, to hear evidence, or -- I think we
24 also have to ensure that the person is really in a position to attend trial, to listen to a
25 hearing, to be at a hearing.

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1 So the Defence needs to disclose at least part of their solutions to the Prosecution so we can
2 move forward otherwise we will not move ahead.

3 As far as we are concerned, I would very much like to be able today to discuss the
4 stages, the steps ahead of us and the measures. A great deal of measures need to be
5 taken in order to implement the solution, the solution to be accepted by the Chamber.

6 We are an international organisation. And if we're talking about looking beyond
7 The Netherlands, that will mean international cooperation. That is not something
8 that I do at a drop of a hat, particularly when we're talking about July and August.

9 PRESIDING JUDGE HENDERSON: Just a moment. Is there a problem?

10 (Mr Gbagbo leaves the courtroom)

11 PRESIDING JUDGE HENDERSON: All right. Just for the record, we just note that
12 Mr Gbagbo had to leave and that the Chamber had earlier on acknowledged that as part of
13 the special measures, that if it became necessary, the Court would accommodate Mr Gbagbo.
14 Yes, Mr Dubuisson.

15 MR DUBUISSON: (Interpretation) I didn't think I was causing any offence there, but as
16 I've certainly noted this decision, so I think now that we are making progress, I think the
17 Prosecutor has to be able to speak about the upcoming solutions. As far as I'm concerned, I
18 think that a request needs to be filed and you will have it, you will have the legal basis, and
19 then we can go forward.

20 We have in front of us the judicial recess, three to four weeks. That is extremely short. You
21 know as well in the report you have the types of solution, the treatment, the duration of them.
22 You've got all that different information. You know as I do, we don't have a lot of time. We
23 have to make progress today and that's the position of the Registry today. We are also
24 responsible for the health of Mr Gbagbo in detention and there I think we also have to take
25 measures in order to look at the long term. Thank you.

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1 PRESIDING JUDGE HENDERSON: Thank you, Mr Dubuisson.

2 (Trial Chamber confers)

3 (Mr Gbagbo re-enters the courtroom)

4 PRESIDING JUDGE HENDERSON: Right. So just for the record, we acknowledge that

5 Mr Gbagbo has returned to the courtroom.

6 So in your absence, Mr Gbagbo, your attorney -- in your absence, Mr Gbagbo, the

7 Registry was indicating its position and your attorney will tell you fully what

8 happened, but it continued along the same lines.

9 Mr MacDonald, now we are on the issue of modalities, and you would have heard

10 and you would have understood the Chamber's ruling. Now, with respect to the

11 remarks, with respect to any remarks that you have on modalities, can we hear you?

12 MR MACDONALD: I would say with limited comments, your Honour. I can only echo

13 what Mr Dubuisson just mentioned. As you know, the Prosecution at the moment is not

14 privy to any of the nine reports or joint reports or exchanges that took place after the decision

15 on the fitness at the confirmation stage, decision that I will just mention, 286 in the Gbagbo

16 case.

17 We do have access with redactions to and were present obviously in the courtroom

18 for the fitness hearing. So since then we have no information whatsoever.

19 We can only note that for two and a half years and with a question mark as to what

20 took place during those two and a half years to provide treatment to Mr Gbagbo, I

21 understand Mr Gbagbo has to possibly consent to these treatments, but when these

22 treatments could be in his interest, one would believe that one would consent to

23 these.

24 Now, I feel that with what I can read between the lines is that nothing has happened

25 in two and a half years to help Mr Gbagbo. I may be wrong, because I don't know.

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1 Now, I understand that there is Regulation 156 of the Regulations of the Registry and
2 where -- in relation to the medical officer or the medical file of Mr Gbagbo in
3 detention we need his consent, but I'm also mindful of the decision I provided the
4 Chamber earlier, Karemera of ICTR, a decision of 2009, that -- and even though the
5 Defence is referring to Article 8 of the European Court of Human Rights and right to
6 confidentiality and so on and so forth, at the ICTR anyway it was mentioned clearly
7 that it's not an absolute right.

8 So the Defence cannot block the information the Chamber needs to move forward.

9 This is the situation we're in. And what I'm hearing and what is -- I'm very again
10 surprised and what I wonder is on the question of the modalities, the Defence is
11 saying that they would be counterproductive, any measure would be
12 counterproductive. I read from that that right now we don't want to go to trial,
13 because the trial we're saying we cannot -- Mr Gbagbo is not fit to follow a trial or to
14 attend a trial. Well, then we come back to what we were discussing earlier this
15 morning, there has to be a request on the fitness to stand trial, or the Chamber may
16 order it at one point. You have that power.

17 I think that at one point that may be the only solution is that the Chamber order an
18 examination for fitness purposes so that we can move forward.

19 Now, in relation to the modalities to participate, I think there were modalities that
20 were adopted at the pre-trial stage that can be adopted at the trial stage. And of
21 course, these are always provisional in the sense that the Chamber has always the
22 discretion to adapt them to an evolving situation. The only thing that I would be
23 mindful of, your Honour, is, as you know, you don't want -- maybe we should have
24 shorter weeks, four days, four hours a day spread like this: An hour, break a half
25 hour, another hour, break of maybe an hour and then -- anything is possible, but I

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1 don't know the Court's schedule, administratively how the Registry -- the court
2 availabilities and so on in the new building, in the new premises.
3 But the thing is is that what we should try to avoid is sitting a week and then
4 breaking for a week and then sitting another week or sitting two weeks, breaking for
5 a week. Why? Because we know when an examination-in-chief will start, we don't
6 know when the cross-examination will end, and we would not want to have a witness
7 sitting in The Hague for a week doing nothing waiting to be questioned or
8 cross-examined, or re-examined for that matter. So I think that has to be a concern of
9 the Chamber.

10 But just discussing this at the moment, it is very hard for the Prosecution to say anything or to
11 be -- have meaningful suggestions when we don't know, we have no clue. Yes, two and a
12 half years ago and contrary to what the Defence is saying in their submission 87, there was no
13 unanimous verdict on the exact extent of both the PTSD and the syndrome de la
14 hospitalisation. Sorry for the translators.

15 So I think, you know, again, as I started, I think the Chamber needs to seriously
16 consider ordering a round of -- again, a second round of fitness to stand trial. And at
17 the moment also looking at the decision Karemera, because the interest, although
18 Mr Blé Goudé's Defence has sought preparation or a trial starting in April, at this
19 stage the expeditiousness of the proceedings may not be an issue, depending on the
20 arrangement that the Chamber may take, this could become an issue to them.

21 So the Prosecution would recommend maybe involving them on that aspect of that issue so
22 that they're informed, they're aware and they're able to present their views and concerns in
23 order to, let's not hide behind words, protect the record, your Honour. Our interest right
24 now is in protecting these proceedings in the long term.

25 So that's our position. Our position would be to -- for the Prosecution to have access

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1 to the necessary information with the limited redactions, if need be. That's what
2 happened before the PTC. The Chamber had heavily redacted prior records. The
3 Chamber reviewed those and, you know, left -- listen, (Redacted)
4 (Redacted)
5 (Redacted). The information that we want is the information that is very
6 necessary, psychologically to understand if Mr Gbagbo is fit for trial or not, if he's
7 ready to stand trial. And if he has physical issues, then these can be dealt with
8 accommodating Mr Gbagbo physically with the hearings.
9 If -- of course these measures are not there to help Mr Gbagbo recover. That's
10 medical treatment. If Mr Gbagbo tomorrow breaks his legs and has a cast and is in a
11 wheelchair, you will make arrangements to schedule the hearings accordingly. This
12 is exactly the same thing we're talking about, but different pathologies, I understand
13 that, illnesses. We understand that.
14 But at this moment we do not have any updated information. The Chamber does -- I
15 think does not have any updated information from two and a half years ago.
16 So this is why, if the Chamber goes down the road of a round of fitness to stand trial, I
17 would recommend the same experts. They saw him already. They've been chosen
18 by and recommended by the parties in the past. They've testified in the past before
19 this institution in this case. So then you have continuity and a bigger, more accurate
20 picture of the current situation, because it is now. It is not a month ago. It is not
21 two years ago. It is today. What is the situation today? And then we'll find out if
22 the medical officer is wrong or not.
23 PRESIDING JUDGE HENDERSON: All right. Just bear with the Chamber for a few
24 minutes.
25 (Trial Chamber confers)

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- 1 PRESIDING JUDGE HENDERSON: Monsieur Altit.
- 2 MR ALTIT: (Interpretation) Thank you very much, your Honour. Just a short remark on
- 3 what the Prosecutor said. I'm not talking about fitness * here. It's not a question of fitness *.
- 4 The question here, one, is about the state of health, the current health, and the practical
- 5 measures which can be implemented immediately. The current state of health requires
- 6 treatment. If the treatment succeeds, then the question of fitness * will no longer be there.
- 7 That's speculative.
- 8 You are going on to scenarios after scenario. We have to speak about the state of
- 9 health, treatment. And in order to do so, we have to have a session without the
- 10 Prosecution present and we have to talk about the practicalities. Fitness * will only
- 11 come thereafter.
- 12 PRESIDING JUDGE HENDERSON: Right. Now, parties, the Chamber just deliberated
- 13 before we heard from you, and having heard you, in addition, Mr Altit, I thank you for your
- 14 submissions in that regard.
- 15 Now, the Chamber has considered your observations subsequent to the Chamber's
- 16 oral ruling, and I thank you sincerely for those, the assistance that the three of you
- 17 have provided us.
- 18 I have also conferred with my colleagues a few moments ago and in light of your
- 19 submissions a few moments ago and the information that you provided, Mr Altit, the
- 20 Court with, and Mr Dubuisson, and in particular having also regard to our oral
- 21 decision this morning, which both parties indicated they clearly understood, the
- 22 Chamber is not of the opinion that an ex parte hearing excluding the Prosecution is
- 23 necessary at this stage to discuss any further matters arising out of today's business.
- 24 Accordingly, the Chamber will therefore formally -- the Chamber, having considered
- 25 the second limb of the Defence request, formally rejects that request. And that,

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1 therefore, would conclude the application that you had made.

2 Now, arising out of that and the Chamber's, of course, refusal to have an ex parte

3 hearing, are there any further issues, requests or questions from any of the parties?

4 I will start perhaps -- I'll give you some time, Mr Altit.

5 Mr MacDonald?

6 MR MACDONALD: The Prosecution has nothing to add, your Honour. Thank you.

7 PRESIDING JUDGE HENDERSON: Mr Altit?

8 MR ALTIT: (Interpretation) No further comments, your Honour.

9 PRESIDING JUDGE HENDERSON: Mr Dubuisson?

10 MR DUBUISSON: (Interpretation) We have recorded nine common reports, which have

11 been communicated. I would have preferred us to make progress and speak about the

12 solution to be implemented, which would not involve disclosing information concerning the

13 medical treatment or the pathologies. It would just be to discuss practical modalities about

14 how we can care for a person and in accordance with that how we can have hearings in four

15 months.

16 I have to say I'm somewhat frustrated that today we have not been able to make progress on a

17 major problem. We're talking about the health of a person who is in detention. And once

18 again, I would ask the Defence to at least make progress with regards to the places and the

19 information we've already prepared, as you know, all the redacted versions of all the reports,

20 so we can make progress if today there is an intention to respond to a need of a person.

21 Thank you.

22 PRESIDING JUDGE HENDERSON: Mr Dubuisson, I don't wish to rehash as it were the

23 Chamber's ruling, but as we see it, there really are two options for treatment. There is option

24 for treatment at the detention centre and there is the alternative option for treatment outside

25 of the detention centre.

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1 The former does not require the Chamber's intervention at all. The latter can only
2 occur if there is a request for conditional release. Are you with me? And this is
3 essentially coming out of the Chamber's ruling.

4 For a conditional release, the Chamber is of the clear view that to provoke us, in a
5 sense, for it to happen, we need a request. Otherwise the Chamber can order the
6 Registry to proceed today to proceed with the treatment in the detention centre
7 however that may occur. Do you follow me?

8 Having regard to the modalities and in particular fitness, the Chamber has listened to
9 the submissions from both Mr MacDonald and as well as Monsieur Altit. On the
10 issue of fitness, the Chamber is also of the view that some formal application needs to
11 be made. And we have neither. That is the situation.

12 Just a moment.

13 (Trial Chamber confers)

14 PRESIDING JUDGE HENDERSON: I've just conferred with my brother and sister on either
15 side to see if there is anything else, but the Chamber's position is clear.

16 So having regard to that, the Chamber thanks, Mr Altit, you very much for your
17 assistance this morning. The Chamber is very happy that Mr Gbagbo was able to
18 come and the Chamber is well pleased.

19 Thank you, Mr MacDonald. And as well of course the Registry, the hardworking
20 interpreters and the transcriptionist. Thank you very much.

21 THE COURT USHER: All rise.

22 (The ex parte status conference ends in private session at 11.53 a.m.)

23 CORRECTIONS REPORT

24 The following corrections have been implemented in the transcript:

25 Page 31 lines 3, 6, 10: "aptitude" is corrected by "fitness"

Ex Parte Status Conference (Private Session)
(Prosecution, Gbagbo Defence and Registry only)

ICC-02/11-01/15

- 1 REPORT
- 2 Pursuant to Trial Chamber' I Order, ICC-02/11-01/15-464, dated 18 March 2016, the
- 3 public redacted version of this transcript is filed in the case.