

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 9 October 2013

THE PRESIDENCY

Before: Judge Sang-Hyun Song, President
Judge Sanji Mmasenono Monageng, First Vice-President
Judge Cuno Tarfusser, Second Vice-President

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

Public

Decision on the “*Requête urgente aux fins de report de l’audience portant sur le quatrième examen des conditions de maintien en détention du Président Gbagbo*”

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
Natacha Fauveau Ivanovic

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

The Office of Public Counsel for Victims

The Office of Public Counsel for the Defence

States Representatives

Amicus Curiae

REGISTRY

Registrar
Herman von Hebel

Counsel Support Section

Deputy Registrar
Didier Preira

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section

Other

1. On 26 September 2013, Pre-Trial Chamber I issued an Order scheduling a hearing under rule 118(3) of the Rules of Procedure and Evidence (“Rules”) for 9 October 2013.¹ The purpose of the hearing was to conduct the fourth review of the detention of Laurent Gbagbo (“Mr. Gbagbo”).
2. On 8 October 2013, at 10.41 am, the Office of the President received an email addressed to President Song from the Defence for Mr. Gbagbo. In the email, the Defence requested that the President order that the hearing relating to the fourth review of Mr. Gbagbo’s detention, scheduled for 9 October 2013,² be postponed until after the Appeals Chamber’s decision on the “Third decision on the review of Laurent Gbagbo’s detention pursuant to article 60(3) of the Rome Statute”³ had been notified to the parties.
3. On the same day, at 6.12 pm, a representative of the Office of the President wrote to the Defence, noting that the arguments and request of the Defence should be validly filed through the proper channel of communication to the competent body.
4. On 9 October 2103, at 8.35 am, the Defence filed an Application to the Presidency. In that Application, the Defence requests that the Presidency order that the hearing on the fourth review of Mr. Gbagbo’s detention be postponed until after the parties have been notified of the Appeals Chamber’s forthcoming decision on the third review of Mr. Gbagbo’s detention. The Defence consequently requests that the Presidency postpone the hearing of 9 October 2013 to a later date and fix the hearing date for the fourth review of Mr. Gbagbo’s detention on 29 October 2013.⁴
5. The Presidency considers that it is not the competent body to address the request of the Defence. This matter falls within the competence of Pre-Trial Chamber I. The Presidency notes that the Defence has already filed before Pre-Trial Chamber I a request to postpone the hearing in question.⁵ This request was rejected by a Single Judge of Pre-Trial Chamber I on 3 October 2013, on the grounds that the applicable law does not allow for suspension of the periodic review of detention.⁶ In that Decision it was further noted that should the Appeals Chamber rule on the appeal before 11 November 2013, Pre-Trial Chamber I will determine, in light of the content of the Appeals Chamber’s judgment, whether it is necessary and appropriate to accord

¹ ICC-02/11-01/11-512.

² ICC-02/11-01/11-512.

³ ICC-02/11-01/11-454.

⁴ ICC-02/11-01/11-531.

⁵ ICC-02/11-01/11-515.

⁶ ICC-02/11-01/11-522, paragraph 11.

the parties and participants an opportunity to make further submissions.⁷ The Defence on 4 October 2013 filed before Pre-Trial Chamber I a request for leave to appeal the Decision of 3 October 2013.⁸ That request was rejected by majority on 8 October 2013.⁹ In rejecting that request, Pre-Trial Chamber I noted that if the Defence considered that Mr. Gbagbo's rights had been prejudiced by "procedural irregularity", the Defence may advance these arguments on appeal against the Chamber's decision, pursuant to article 60(3) of the Rome Statute.¹⁰

6. The Presidency is not the competent body to consider this Application. The Application is dismissed.

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


Judge Sang-Hyun Song
President

Dated this 9 October 2013

At The Hague, The Netherlands

⁷ ICC-02/11-01/11-522, paragraph 13.

⁸ ICC-02/11-01/11-525.

⁹ ICC-02/11-01/11-530.

¹⁰ ICC-02/11-01/11-530, paragraph 49.