Cour Pénale Internationale

International Criminal Court

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No.: **ICC-02/11-01/11**
Date: **12 March 2014**

PRE-TRIAL CHAMBER I

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

SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE
IN THE CASE OF
THE PROSECUTOR V. LAURENT GBAGBO

Public

Fifth decision on the review of Laurent Gbagbo's detention pursuant to article 60(3) of the Rome Statute

Decision to be notified, in accordance with regulation 31 of the Regulations of the Court, to:

The Office of the Prosecutor
Fatou Bensouda, Prosecutor
James Stewart, Deputy Prosecutor

Counsel for the Defence
Emmanuel Altit
Agathe Bahi Baroan

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

The Office of Public Counsel for Victims
Paolina Massidda

The Office of Public Counsel for the Defence

States Representatives

Amicus Curiae

REGISTRY

Registrar
Herman von Hebel

Defence Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section

Other

Pre-Trial Chamber I (the "Chamber") of the International Criminal Court (the "Court") hereby issues the fifth decision on the review of Laurent Gbagbo's detention pursuant to article 60(3) of the Rome Statute (the "Statute").

I. Procedural history

1. On 23 November 2011, Pre-Trial Chamber III, formerly assigned with this case, issued an arrest warrant for Laurent Gbagbo ("Mr Gbagbo"),[1] who was transferred to the Court on 30 November 2011. On 30 November 2011, Pre-Trial Chamber III issued the "Decision on the Prosecutor's Application Pursuant to Article 58 for a warrant of arrest against Laurent Koudou Gbagbo".[2]

2. On 1 May 2012, the Defence submitted the "*Requête de la Défense demandant la mise en liberté provisoire du Président Gbagbo*".[3]

3. On 13 July 2012, Judge Silvia Fernández de Gurmendi, acting as Single Judge,[4] issued the "Decision on the '*Requête de la Défense demandant la mise en liberté provisoire du président Gbagbo*'" (the "Decision of 13 July 2012"), rejecting the Defence request for interim release.[5] The appeal of the Defence against this decision[6] was dismissed by the Appeals Chamber on 26 October 2012.[7]

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[1] ICC-02/11-01/11-1.
[2] ICC-02/11-01/11-9-US-Exp. A public redacted version is available (ICC-02/11-01/11-9-Red).
[3] ICC-02/11-01/11-105-Conf and confidential annexes. A public redacted version is available (ICC-02/11-01/11-105-Conf-Red-Corr).
[4] Pre-Trial Chamber I, "Décision portant désignation d'un juge unique", 16 March 2012, ICC-02/11-01/11-61.
[5] ICC-02/11-01/11-180-Conf, p. 26. A public redacted version is available (ICC-02/11-01/11-180-Red).
[6] ICC-02/11-01/11-193-Conf. A public redacted version is available (ICC-02/11-01/11-193-Red).
[7] Appeals Chamber, "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 the *Requête de la Défense demandant la mise en liberté provisoire du président Gbagbo*'", 26 October 2012, ICC-02/11-01/11-278-Conf (the "Appeals Chamber Judgment of 26 October 2012"). A public redacted version is available (ICC-02/11-01/11-278-Red).

4. On 12 November 2012, the Single Judge issued the "Decision on the review of Laurent Gbagbo's detention pursuant to article 60(3) of the Rome Statute" (the "Decision of 12 November 2012"), in which she decided that Mr Gbagbo should remain in detention.[8]

5. On 18 January 2013, the Single Judge issued the "Decision on the request for the conditional release of Laurent Gbagbo and on his medical treatment", in which the request for conditional release made by the Defence was rejected.[9]

6. The confirmation of charges hearing took place from 19 to 28 February 2013.

7. On 12 March 2013, the Single Judge issued the "Second decision on the review of Laurent Gbagbo's detention pursuant to article 60(3) of the Rome Statute" (the "Decision of 12 March 2013"), deciding that Mr Gbagbo should remain in detention.[10]

8. On 3 June 2013, the Chamber issued, by majority, Judge Silvia Fernández de Gurmendi dissenting, the "Decision adjourning the hearing on the confirmation of charges pursuant to article 61(7)(c)(i) of the Rome Statute", in which it decided to adjourn the confirmation of charges hearing and requested the Prosecutor to consider providing further evidence or conducting further investigation with respect to all charges.[11]

9. On 11 July 2013, the Chamber issued the "Third decision on the review of Laurent Gbagbo's detention pursuant to article 60(3) of the Rome Statute"

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[8] ICC-02/11-01/11-291, p. 25.
[9] ICC-02/11-01/11-362-Conf, p. 15. A public redacted version is available (ICC-02/11-01/11-362-Red).
[10] ICC-02/11-01/11-417-Conf, p. 16. A public redacted version is available (ICC-02/11-01/11-417-Red).
[11] ICC-02/11-01/11-432, p. 22.

(the "Decision of 11 July 2013"), deciding that Mr Gbagbo should remain in detention.[12] The appeal of the Defence against this decision[13] was dismissed by the Appeals Chamber on 29 October 2013.[14]

10. On 11 November 2013, the Chamber issued the "Fourth decision on the review of Laurent Gbagbo's detention pursuant to article 60(3) of the Rome Statute" (the "Decision of 11 November 2013"), deciding that Mr Gbagbo should remain in detention and ordering the Registry and the Defence to submit a report on the progress of efforts to address the issues concerning Mr Gbagbo's health.[15]

11. The Registry and the Defence jointly filed reports on the progress of efforts to address the issues concerning Mr Gbagbo's health on 3 December 2013,[16] 20 December 2013,[17] and 26 February 2014.[18]

12. On 26 February 2014, the Office of Public Counsel for victims (the "OPCV"), [19] the Prosecutor [20] and the Defence [21] filed their respective submissions for the purpose of the fifth review of Mr Gbagbo's detention.

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[12] ICC-02/11-01/11-454, p. 19.
[13] ICC-02/11-01/11-459-Conf. A public redacted version is available (ICC-02/11-01/11-459-Red).
[14] Appeals Chamber, "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'", 29 October 2013, ICC-02/11-01/11-548-Conf (the "Appeals Chamber Judgment of 29 October 2013"). A public redacted version is available (ICC-02/11-01/11-548-Red).
[15] ICC-02/11-01/11-558, p. 20.
[16] ICC-02/11-01/11-566-Conf-Exp.
[17] ICC-02/11-01/11-581-Conf-Exp.
[18] ICC-02/11-01/11-623-Conf-Exp.
[19] ICC-02/11-01/11-622 (the "OPCV's Submissions").
[20] ICC-02/11-01/11-624 (the "Prosecutor's Submissions").
[21] ICC-02/11-01/11-625-Conf (the "Defence Submissions") and public annexes 1-30. A public redacted version of the submissions is available (ICC-02/11-01/11-625-Red).

II. The applicable law

13. The Chamber notes articles 21(3), 58(1) and 60(3) of the Statute, and rules 118 and 119 of the Rules of Procedure and Evidence (the "Rules").

14. Article 58(1) of the Statute provides:

> At any time after the initiation of an investigation, the Pre-Trial Chamber shall, on the application of the Prosecutor, issue a warrant of arrest of a person if, having examined the application and the evidence or other information submitted by the Prosecutor, it is satisfied that:
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> (a) There are reasonable grounds to believe that the person has committed a crime within the jurisdiction of the Court; and
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> (b) The arrest of the person appears necessary:
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> (i) To ensure the person's appearance at trial;
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> (ii) To ensure that the person does not obstruct or endanger the investigation or the court proceedings; or
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> (iii) Where applicable, to prevent the person from continuing with the commission of that crime or a related crime which is within the jurisdiction of the Court and which arises out of the same circumstances.

15. Article 60(3) of the Statute, in conjunction with rule 118(2) of the Rules, mandates the Chamber to review its ruling on the release or detention of the person at least every 120 days. According to article 60(3) of the Statute, upon such review the Chamber "may modify its ruling as to detention, release or conditions of release, if it is satisfied that changed circumstances so require".

16. The Appeals Chamber has stated, in relation to a periodic review of a ruling on detention under article 60(3) of the Statute:

> [T]he Chamber must revert to the ruling on detention to determine whether there has been a change in the circumstances underpinning the ruling and whether there are any new circumstances that have a bearing on the conditions under article 58 (1) of the Statute. For this reason, the Chamber should not restrict itself to only considering the arguments raised by the detained person. The Chamber must weigh the Prosecutor's submissions against the submissions, if any, of the detained person. The Chamber must also consider any other information which has a bearing on the subject. Finally, in its decision on review, the Chamber must clearly set out reasons for its findings.[22]

[22] Appeals Chamber, "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

17. The Appeals Chamber has clarified that the notion of "changed circumstances" within the meaning of article 60(3) of the Statute entails "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."[23] The Appeals Chamber held on another occasion:

> If there are changed circumstances, the Pre-Trial or Trial Chamber will need to consider their impact on the factors that formed the basis for the decision to keep the person in detention. If, however, the Pre-Trial or Trial Chamber finds that there are no changed circumstances, that Chamber is not required to further review the ruling on release or detention.[24]

18. Lastly, the Chamber recalls that the Appeals Chamber stated in this case that "the scope of the review carried out in reaching a decision under article 60 (3) is potentially much more limited than that to be carried out in reaching a decision under article 60 (2) of the Statute".[25] In the case of the *Prosecutor v. Jean-Pierre Bemba Gombo*, the Appeals Chamber specified that "[t]he Chamber does not have to enter findings on the circumstances already decided upon in the ruling on detention" and does not have to "entertain submissions by the detained person that merely repeat arguments that the Chamber has already addressed in previous decisions".[26]

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of Mr Jean-Pierre Bemba Gombo pursuant to Rule 118(2) of the Rules of Procedure and Evidence'", 19 November 2010, ICC-01/05-01/08-1019, para. 52.

[23] Appeals Chamber, "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'", 2 December 2009, ICC-01/05-01/08-631-Red, para. 60.

[24] Appeals Chamber, "Judgment on the appeal of Mr Jean-Pierre Bemba Gombo against the decision of Trial Chamber III of 6 January 2012 entitled 'Decision on the defence's 28 December 2011 'Requête de Mise en liberté provisoire de M. Jean-Pierre Bemba Gombo'", ICC-01/05-01/08-2151-Red, 5 March 2012, para. 1. See also Appeals Chamber Judgment of 29 October 2013, paras 1 and 53.

[25] Appeals Chamber Judgment of 26 October 2012, para. 24.

[26] Appeals Chamber, "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'", 19 November 2010, ICC-01/05-01/08-1019, para. 53.

III. Analysis

A. Whether there are changed circumstances that would require a modification of the previous ruling on detention

19. In line with the applicable law, the Chamber will assess whether the information newly made available by the parties and participants gives rise to "changed circumstances" which would warrant modification of the Chamber's previous ruling on detention. As the Prosecutor and the OPCV do not refer to any change in the relevant circumstances,[27] the Chamber will follow in its analysis the structure of the submissions of the Defence.

20. First, the Chamber notes the Defence submission that there has been a decrease in political tension in Côte d'Ivoire and a normalisation of relations between the different political actors,[28] characterised by: (i) the release and termination of proceedings against ten officers of the *Forces de défense et de sécurité* (FDS) who had participated in fighting during the post-election crisis;[29] (ii) the provisional release of a large number of persons against whom proceedings are pending, pursuant to *"une politique déterminée au plus haut niveau"*;[30] (iii) the return from exile of a large number of persons associated with Mr Gbagbo;[31] and (iv) the central role of the *Front populaire ivoirien* (FPI) in the current political process in Côte d'Ivoire.[32]

21. The Prosecutor describes the current security situation in Côte d'Ivoire as good, though fragile, in particular along the porous border with Liberia.[33] She similarly makes reference to the recent release of pro-Gbagbo detainees and to the return from exile of former pro-Gbagbo associates and supporters,

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[27] Prosecutor's Submissions, para. 1; OPCV's Submissions, para. 11.
[28] Defence Submissions, para. 11.
[29] *Ibid.*, para. 12.
[30] *Ibid.*, paras 13-15.
[31] *Ibid.*, paras 16-20.
[32] *Ibid.*, paras 21-24, see also 25-30.
[33] Prosecutor's Submissions, para. 5.

but argues that these developments are relevant only as indicators of an improved security situation in the country.[34]

22. Already in the Decision of 11 November 2013, the Chamber noted "that the security situation in Côte d'Ivoire seems to be improving and that reconciliatory efforts suggest a reduced level of tension between the Government and the supporters of Mr Gbagbo".[35] Taking into account this new circumstance, the Chamber held that the continued detention of Mr Gbagbo for reasons stipulated under article 58(1)(b)(iii) of the Statute appeared not to be necessary.[36] At the present time, the Chamber notes that the information available shows the continuing improvement of the security situation in Côte d'Ivoire.[37] However, as also indicated in the Decision of 11 November 2013,[38] the Chamber does not consider this as constituting a change in the relevant circumstances underpinning the need for the continued detention of Mr Gbagbo so as to ensure his appearance at trial and ensure that he does not obstruct or endanger the investigation or the court proceedings.

23. The Chamber notes the related argument of the Defence that the release of Mr Gbagbo is "*une question sensible dans l'optique de la réconciliation nationale*",[39] in support of which the Defence refers to statements by FPI leaders, certain religious leaders, certain non-governmental organisations and the Prime Minister of Côte d'Ivoire.[40] The Chamber notes that some of the sources cited by the Defence do not specifically speak in favour of interim or conditional release but more generally in favour of a termination of

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[34] *Ibid.*, paras 7-8.
[35] Decision of 11 November 2013, para. 51.
[36] *Id.*
[37] See ICC-02/11-01/11-625-Anx11; ICC-02/11-01/11-625-Anx12; ICC-02/11-01/11-625-Anx13; ICC-02/11-01/11-625-Anx20.
[38] Decision of 11 November 2013, para. 52.
[39] Defence Submissions, p. 10.
[40] *Ibid.*, paras 31-37.

proceedings against Mr Gbagbo before the Court.[41] In any event, the Chamber is of the view that considerations of this type are not relevant for the purpose of determining the need for Mr Gbagbo's detention. As already stated in its Decision of 11 November 2013, the existence of grounds justifying the continued detention of Mr Gbagbo can only be determined in light of article 58(1) of the Statute.[42]

24. The Defence also makes specific submissions in relation to relevant circumstances previously established by the Chamber. In particular, the Defence argues that a network of supporters of Mr Gbagbo does not exist.[43]

25. In the Decision of 13 July 2012, the Single Judge found that there appeared to be a large and well-organised network of political supporters of Mr Gbagbo in Côte d'Ivoire and abroad and there was a risk that this network could provide Mr Gbagbo with the means to abscond, to obstruct the investigation, or to commit crimes within the jurisdiction of the Court.[44] In the Decision of 12 November 2012 the Single Judge found, on the basis of information newly available at that time, 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".[45] Accordingly, the Single Judge considered that the risks under article 58(1)(b) of the Statute had increased.[46] More recently, in the Decision of 11 July 2013, the Chamber found that the capacity of the network of Mr Gbagbo's supporters had somewhat diminished, but that

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[41] See ICC-02/11-01/11-625-Anx25, ICC-02/11-01/11-625-Anx26; ICC-02/11-01/11-625-Anx29, ICC-02/11-01/11-625-Anx30.
[42] Decision of 11 November 2013, para. 48.
[43] Defence Submissions, paras 43-45.
[44] Decision of 13 July 2012, paras 60-62, 65, and 69.
[45] Decision of 12 November 2012, para. 59.
[46] *Id.*

it could not be concluded that the risks identified in the Decision of 13 July 2012 no longer existed.[47]

26. The Chamber notes the Defence argument that the FPI is a lawful political party with an important role in Ivorian political life, whose leaders are respected in the international community.[48] However, the Chamber does not consider the current status of the FPI in the political reconciliation process of Côte d'Ivoire to have any direct bearing on the more general question whether a network of supporters of Mr Gbagbo exists. The information available to the Chamber does not suggest that the FPI cut ties with or is no longer supporting Mr Gbagbo and the legality or prominence of this party does not exclude the possibility that its members may provide means to Mr Gbagbo that could then be used by him to abscond or to interfere with the investigation, if granted interim release. In addition, the Chamber recalls that the FPI has not been identified as the sole constituent of the network of supporters.[49] Based on the foregoing, the Chamber cannot ascertain any changed circumstances.

27. The Defence also argues that none of the Registrar's inquiries have uncovered any undeclared bank accounts belonging to Mr Gbagbo, and in so doing the Defence invokes the Registrar's decision on the Defence request for legal assistance paid by the Court, filed in the record of the case on 29 December 2011.[50] However, that decision was already known to the Chamber at the time of the issuance of the Decision of 13 July 2012, and cannot therefore be considered to establish any changed circumstance in the present context.

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[47] Decision of 11 July 2013, para. 41.
[48] *Ibid.*, para. 44.
[49] See also Decision of 12 March 2013, para. 37.
[50] Defence Submissions, para. 48; ICC-02/11-01/11-22-Anx.

28. The Prosecutor and the Defence both make reference in their submissions to the recent unfreezing of assets of persons close to Mr Gbagbo by the Ivorian and Swiss authorities.[51] According to the Prosecutor, this is an indication that "the network of Gbagbo supporters continues to have access to large amounts of money".[52] The Prosecutor also relies on this fact for her general submission to the effect that the grounds justifying Mr Gbagbo's detention found in the Decision of 11 November 2013 continue to exist.[53]

29. For the Defence, the unfreezing of assets indicates that a number of States do not see a risk that certain former members of Mr Gbagbo's government would finance his absconding.[54] However, in the absence of any concrete information provided by the Defence to substantiate this inference, the Chamber believes that the argument of the Defence does not amount to more than speculation. This is particularly the case as there is no information that the States concerned may have unfrozen the assets based on an assessment of a potential risk of Mr Gbagbo to abscond.

30. Specifically in relation to the necessity to detain Mr Gbagbo in order to prevent his obstruction of the investigation, the Defence raises three arguments, namely that the Prosecutor has not reported any interference with the investigation, that the investigation has been completed and therefore there can be no risk of its obstruction, and that Ivorian authorities have not referred to any obstruction of their own proceedings in relation to the post-

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[51] Prosecutor's Submissions, paras 11-12; Defence Submissions, para. 49; ICC-02/11-01/11-625-Anx11; ICC-02/11-01/11-625-Anx16.
[52] Prosecutor's Submissions, para. 12.
[53] *Ibid.*, para. 4.
[54] Defence Submissions, para. 49.

election crisis and see no obstacle to the provisional release of former associates of Mr Gbagbo.[55]

31. The Chamber is not persuaded by these arguments. Contrary to the submission of the Defence, the mere fact that the Prosecutor has so far not reported any interference with the investigation while Mr Gbagbo is in detention does not bear, in and of itself, on the determination whether the continued detention of Mr Gbagbo appears necessary.

32. In relation to the Defence argument that detention is unnecessary because the investigation has been completed, the Chamber notes that the Prosecutor has referred, in a recent filing, to investigative steps which are still ongoing.[56] In addition, the Chamber considers that the Defence submission is based on an incomplete reading of article 58(1)(b)(ii) of the Statute, which explicitly refers to the necessity of detention to ensure that the person does not obstruct or endanger not only the investigation but also "the court proceedings". As for the remaining argument of the Defence, the Chamber considers that the conduct of domestic proceedings in Côte d'Ivoire in other cases related to the post-election crisis, and the decisions of the Ivorian authorities to grant interim release to a number of persons in those proceedings, are of no relevance to the determination of the continued necessity of Mr Gbagbo's detention before this Court.[57]

33. Finally, the Chamber notes the argument of the Defence that the passage of time in itself constitutes a changed circumstance which would warrant a review of the detention of Mr Gbagbo.[58] However, the Defence does not specify, in concrete terms, which factual finding(s) of the Chamber have, in

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[55] *Ibid.*, paras 51-54.
[56] See ICC-02/11-01/11-626-Red, para. 5.
[57] See Defence Submissions, paras 52-54.
[58] *Ibid.*, paras 55-57.

its submission, become obsolete through the passage of time. In this regard, the Chamber recalls that since the Decision of 13 July 2012, the Chamber has kept under periodic review the reasons justifying the detention of Mr Gbagbo, and upon each review has determined whether and to what extent the reasons remained applicable.

34. Following the above analysis, the Chamber is of the view that there has been no change in the relevant circumstances concerning the apparent necessity of Mr Gbagbo's detention to ensure his appearance before the Court, and to ensure that he does not obstruct or endanger the investigation or the court proceedings. The grounds justifying detention under article 58(1)(b)(i) and (ii) of the Statute continue to exist, and interim release cannot be granted.

35. The Chamber notes that the Defence requests ("*à titre subsidiaire*") that the Chamber ask the Ivorian authorities to state their position concerning the possible interim release of Mr Gbagbo. However, in light of the findings of the Chamber in relation to the continued existence of risks under article 58 of the Statute as well as the reasons developed below on conditional release the Chamber is of the view that this step is not appropriate at this time.

B. Conditional release

36. As stated by the Appeals Chamber, a review of a previous ruling on detention may result in the person's continued detention, release, or release with conditions:

> [T]he examination of conditions of release is discretionary and [...] conditional release is possible in two situations: (1) where a Chamber, although satisfied that the conditions under article 58 (1) (b) are not met, nevertheless considers it appropriate to release the person subject to conditions; and (2) where risks

> enumerated in article 58 (1) (b) exist, but the Chamber considers that these can be mitigated by the imposition of certain conditions of release.[59]

37. In the present case, the Appeals Chamber has also held in relation to conditional release that:

> [T]he medical condition of the detained person may be a reason for a Pre-Trial Chamber to grant interim release with conditions. As stated above, the Pre-Trial Chamber enjoys discretion when deciding on conditional release; the ill health of a detained person may be a factor in the exercise of its discretion.[60]

38. As stated above,[61] risks envisaged in article 58(1)(b) of the Statute continue to exist in respect of Mr Gbagbo. Nevertheless, as stated previously,[62] the Chamber is aware of its continuing obligation to assess the possibility of conditional release, if it would be feasible to sufficiently mitigate the identified risks.

39. In this regard and taking into account the health condition of Mr Gbagbo, the Chamber stated in the Decision of 11 November 2013 that conditional release should be considered after the necessary steps have been completed to determine Mr Gbagbo's health-related needs.[63] Considering that the latter may have a significant impact on the possible destination and conditions for conditional release, the Chamber found it appropriate to postpone the exploration of all possible options for conditional release until all relevant information about Mr Gbagbo's state of health and his need for treatment has been received.[64] The Chamber also specifically observed that the proper management of the health of Mr Gbagbo is a central matter to be taken

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[59] Appeals Chamber, "Judgment on the appeal of Mr Jean-Pierre Bemba Gombo against the decision of Trial Chamber III of 27 June 2011 entitled 'Decision on Applications for Provisional Release'", 12 September 2011, ICC-01/05-01/08-1626-Red, para. 55.
[60] Appeals Chamber Judgment of 26 October 2012, para. 87.
[61] See para. 34 above.
[62] Decision of 11 July 2013, para. 56; Decision of 11 November 2013, para. 55.
[63] Decision of 11 November 2013, para. 57.
[64] *Id.*

into account in the consideration of a possible location, should conditional release be granted.[65]

40. The Chamber notes that the relevant process for determining Mr Gbagbo's health-related needs is currently being conducted by the Registry in consultation with the Defence. The Chamber has been provided with information on the progress of this process by way of three reports in the record of the case.[66] The last of these reports, filed on 26 February 2014, indicated that at present the process is not yet complete.[67]

41. The Chamber is therefore not in a position to assess the possibility of conditional release. Once the process is completed, the Chamber will assess the possibility of granting conditional release and seek, if appropriate, the views of the Prosecutor, the Defence, any relevant State, and the victims that have communicated with the Court in relation to this case, in accordance with rule 119(3) of the Rules.[68]

42. For this purpose, the Chamber considers it appropriate to order the Registry and the Defence to submit, by 2 April 2014, a report on the progress achieved in relation to the matter at issue.

FOR THESE REASONS, THE CHAMBER

DECIDES that Mr Gbagbo shall remain in detention; and

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[65] *Id.*
[66] See above para. 11.
[67] ICC-02/11-01/11-623-Conf-Exp, para. 4.
[68] Decision of 11 November 2013, para. 62.

ORDERS the Registry and the Defence to submit, by Wednesday, 2 April 2014, a report on the progress of efforts to address the issues concerning Mr Gbagbo's health.

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

Judge Silvia Fernández de Gurmendi

Presiding Judge

Judge Hans-Peter Kaul **Judge Christine Van den Wyngaert**

Dated this Wednesday, 12 March 2014

At The Hague, The Netherlands