

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: 14 March 2013

PRE-TRIAL CHAMBER I

Before: Judge Silvia Fernández de Gurmendi, Single Judge

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

Public document

Decision on the "Demande d'autorisation de la République de Côte d'Ivoire aux fins de déposer des observations sur la requête relative à la recevabilité de l'affaire en vertu des articles 19 et 17 du Statut déposée par l'équipe de la défense de M. Laurent Gbagbo"

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

The Office of the Prosecutor

Fatou Bensouda

James Stewart

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

Jean-Pierre Mignard

Jean-Paul Benoit

Amicus Curiae

REGISTRY

Registrar & Deputy Registrar

Silvana Arbia

Didier Preira

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Judge Silvia Fernández de Gurmendi, Single Judge for Pre-Trial Chamber I (the "Chamber") of the International Criminal Court (the "Court"), responsible for carrying out the functions of the Chamber in relation to the situation in the Republic of Côte d'Ivoire and the cases emanating therefrom,¹ hereby issues the decision on the "*Demande d'autorisation de la République de Côte d'Ivoire aux fins de déposer des observations sur la requête relative à la recevabilité de l'affaire en vertu des articles 19 et 17 du Statut déposée par l'équipe de la défense de M. Laurent Gbagbo*", submitted by the Republic of Côte d'Ivoire ("Côte d'Ivoire") on 11 March 2013.²

1. On 15 February 2013, the Defence filed the "*Requête relative à la recevabilité de l'affaire en vertu des Articles 19 et 17 du Statut*" (the "Admissibility Challenge"), with 13 public and two confidential annexes.³

2. On 19 February 2013, during the confirmation of charges hearing, the Chamber heard oral submissions by the parties and participants on the Admissibility Challenge,⁴ and granted the Prosecutor and the Office of Public Counsel for victims (the "OPCV"), as the common legal representative of the victims who have already communicated with the Court in relation to the case, an opportunity to submit written responses to the Admissibility Challenge by 28 March 2013.⁵

3. Côte d'Ivoire requests leave to file observations on the Admissibility Challenge, by 28 March 2013, submitting that it is directly concerned by the Admissibility Challenge and by the decision of the Chamber. Côte d'Ivoire notes that, for the purpose of the Admissibility Challenge, the Defence makes

¹ ICC-02/11-01/11-61.

² ICC-02/11-01/11-416.

³ ICC-02/11-01/11-404-Conf and annexes. A public redacted version is also available, see ICC-02/11-01/11-404-Red.

⁴ ICC-02/11-01/11-T-14-ENG, p. 7, line 13 to p. 14, line 15; p. 26, line 17 to p. 27, line 17; p. 34, line 20 to p. 38, line 8.

⁵ *Ibid.*, p. 7, lines 1-3.

submissions with respect to certain action of Ivorian judicial authorities, and requests an opportunity to respond to the allegations of the Defence.⁶

4. In addition, Côte d'Ivoire requests access to the confidential version of the Admissibility Challenge, and to annexes 4 and 15, stating that in the absence thereof it will not be in position to present reasoned and detailed observations on what appears to be a central part of the Admissibility Challenge.⁷

5. The Single Judge notes rule 103 of the Rules of Procedure and Evidence (the "Rules") and regulation 23 *bis* of the Regulations of the Court.

6. Under rule 103 of the Rules, "a Chamber may, if it considers it desirable for the proper determination of the case, invite or grant leave to a State, organization or person to submit, in writing or orally, any observation on any issue that the Chamber deems appropriate".

7. The Single Judge notes that the Admissibility Challenge is based on the argument, under article 17(1)(a) of the Rome Statute, that that the case against Mr Gbagbo is being investigated or prosecuted in Côte d'Ivoire.⁸ Thus, the Single Judge is satisfied that it is desirable for the proper determination of the Admissibility Challenge to obtain observations from Côte d'Ivoire. Further, the Single Judge deems it appropriate to set the time limit for the filing of the observations at 28 March 2013.

8. Under rule 103(2) of the Rules, the Prosecutor and the Defence shall have the opportunity to respond to Côte d'Ivoire's observations. In addition, and as previously held by the Chamber,⁹ rule 103 must be interpreted to permit the

⁶ ICC-02/11-01/11-416, paras 3-11.

⁷ *Ibid.*, para. 12.

⁸ Admissibility Challenge, paras 32-89.

⁹ ICC-01/11-01/11-168, para. 5.

Chamber to invite or grant leave to participants in the proceedings before it, other than the Prosecutor and the Defence, to submit responses to observations received under said rule, whenever appropriate. Accordingly, noting that the OPCV is participating in the proceedings following the Admissibility Challenge, the Single Judge considers it appropriate also to accord it an opportunity to respond to Côte d'Ivoire's observations. Finally in this regard, the Single Judge considers it appropriate to set the time limit for the responses by the Prosecutor, the Defence and the OPCV at 9 April 2013.

9. Turning to Côte d'Ivoire's request for access to documents, the Single Judge is of the view that, in light of its source and content, confidential annex 4 to the Admissibility Challenge can be notified to Côte d'Ivoire. Consequently, access to the confidential version of the Admissibility Challenge and to its annex 15, which is a list of annexes, can also be granted.

FOR THESE REASONS, THE SINGLE JUDGE

GRANTS Côte d'Ivoire leave to submit observations on the Admissibility Challenge by 28 March 2013;

ORDERS the Prosecutor, the Defence and the OPCV to file their responses, if any, by 9 April 2013;

ORDERS the Registrar to notify to Côte d'Ivoire documents ICC-02/11-01/11-404-Conf, ICC-02/11-01/11-404-Conf-Anx4 and ICC-02/11-01/11-404-Conf-Anx15.

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



Judge Silvia Fernández de Gurmendi

Single Judge

Dated this 14 March 2013

At The Hague, The Netherlands