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

Date: 8 October 2014

TRIAL CHAMBER I

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

SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE

IN THE CASE OF THE PROSECUTOR v. LAURENT GBAGBO

Public

Prosecution's Response to « Requête urgente aux fins de fixation d'une nouvelle date d'audience portant sur le réexamen des conditions de maintien en détention »

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

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Ms Paolina Massidda

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

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Victims**

Ms Paolina Massidda

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States' Representatives

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Mr Herman von Hebel

Defence Support Section

Deputy Registrar

Victims and Witnesses Unit

Mr Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Other

Procedural History

1. On 7 October 2014, following an email exchange between the parties and the Trial Chamber I (the “Chamber”), the Chamber issued its “Order scheduling a hearing pursuant to Rule 118(3) of the Rules of Procedure and Evidence,” setting the hearing for 9 October 2014 at 10 a.m.¹
2. On the same day, the Defence filed its « *Requête urgente aux fins de fixation d’une nouvelle date d’audience portant sur le réexamen des conditions de maintien en détention* » reiterating its email request that the hearing be postponed to the following week (the “Defence Request”).²

Submissions

3. The Defence Request submits that, given the short notice of the scheduling of the Rule 118(3) hearing, it may be logistically unfeasible for Mr Gbagbo’s counsel to attend the hearing.
4. As a result, the Defence, on Mr Gbagbo’s behalf, requests a short postponement of this Rule 118(3) hearing, suggesting that it be held next week, the week of 13 to 17 October 2014.
5. Rule 118(3) states that “[a] hearing must be held at least once every year.” While this language is mandatory in its terms, the Office of the Prosecutor (the “Prosecution”) notes that the purpose of such a hearing is for the benefit of an accused, to review the legality and the conditions of his or her pre-trial detention.
6. By his submission, Mr Gbagbo does not waive his right to his annual Rule 118(3) hearing, but rather, and exceptionally, waives his right to its exact timing within the calendar year since his last Rule 118(3) hearing.
7. Since Mr Gbagbo has expressly consented to have his annual review postponed to next week, and bearing in mind his right under Article 67(1)(b) of the Rome Statute

¹ ICC-02/11-01/11-688.

² ICC-02/11-01/11-689.

to communicate effectively and freely with his counsel, the Prosecution does not oppose the Defence Request.



Fatou Bensouda, Prosecutor

Dated this 8th day of October 2014

At The Hague, The Netherlands