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PRE-TRIAL CHAMBER I

Before: Judge Silvia Fernández de Gurmendi, Presiding Judge
Judge Hans-Peter Kaul
Judge Christine Van den Wyngaert

SITUATION IN CÔTE D'IVOIRE

**IN THE CASE OF
*THE PROSECUTOR v. LAURENT GBAGBO***

Public Document

**Observations of the Common Legal Representative of victims on the
periodic review of Mr. Gbagbo's detention**

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. PROCEDURAL BACKGROUND

1. On 23 November 2011, Pre-Trial Chamber III issued a warrant of arrest against Mr. Laurent Gbagbo,¹ who was surrendered to the Court on 30 November 2011.

2. On 4 June 2012, the Single Judge of Pre-Trial Chamber I (the “Single Judge”) issued the “Decision on Victims’ Participation and Victims’ Common Legal Representation at the Confirmation of Charges Hearing and in the Related Proceedings”,² whereby she authorised 139 victims to participate at the confirmation of charges hearing and in the related proceedings.³ In addition, the Single Judge appointed a counsel from the Office of Public Counsel for Victims (the “OPCV” or the “Office”) as the common legal representative of all the victims admitted to participate in the proceedings (the “Common Legal Representative”).⁴

3. On 6 February 2013, the Single Judge issued the “Second decision on victims’ participation at the confirmation of charges hearing and in the related proceedings”,⁵ whereby she (i) authorised 60 victims to participate at the confirmation of charges hearing and in the related proceedings, (ii) confirmed the appointment of counsel from the Office as Common Legal Representative of all the victims admitted to participate in the proceedings related to the confirmation of charges, and (iii) reminded the modalities of participation of the Common Legal Representative at the confirmation of charges hearing and in the related proceedings.⁶

¹ See the “Warrant of Arrest for Laurent Koudou Gbagbo” (Pre-Trial Chamber III), No. ICC-02/11-01/11-1, 23 November 2011.

² See the “Decision on Victims’ Participation and Victims’ Common Legal Representation at the Confirmation of Charges Hearing and in the Related Proceedings” (Pre-Trial Chamber I, Single Judge), No. ICC-02/11-01/11-138, 4 June 2012.

³ *Idem*, p. 25.

⁴ *Ibid.*, p. 26.

⁵ See the “Second decision on victims’ participation at the confirmation of charges hearing and in the related proceedings” (Pre-Trial Chamber I, Single Judge), No. ICC-02/11-01/11-384, 6 February 2013.

⁶ *Idem*, pp. 22-23.

4. The confirmation of charges hearing was held from 19 to 28 February 2013. On 3 June 2013, the Majority of Pre-Trial Chamber I (the “Chamber”) issued the “Decision adjourning the hearing on the confirmation of charges pursuant to article 61(7)(c)(i) of the Rome Statute”⁷ (the “Decision Adjourning the Confirmation of Charges Hearing”), whereby it decided to adjourn the hearing and requested the Prosecutor “to consider providing further evidence or conducting further investigation with respect to all charges”.⁸

5. On 11 November 2013, the Chamber issued its fourth decision on Mr. Gbagbo’s detention pursuant to article 60(3) of the Rome Statute (the “Fourth Decision on Review of Detention”).⁹

6. On 13 January 2014, the Prosecution filed the Amended Document Containing the Charges, the Amended List of Evidence, and Amended Element Based Chart.¹⁰ The Prosecution filed *corrigenda* for some of these documents later.¹¹

7. On 14 February 2014, the Chamber issued a decision on some procedural requests presented by the Defence in relation to the continuation of the confirmation

⁷ See the “Decision adjourning the hearing on the confirmation of charges pursuant to article 61(7)(c)(i) of the Rome Statute” (Pre-Trial Chamber I), No. ICC-02/11-01/11-432, 3 June 2013.

⁸ *Idem*, p. 22.

⁹ See the “Fourth decision on the review of Laurent Gbagbo’s detention pursuant to article 60(3) of the Rome Statute” (Pre-Trial Chamber I), No. ICC-02/11-01/11-558, 11 November 2013 (the “Fourth Decision on Review of Detention”).

¹⁰ See the “Prosecution’s Submission of *Document amendé de notification des charges, l’Inventaire amendé des éléments de preuve à charge, and le Tableau amendé des éléments constitutifs des crimes*, and Response to issues raised by Pre-Trial Chamber I”, No. ICC-02/11-01/11-592, 13 January 2014, with eight annexes, including “Annexe 1 : Document amendé de notification des charges”, No. ICC-02/11-01/11-592-Anx1, 13 January 2014.

¹¹ See the « Annexe 2 », No. ICC-02/11-01/11-592-Conf-Anx2-Corr, 14 January 2014; the « Annexe 3 », No. ICC-02/11-01/11-592-Conf-Anx3-Corr, 14 January 2014; the « Annexe 4 », No. ICC-02/11-01/11-592-Conf-Anx4-Corr, 14 January 2014; and the « Annexe 6 », No. ICC-02/11-01/11-592-Conf-Anx6-Corr, 14 January 2014. See also the « Annexe 2 - Version publique expurgée de ICC-02/11-01/11-592-Conf-Anx2-Corr2 : Document amendé de notification des charges avec notes de bas de page », No. ICC-02/11-01/11-592-Anx2-Corr2-Red, 4 February 2014.

proceedings, rejecting them and setting up a new schedule for the finalisation of said proceedings.¹²

8. On 12 March 2014, the Chamber issued its fifth decision on Mr. Gbagbo's detention pursuant to article 60(3) of the Rome Statute (the "Fifth Decision on Review of Detention").¹³

9. On 12 June 2014, the Chamber, by majority, confirmed the charges against Mr. Gbagbo under article 61(7)(a) of the Rome Statute and committed him to a Trial Chamber for trial on the charges as confirmed (the "Confirmation of Charges Decision").¹⁴

10. On 17 June 2014, the Chamber requested the parties and participants to submit their observations in relation to the periodic review of Mr. Gbagbo's detention by 27 June 2014.¹⁵

11. Accordingly, the Common Legal Representative submits the following observations.

II. COMMON LEGAL REPRESENTATIVE'S OBSERVATIONS

12. Pursuant to article 60(3) of the Rome Statute, the Pre-Trial Chamber shall periodically review its ruling on release or detention of the person and, upon such review, it may modify its ruling "*if it is satisfied that changed circumstances so require*". At the same time, pursuant to article 60(2) of the Statute, the person shall continue to

¹² See the "Decision on Defence requests related to the continuation of the confirmation proceedings" (Pre-Trial Chamber I), No. ICC-02/11-01/11-619, 14 February 2014.

¹³ See the "Fifth decision on the review of Laurent Gbagbo's detention pursuant to article 60(3) of the Rome Statute" (Pre-Trial Chamber I), No. ICC-02/11-01/11-633, 12 March 2014 (the "Fifth Decision on Review of Detention").

¹⁴ See the "Decision on the confirmation of charges against Laurent Gbagbo" (Pre-Trial Chamber I), No. ICC-02/11-01/11-656-Red, 12 June 2014, p. 131 (the "Confirmation of Charges Decision").

¹⁵ See the e-mail sent by a Legal Officer of the Chamber on 17 June 2014 at 10h21.

be detained “[i]f the Pre-Trial Chamber is satisfied that the conditions set forth in article 58, paragraph 1, are met”. In this regard, pursuant to the jurisprudence of the Court, “[t]he requirement of ‘changed circumstances’ 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 prior ruling is necessary”.¹⁶

13. Moreover, the Appeals Chamber has ruled that when reaching a decision under article 60(3) of the Statute, “[t]he Chamber does not have to enter findings on the circumstances already decided upon in the ruling on detention”,¹⁷ and that “[i]t is first for the Pre-Trial 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”.¹⁸ Consequently, there is no requirement to give reasoning or engage in a *de novo* review of detention where no changed circumstances are established.¹⁹

14. The Common Legal Representative submits that Mr. Gbagbo must continue to be detained because the conditions set forth in article 58(1) of the Rome Statute

¹⁶ 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, 2 December 2009, paras. 1 and 60. See also the “Decision on the review of the detention of Mr Jean-Pierre Bemba Gombo pursuant to Rule 118(2) of the Rules of Procedure and Evidence” (Pre-Trial Chamber III), No. ICC-01/05-01/08-743, 1 April 2010, par. 26.

¹⁷ See the “Judgment on the appeal of Mr Jean-Pierre Bemba Gombo against the decision of Trial Chamber III of 28 July 2010 entitled ‘Decision on the review of the detention of Mr Jean-Pierre Bemba Gombo pursuant to Rule 118(2) of the Rules of Procedure and Evidence of Procedure and Evidence’”, (Appeals Chamber), No. ICC-01/05-01/08-1019 OA4, 23 November 2010 (dated 19 November 2010), par. 53; and 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, par. 112.

¹⁸ 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’”, *supra* note 17, paras. 1 and 53.

¹⁹ *Idem*, par. 94.

continue to be met, and there have been no changed circumstances in the sense of article 60(3) of the Statute since the last decision of the Chamber in this matter.

15. In particular, the Common Legal Representative considers that the conclusions of the Chamber in its previous decisions– and especially on the fact that there has been no change in the circumstances since November 2012 which would justify the Suspect’s release – are still valid today.²⁰

16. In fact, the only different circumstance since the last decision reviewing the Suspect’s detention is the confirmation of charges against him, whereby the Chamber determined the existence of substantial grounds to believe that Mr. Gbagbo committed the crimes charged upon him,²¹ after additional evidence tending to show Mr. Gbagbo’s criminal responsibility had been disclosed to the Defence.²²

17. However, the Common Legal Representative submits that the confirmation of charges does not amount to a “changed circumstance” in the sense of article 60(3) of the Statute.²³ On the contrary, said confirmation tends to favour Mr. Gbagbo’s continued detention rather than to mitigate in favour of his release.

²⁰ See 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, par. 61 (the “First Decision on Review of Detention”). See also 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-02/01-11/417-Red, 12 March 2013, paras. 30, 39, 40 and 41; 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 and 44 (the “Third Decision on Review of Detention”); the Fourth Decision on Review of Detention, *supra* note 9, paras. 43 and 46; and the Fifth Decision on Review of Detention, *supra* note 13, par. 34.

²¹ See the Confirmation of Charges Decision, *supra* note 14, par. 266.

²² See the “Prosecution’s Submission of *Document amendé de notification des charges, l’Inventaire amendé des éléments de preuve à charge, and le Tableau amendé des éléments constitutifs des crimes*, and Response to issues raised by Pre-Trial Chamber I”, *supra* note 10.

²³ See *a contrario* the Third Decision on Review of Detention, *supra* note 20, paras. 34 and 37.

18. In this regard, different Chambers of the Court have considered that the risk of non-appearance at trial increases as the proceedings advance,²⁴ in particular after a finding that there is sufficient evidence to establish substantial grounds to believe that a person has committed crimes within the jurisdiction of the Court.²⁵

19. Moreover, considering the charges confirmed against Mr. Gbagbo, the additional evidence disclosed by the Prosecution, and that the Court has jurisdiction over the most serious crimes of concern to the international community as a whole, the Common Legal Representatives submits that the allegations at hand are of extreme gravity. Consequently, Mr. Gbagbo's provisional release would not be justified in the current circumstances. In particular, the Common Legal Representative recalls that the Appeals Chamber has established that the gravity of the crimes for which a person is prosecuted is an important factor to decide on detention matters.²⁶

²⁴ See *inter alia* the "Third Review of the Decision on the Conditions of Detention of Germain Katanga" (Trial Chamber II), No. ICC-01/04-01/07-1043-tENG, 6 April 2009, par. 13; and the "Decision on the review of detention of Mr Jean-Pierre Bemba Gombo pursuant to the Appeals Judgment of 19 November 2010" (Trial Chamber III), No. ICC-01/05-01/08-1088, 17 December 2010, par. 40. See also 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 16, par. 70; and the "Decision on the 'Defence Request for Interim Release'" (Pre-Trial Chamber I), No. ICC-01/04-01/10-163, 19 May 2011, par. 42.

²⁵ See the "Review of the 'Decision on the Application for the Interim Release of Thomas Lubanga Dyilo'" (Pre-Trial Chamber I, Single Judge), No. ICC-01/04-01/06-826, 14 February 2007, p. 6; the "Second Review of the 'Decision on the Application for Interim Release of Thomas Lubanga Dyilo'" (Pre-Trial Chamber I, Single Judge), No. ICC-01/04-01/06-924, 11 June 2007, pp. 5-6; 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, 17 December 2008, paras. 9-10; and 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 16, par. 70.

²⁶ See *inter alia* the "Judgment on the appeal of Mr. Thomas Lubanga Dyilo against the decision of Pre-Trial Chamber I entitled 'Décision sur la demande de mise en liberté provisoire de Thomas Lubanga Dyilo'" (Appeals Chamber), No. ICC-01/04-01/06-824 OA7, 13 February 2007, par. 136; the "Judgment in the Appeal by Mathieu Ngudjolo Chui of 27 March 2008 against the Decision of Pre-Trial Chamber I on the Application of the Appellant for Interim Release" (Appeals Chamber), No. ICC-01/04-01/07-572 OA4, 10 June 2008 (dated 9 June 2008), par. 21; 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

20. The Single Judge has also determined, in conformity with the jurisprudence of the Court,²⁷ that “*considerations relating to the suspect’s past and present political and professional position, international contacts and ties, financial situation and resources, and availability of the necessary network and financial resources are relevant factors to the determination of the existence of a risk of flight*”.²⁸ This statement is still valid today. In fact, the different demonstrations held in The Netherlands and in other places, including Côte d’Ivoire,²⁹ in support of Mr. Gbagbo show the important extent of the international network of sympathisers who are capable of assisting the Suspect and are, if necessary, ready to do so.

21. The Common Legal Representative emphasizes that demonstrations in support of Mr. Gbagbo have not diminished since the conclusion of the confirmation of charges hearing. In fact, Mr. Gbagbo’s support network, as defined by the Chamber in its decisions on interim release,³⁰ has reportedly increased its activity and gained motivation after the Decision Adjourning the Confirmation of Charges

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 16, par. 70; and the “Judgment on the appeal of Mr Callixte Mbarushimana against the decision of Pre-Trial Chamber I of 19 May 2011 entitled ‘Decision on the ‘Defence Request for Interim Release’” (Appeals Chamber), No. ICC-01/04-01/10-283 OA, 14 July 2011, par. 21.

²⁷ See the “Judgment on the appeal of Mr. Thomas Lubanga Dyilo against the decision of Pre-Trial Chamber I entitled ‘Décision sur la demande de mise en liberté provisoire de Thomas Lubanga Dyilo’”, *supra* note 26, par. 137; the “Judgment in the Appeal by Mathieu Ngudjolo Chui of 27 March 2008 against the Decision of Pre-Trial Chamber I on the Application of the Appellant for Interim Release”, *supra* note 26, par. 22; and 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 16, par. 72.

²⁸ See the “Decision on the ‘Requête de la Défense demandant la mise en liberté provisoire du président Gbagbo’” (Pre-Trial Chamber I, Single Judge), No. ICC-02/11-01/11-180-Red, 16 July 2012 (dated 13 July 2012), par. 57.

²⁹ See “Veillée de prière pour Laurent Gbagbo - Konaté Navigué mobilise les jeunes”, *Notre Voie*, 10 June 2014; and “Interdiction de la Veillée de prière pour la libération de Laurent Gbagbo - La Côte d’Ivoire rentre dans une dictature totale”, *Notre Voie*, 12 June 2014.

³⁰ See the Fifth Decision on Review of Detention, *supra* note 13, paras. 25-26.

Hearing and the recent Confirmation of Charges Decision.³¹ In this regard, the Appeals Chamber has already established that the support network on which Mr. Gbagbo can rely is undoubtedly active and that its mere existence is relevant to determine whether Mr. Gbagbo's continued detention appears necessary.³²

22. The Single Judge equally found that *"it appears that the network of Mr. Gbagbo's supporters, based in countries neighbouring Côte d'Ivoire, in particular in Ghana, has strengthened its level of military and political organization in the last months"* and concluded that *"the development of such network has increased the risks under article 58(1)(b) of the Statute"*.³³ In this respect, the Single Judge explained that *"the issue is not whether Mr. Gbagbo can be held accountable for the activities of the support network but whether there exists a risk that the latter could provide Mr. Gbagbo, in the event of release, with assistance in absconding, interfering with the investigation of Court's proceedings, or in the commission of further crimes, within the meaning of article 58(1)(b) of the Statute"*, always taking into account that *"among the alleged members of the network, there are family members of Mr. Gbagbo as well as several close political associates"*.³⁴

23. These observations have been reiterated in whole or in part by the Chamber in its last two decisions on detention and are still relevant today.³⁵

³¹ See "Le FPI exige la relaxe pure et simple de Laurent Gbagbo", *Notre Voie*, 6 June 2013; "Le FPI debout malgré la répression", *Notre Voie*, 16 June 2013; "Ivory Coast Opposition to International Court: Release Gbagbo", *Voice of America*, 11 November 2013; "Décision de la CPI contre le président Gbagbo - Le mouvement 'Solidarité pour Laurent Gbagbo' dénonce un complot", *Notre Voie*, 17 June 2014; and "Pour la libération du président Laurent Gbagbo - Les patriotes ivoiriens en exil lancent un appel au peuple", *Notre Voie*, 22 June 2014.

³² See 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 Défense demandant la mise en liberté provisoire du président Gbagbo'" (Appeals Chamber), No. ICC-02/11-01/11-278-Red OA, 26 October 2012, par. 59. See also 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'", *supra* note 17, paras. 102-103.

³³ See the First Decision on Review of Detention, *supra* note 20, par. 59.

³⁴ *Idem*, par. 58.

³⁵ See the Fourth Decision on Review of Detention, *supra* note 9, par. 46; and the Fifth Decision on Review of Detention, *supra* note 13, paras. 25-26.

24. The Common Legal Representative also notes that before the issuance of the Confirmation of Charges Decision, additional incriminating evidence was disclosed to Mr. Gbagbo. This disclosure *de facto* increases Mr. Gbagbo's knowledge of the victims and witnesses involved in these proceedings.³⁶ In this regard, it must be recalled that "[t]he Court shall take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses".³⁷ For this purpose, article 57(3)(c) of the Rome Statute provides that Pre-Trial Chambers may "[w]here necessary, provide for the protection and privacy of victims and witnesses". Moreover, the Common Legal Representative notes that the Chamber has found substantial grounds to believe that Mr. Gbagbo bears individual criminal responsibility as a co-perpetrator of the crimes charged against him or, in the alternative, is criminally responsible under article 25(3)(b) of the Statute or, in the alternative, under article 25(3)(d) of the Statute for contributing in any other way to the commission of these crimes.³⁸

25. The Common Legal Representative would also like to recall the observations she made in her previous submissions on review of detention relating to the criteria established by international human rights tribunals in order to determine the reasonable character of the provisional detention of a suspect or accused person.³⁹ According to this jurisprudence, judicial authorities must consider *inter alia* the conduct of the proceedings⁴⁰ and the behaviour of the person concerned.⁴¹

³⁶ See, in this sense, the "Decision on the 'Requête de la Défense demandant la mise en liberté provisoire du président Gbagbo'", *supra* note 28, paras. 65 and 66.

³⁷ See article 68(1) of the Rome Statute.

³⁸ See the Confirmation of Charges Decision, *supra* note 14, par. 266.

³⁹ See the "Observations du Représentant légal commun des victimes relatives au réexamen périodique de la détention de M. Gbagbo", No. ICC-02/11-01/11-444, 3 July 2013, paras. 35-36.

⁴⁰ See ECHR, *Barfuss v. Czech Republic*, application no. 35848/97, 31 July 2000, par. 72; *Toth v. Austria*, application no. 11894/85, 12 December 1991, par. 76.

⁴¹ See ECHR, *W. v. Switzerland*, application no. 14379/88, 26 January 1993, par. 42; *Herczegfaloy v. Austria*, application no. 10533/83, 24 September 1992, par. 72.

26. Moreover, pursuant to international human rights jurisprudence,⁴² the following grounds may be considered to be “relevant” and “sufficient” to justify the continuation of the detention complained of: (i) the existence and persistence of serious indications of guilt;⁴³ (ii) the risk of pressure being brought to bear on witnesses and that of collusion between co-accused;⁴⁴ (iii) the danger of absconding;⁴⁵ (iv) the danger of reoffending;⁴⁶ and (v) the demands of the investigation.⁴⁷

27. The Common Legal Representative submits that all or part of these grounds form the basis of the five decisions on review of detention issued to date by the Chamber. Said grounds confirm the legitimate and reasonable character of Mr. Gbagbo’s detention not only from the point of view of the legal texts of the Court, but also from the point of view of universally recognized principles of human rights law.

28. Having regard to the elements described *supra*, the Common Legal Representative submits that Mr. Gbagbo’s detention must be maintained because the conditions set forth in article 58(1) of the Rome Statute continue to be met and because no changed circumstance requiring otherwise has arisen since the last decision issued by the Chamber in this matter.

⁴² See ECHR, *Prencipe v. Monaco*, application no. 43376/06, 16 July 2009, par. 74; *Tum v. Turkey*, application no. 11855/04, 17 June 2008, par. 41; *Lelievre v. Belgium*, application no. 11287/03, 8 November 2007, par. 92.

⁴³ See ECHR, *Tum v. Turkey*, application no. 11855/04, 17 June 2008, par. 41; *Mansur v. Turkey*, application no. 16026/90, 8 June 1995, par. 56; *Tomasi v. France*, application no. 12850/87, 27 August 1992, par. 89.

⁴⁴ See ECHR, *Contrada v. Italy*, application no. 27143/95, 24 August 1998, par. 61; *Tomasi v. France*, application no. 12850/87, 27 August 1992, paras. 92-95.

⁴⁵ See ECHR, *Cetin Agdas v. Turkey*, application no. 77331/01, 19 September 2006, paras. 27-28; *Mansur v. Turkey*, application no. 16026/90, 8 June 1995, par. 55; *Tomasi v. France*, application no. 12850/87, 27 August 1992, par. 98; *Letellier v. France*, application no. 12369/86, 26 June 1991, par. 43.

⁴⁶ See ECHR, *Paradysz v. France*, application no. 17020/05, 29 October 2009, par. 70; *Muller v. France*, application no. 21802/93, 17 March 1997, par. 44; *Clooth v. Belgium*, application no. 12718/87, 12 December 1991, par. 40.

⁴⁷ See ECHR, *Lelievre v. Belgium*, application no. 11287/03, 8 November 2007, par. 92; *Bouchet v. France*, application no. 33591/96, 20 March 2001, par. 41.

29. Finally, the victims with whom the Common Legal Representative has met during her latest missions to Côte d'Ivoire insist on the need to maintain Mr. Gbagbo in detention. All said victims have expressed fears about their safety. In fact, they have indicated that during the last months "*a wave of releases of pro-Gbagbo prisoners*" – as they describe it – has been on-going, and that this "*wave*" has contributed to an increase of the violence in the neighbourhoods where they live and to a worsening of their security situation.⁴⁸

FOR THE FOREGOING REASONS, the Common Legal Representative respectfully requests the Pre-Trial Chamber to rule that Mr. Gbagbo must remain in detention.



Paolina Massidda
Principal Counsel

Dated this 27th day of June 2014

At The Hague, The Netherlands

⁴⁸ News on the provisional release of Gbagbo supporters have been broadly reflected in the Ivorian media during the last months. See for example the following links: "Rencontre FPI-Gouvernement : Rendez-vous du donner et du recevoir", <http://infopresse.net/rencontre-fpi-gouvernement-rendez-vous-du-donner-et-du-recevoir/>; "Côte d'Ivoire : liberté provisoire pour 50 prisonniers de la crise post-électorale", <http://www.jeuneafrique.com/Article/DEPAFP20140601112432/laurent-gbagbo-electorale-crise-post-lassane-ouattaraejustice-ivoirienne-cote-d-ivoire-cote-d-ivoire-liberte-provisoire-pour-50-prisonniers-de-la-crise-post-electorale.html>; and "«150 détenus pro-Gbagbo seront libérés dans les heures qui suivent», annonce Affi N'guessan", http://www.rti.ci/infos_Politique_7119_%AB150-detenus-pro-gbagbo-seront-liberes-dans-les-heures-qui-suivent%BB-annonce-affi-neguessan.html.