

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No. ICC-02/11-01/11 OA 2

Date: 18 October 2012

THE APPEALS CHAMBER

Before:

Judge Anita Ušacka, Presiding Judge

Judge Sang-Hyun Song

Judge Sanji Mmasenono Monageng

Judge Akua Kuenyehia

Judge Erkki Kourula

SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE

IN THE CASE OF THE PROSECUTOR v. LAURENT KOUDOU GBAGBO

URGENT

Public document

**Decision further to the “Directions on the submissions of observations” issued on
31 August 2012 and on the Clarification Request of Mr Gbagbo**

No: ICC-02/11-01/11 OA 2

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

The Office of the Prosecutor
Ms Fatou Bensouda, Prosecutor
Mr Fabricio Guariglia

Counsel for the Defence
Mr Emmanuel Altit
Ms Agathe Bahi Baroan

The Office of Public Counsel for Victims
Ms Paolina Massidda

States Representatives
Mr Jean-Pierre Mignard
Mr Jean-Paul Benoit

REGISTRY

Registrar
Ms Silvana Arbia

The Appeals Chamber of the International Criminal Court,

In the appeal of Mr Gbagbo against the decision of Pre-Trial Chamber I, entitled “Decision on the ‘Corrigendum of the challenge to the jurisdiction of the International Criminal Court on the basis of articles 12(3), 19(2), 21(3), 55 and 59 of the Rome Statute filed by the Defence for President Gbagbo (ICC-02/11-01/11-129)’” of 15 August 2012 (ICC-02/11-01/11-212),

Having before it the “Requête de la Défense conformément à la Norme 38-1 c) du Règlement de la Cour” of 17 October 2012 (ICC-02/11-01/11-267),

Renders the following

DECISION

- 1) The page limit for the filing of responses by Mr Gbagbo and the Prosecutor pursuant to operative paragraph 3 of the “Directions on the submissions of observations” of 31 August 2012 is 40 pages.
- 2) The “Requête de la Défense conformément à la Norme 38-1 c) du Règlement de la Cour” is rejected.

REASONS

1. On 31 August 2012, the Appeals Chamber issued the “Directions on the submission of observations”¹ (hereinafter: “Directions”), *inter alia* inviting the Republic of Côte d’Ivoire (hereinafter: “Côte d’Ivoire”), pursuant to rule 103 (1) of the Rules of Procedure and Evidence, to file, by 28 September 2012, observations on Mr Laurent Koudou Gbagbo’s (hereinafter: “Mr Gbagbo”) document in support of the appeal against Pre-Trial Chamber I’s “Decision on the ‘Corrigendum of the challenge to the jurisdiction of the International Criminal Court on the basis of articles 12(3), 19(2), 21(3), 55 and 59 of the Rome Statute filed by the Defence for President Gbagbo (ICC-02/11-01/11-129)’” of 15 August 2012.² The Appeals Chamber also invited the victims who were allowed to file observations in the proceedings before the Pre-Trial Chamber to submit observations, under article 19 (3) of the Statute, on

¹ ICC-02/11-01/11-236 (OA 2).

² ICC-02/11-01/11-212 (OA 2).

Mr Gbagbo's document in support of the appeal and the Prosecutor's response thereto.

2. On 8 October 2012, Côte d'Ivoire submitted the "Observations de la République de Côte d'Ivoire sur le document à l'appui de l'appel de la « *Decision on the « Corrigendum of the challenge to the jurisdiction of the international criminal court on the basis of articles 12(3), 19(2), 21(3), 55 and 59 of the Rome Statute filed by the Defence for President Gbagbo »»*"³ (hereinafter: "Observations by Côte d'Ivoire") and the Office of Public Counsel for Victims (hereinafter: "OPCV") submitted the "Observations on behalf of victims on the Defence's document in support of the appeal against Pre-Trial Chamber I's Decision on the Defence Challenge to the Jurisdiction of the Court"⁴ (hereinafter: "Observations by OPCV"). Both documents had to comply with a page limit of 20 pages pursuant to regulation 37 (1) of the Regulations of the Court as decided by the Appeals Chamber.⁵

3. The Appeals Chamber notes that in the "Requête de la Défense conformément à la Norme 38-1 c) du Règlement de la Cour", (hereinafter: "Request"), Mr Gbagbo requests clarification whether regulation 38 (1) (c) of the Regulations of the Court is applicable, namely whether he is allowed to file a 100-page response to the observations filed by the Republic of Côte d'Ivoire⁶ and by the OPCV.⁷ The Appeals Chamber recalls that it is not an advisory body and does not deal with requests for clarification.

4. Considering that, in its "Directions", the Appeals Chamber allowed Mr Gbagbo and the Prosecutor to "each file a single response"⁸ to the Observations by Côte d'Ivoire and the Observations by OPCV, to which regulation 37 (1) of the Regulations of the Court is applicable and that they thus have to respond to a total of 40 pages, the Appeals Chamber decides *proprio motu*, in the interest of justice and for reasons of

³ ICC-02/11-01/11-258 (OA 2).

⁴ ICC-02/11-01/11-259 (OA 2).

⁵ "Decision on requests related to page limits and reclassification of documents", 16 October 2012, ICC-02/11-01/11-266 (OA 2).

⁶ ICC-02/11-01/11-258 (OA 2).

⁷ ICC-02/11-01/11-259 (OA 2).

⁸ ICC-02/11-01/11-236 (OA 2), p. 3.

expeditiousness of the proceedings, to allow Mr Gbagbo and the Prosecutor to respectively file a 40-page consolidated response by 19 October 2012, 16h00.⁹

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



Judge Anita Ušacka
Presiding Judge

Dated this 18th day of October 2012

At The Hague, The Netherlands

⁹ ICC-02/11-01/11-236 (OA 2), p. 3.