



Original: **English**

No.: ICC-02/11-01/12  
Date: 25 September 2018

**PRE-TRIAL CHAMBER II**

**Before:** Judge Antoine Kesia-Mbe Mindua, Presiding Judge  
Judge Tomoko Akane  
Judge Rosario Salvatore Aitala

**SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE**

**IN THE CASE OF**

***THE PROSECUTOR v. SIMONE GBAGBO***

**Public**

**Prosecution's Request to access material and provide observations in the article  
19(1) admissibility proceedings**

**Source:** Office of the Prosecutor

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

Ms Fatou Bensouda

Mr James Stewart

Mr Eric MacDonald

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Participation/Reparation****The Office of Public Counsel for  
Victims****The Office of Public Counsel for the  
Defence****States' Representatives**Competent authorities of the Republic of  
Côte d'Ivoire**Amicus Curiae****REGISTRY**

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**Registrar**

Mr Peter Lewis

**Counsel Support Section****Victims and Witnesses Unit****Detention Section****Victims Participation and Reparations  
Section****Other**

## Submissions

1. On 14 September 2018, Pre-Trial Chamber II decided to determine on its own motion, under article 19(1), whether the case against Ms Simone Gbagbo is still admissible before the Court with reference to articles 17(1)(c) and 20(3) of the Rome Statute.<sup>1</sup> To assist in such determination, the Chamber ordered the Registrar to request, not later than Friday, 21 September 2018, the competent national authorities of Côte d'Ivoire to provide the Chamber with pertinent judicial decisions rendered after 11 December 2014 (when the Court ruled on the admissibility of the case on Ms Gbagbo) and any other relevant information, including if the concerned judgments have become final according to national law.<sup>2</sup>

2. In accordance with rule 58(2) of the Rules, the Chamber “[w]hen [...] is acting on its own motion as provided for in article 19, paragraph 1, it shall decide on the procedure to be followed and may take appropriate measures for the proper conduct of the proceedings”.<sup>3</sup> In so doing, “due consideration must be given to the different interests involved and the circumstances of each specific case”.<sup>4</sup> The Prosecutor, as the Party who requested the arrest warrant against Ms Gbagbo and assesses admissibility, has a clear interest in these proceedings. Hence, and consistent with the procedure followed in previous admissibility proceedings, either triggered by the Chamber under article 19(1)<sup>5</sup> or resulting from a challenge under article 19(2),<sup>6</sup> the

<sup>1</sup> [ICC-02/11-01/12-84](#) (“Article 19(1) Order”), para. 5.

<sup>2</sup> Article 19(1) Order, paras. 6-7.

<sup>3</sup> Rule 58(2). See [ICC-02/04-01/15-115](#) (“Kony et al. Admissibility Proceedings Decision”), p. 7 (“according to rule 58(2) of the Rules, a Chamber acting on its own motion as provided for in article 19(1) ‘shall decide on the procedure to be followed and may take appropriate measures for the proper conduct of the proceedings’”).

<sup>4</sup> [ICC-02/11-01/12-35](#) (“Simone Gbagbo Additional Documents Decision”), para. 6 (“By virtue of rule 58(2) of the Rules, the Chamber has the discretionary power to decide on the procedure to be followed upon receipt of an admissibility challenge. In doing so, due consideration must be given to the different interests involved and the circumstances of each specific case.”). See also [ICC-01/11-01/11-641](#) (“Second Gaddafi Admissibility Proceedings Decision”), para. 7. The same considerations should apply to admissibility proceedings initiated *proprio motu* by the Chamber.

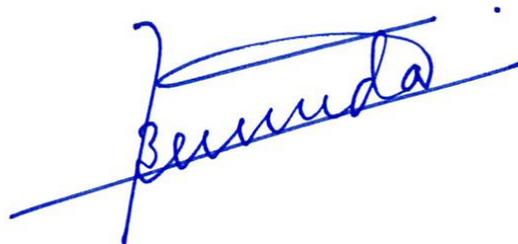
<sup>5</sup> Kony et al. Admissibility Proceedings Decision, p. 7 (“in order to preserve the fairness of the proceedings, the Prosecutor and the persons for whom the Warrants have been issued shall also be given the opportunity to submit written observations on the matter”).

<sup>6</sup> Under rule 58(3) the Chamber shall allow the Prosecutor and suspects to submit written observations on a challenge to the admissibility of a case within a period of time to be determined by the Chamber. See e.g. [ICC-01/09-02/11-40](#) (“Muthaura et al. Admissibility Proceedings Decision”), para. 12; [ICC-01/09-01/11-31](#) (“Ruto et al. Admissibility Proceedings Decision”), para. 12; [ICC-01/11-01/11-134](#) (“First Gaddafi Admissibility

Prosecution requests access to the information and material to be transmitted by Côte d'Ivoire and to provide observations on the admissibility of Ms Gbagbo's case.<sup>7</sup>

### Relief Sought

3. For the foregoing reasons, the Prosecution respectfully requests access to the information and material to be transmitted by Côte d'Ivoire and to provide observations on the admissibility of Ms Gbagbo's case.



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Fatou Bensouda, Prosecutor

Dated this 25<sup>th</sup> day of September 2018

At The Hague, The Netherlands

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Proceedings Decision”), para. 11; [ICC-01/11-01/11-325](#) (“Senussi Admissibility Proceedings Decision”), para. 8; [ICC-02/11-01/12-15](#) (“Simone Gbagbo Admissibility Proceedings Decision”), para. 8; Second Gaddafi Admissibility Proceedings Decision, para. 8.

<sup>7</sup> The Prosecution further notes that victims who have communicated with the Court in relation to the case or their legal representatives are entitled to receive from the Registrar information on the question which has arisen under rule 59(1) and to make observations under rule 59(3) within a time limit set out by the Chamber. In the admissibility proceedings following Côte d'Ivoire's challenge of Simone Gbagbo's case, Pre-Trial Chamber I appointed Ms Paolina Massidda from the OPCV as legal representative of the victims who had already communicated with the Court in relation to the case. *See* Simone Gbagbo Admissibility Proceedings Decision, pp. 9 and 10.