

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No. ICC-02/11-01/11 OA 4

Date: 18 July 2013

THE APPEALS CHAMBER

Before:

**Judge Akua Kuenyehia, Presiding Judge
Judge Sang-Hyun Song
Judge Sanji Mmasenono Monageng
Judge Erkki Kourula
Judge Anita Ušacka**

SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE

IN THE CASE OF THE PROSECUTOR v. LAURENT KOUDOU GBAGBO

URGENT

Public redacted version

Decision on the “Requête aux fins de prorogation des délais déterminés par la Norme 64(5) du Règlement, de façon à ce qu’ils courent à partir de la rentrée judiciaire, fixée au lundi 12 août 2013”

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

REGISTRY

Registrar
Mr Herman von Hebel

The Appeals Chamber of the International Criminal Court,

Having before it the “Requête aux fins de prorogation des délais déterminés par la Norme 64(5) du Règlement, de façon à ce qu’ils courent à partir de la rentrée judiciaire, fixée au lundi 12 août 2013” of 16 July 2013 (ICC-02/11-01/11-456-Conf-Exp),

Renders unanimously the following

DECISION

- 1) The time limit for the filing of the document in support of the appeal against the “Third decision on the review of Laurent Gbagbo's detention pursuant to article 60(3) of the Rome Statute” (ICC-02/11-01/11-454) is extended to 16h00 on Monday, 19 August 2013.
- 2) Mr Gbagbo is ordered to file a public redacted version of the “Requête aux fins de prorogation des délais déterminés par la Norme 64(5) du Règlement, de façon à ce qu’ils courent à partir de la rentrée judiciaire, fixée au lundi 12 août 2013” by 16h00 on Monday, 22 July 2013.

REASONS

1. On 12 July 2013, Mr Laurent Koudou Gbagbo (hereinafter: “Mr Gbagbo”) was notified of Pre-Trial Chamber I’s decision dated 11 July 2013 and entitled “Third decision on the review of Laurent Gbagbo’s detention pursuant to article 60(3) of the Rome Statute”¹ (hereinafter: “Review Decision”), deciding that Mr Gbagbo should remain in detention.

2. On 16 July 2013, Mr Gbagbo filed before the Appeals Chamber, confidentially and *ex parte*, defence only, the “Requête aux fins de prorogation des délais déterminés par la Norme 64(5) du Règlement, de façon à ce qu’ils courent à partir de la rentrée judiciaire, fixée au lundi 12 août 2013”² (hereinafter: “Request for Time Extension”). A confidential *inter partes* version of the Request for Time Extension

¹ ICC-02/11-01/11-454.

² ICC-02/11-01/11-456-Conf-Exp.

was filed on 18 July 2013.³ He requests, pursuant to regulation 35 of the Regulations of the Court, the extension of the time limit for the submission of his document in support of the appeal that he intends to file against the Review Decision until seven days after the end of the summer court recess, being 19 August 2013.⁴

3. [REDACTED].⁵ Mr Gbagbo recalls the decision of the Appeals Chamber of 19 July 2012 in the same case (ICC-02/11-01/11-189), which granted a similar request of Mr Gbagbo, based on the consideration that the workload of the defence in preparation of the confirmation hearing established good cause for the extension of the time limit for his appeal against the Pre-Trial Chamber's decision on his request for interim release.⁶

4. In the alternative, Mr Gbagbo requests that the Appeals Chamber order, pursuant to 19bis (2) of the Regulations of the Court, that the time limit for the filing of his document in support of the appeal be suspended for the duration of the court recess.⁷ If the Appeals Chamber were to grant this alternative request, the time limit would expire on 12 August 2013.

5. Mr Gbagbo states that he filed the Request for Time Extension confidentially because it refers to confidential information, notably matters [REDACTED].⁸ As to the classification as *ex parte*, defence only, Mr Gbagbo submits that the Prosecutor should not be privy to information [REDACTED].⁹

6. Under regulation 35 of the Regulations of the Court, a Chamber may extend time limits ordered by a Chamber or prescribed in the Regulations of the Court "if good cause is shown". The Appeals Chamber considers that the defence's workload [REDACTED] establishes "good cause" in terms of the first sentence of regulation 35 (2) of the Regulations of the Court.¹⁰ Accordingly, the Appeals Chamber decides to

³ ICC-02/11-01/11-456-Conf.

⁴ Request for Time Extension, p. 15.

⁵ Request for Time Extension, para. 48.

⁶ Request for Time Extension, para. 51.

⁷ Request for Time Extension, paras 53 et seq.

⁸ Request for Time Extension, para. 39.

⁹ Request for Time Extension, para. 39.

¹⁰ See also *Prosecutor v. Laurent Koudou Gbagbo*, "Decision on the 'Requête aux fins de suspension des délais prévus par la Règle 154(1) du Règlement de procédure et de preuve et par la Norme 64(5) du Règlement de la Cour jusqu'à la fin des vacances judiciaires, fixée au lundi 6 août 2012'", 19 July 2012, ICC-02/11-01/11-189 (OA), para. 4; *Prosecutor v. Thomas Lubanga Dyilo*, "Decision on the

extend the time limit for the filing of the document in support of the appeal under regulation 64 (5) of the Regulations of the Court to 16h00 on Monday, 19 August 2013, being seven days after the end of the judicial recess. The Appeals Chamber notes that this extension of the time limit does not affect the time limit for the filing of the notice of appeal, which, pursuant to rule 154 (1) of the Rules of Procedure and Evidence and regulation 33 (1) and (2) of the Regulations of the Court, has to be filed by 16h00 on Monday, 22 July 2013.

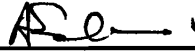
7. The Appeals Chamber notes that the Request for Time Extension was filed confidentially and *ex parte*, defence only. The Appeals Chamber is persuaded that information relating to [REDACTED] is of no concern to the Prosecutor and must therefore remain classified as confidential and *ex parte*, defence only. The Appeals Chamber is also persuaded by the reasons advanced by Mr Gbagbo as to why certain other information in the Request for Time Extension ought to remain confidential. At the same time, the Appeals Chamber notes that the Request for Time Extension contains a significant amount of other submissions that do not appear to be of confidential character and that the Review Decision was filed publicly. Accordingly, and in keeping with the principle of public proceedings, Mr Gbagbo is ordered to file a public redacted version of the Request for Time Extension. The Appeals Chamber reminds Mr Gbagbo more generally of the need to make submissions, as much as possible, in public filings.

8. Finally, the Appeals Chamber notes that, as a result the *ex parte* classification of the Request for Time Extension, the Prosecutor has not had sight of it, nor was she in a position to respond to it. Although the Prosecutor has received a redacted version of the Request for Time Extension, this redacted version did not disclose the principal reason in support of Mr Gbagbo's request. Thus, based on the redacted version alone, the Prosecutor could not have responded meaningfully to the Request for Time Extension. The Appeals Chamber has nevertheless proceeded to rule on the Request

application by Counsel for Mr. Thomas Lubanga Dyilo to extend the time limit for the filing of the response to the Prosecutor's document in support of the appeal", 11 July 2006, ICC-01/04-01/06-190 (OA 3), para. 4; *Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, "Reasons for the 'Decision on the 'Application for Extension of Time Limits Pursuant to Regulation 35 of the Regulations of the Court to Allow the Defence to Submit its Observations on the Prosecutor's Appeal regarding the Decision on Evidentiary Scope of the Confirmation Hearing and Preventative Relocation'", 27 June 2008, ICC-01/04-01/07-653 (OA 7), para. 4.

for Time Extension, given that it is, as set out above, persuaded by the reasons for the *ex parte* classification.

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



Judge Akua Kuenyehia
Presiding Judge

Dated this 18th day of July 2013

At The Hague, The Netherlands