

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

No.: ICC-02/11-01/15  
Date: 10 December 2018

**TRIAL CHAMBER I**

**Before:** Judge Cuno Tarfusser, Presiding Judge  
Judge Olga Herrera Carbuccia  
Judge Geoffrey Henderson

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

**Public**

**Order convening a hearing on the continued detention of the accused**

Order to be notified, in accordance with Regulation 31 of the *Regulations of the Court*, to:

**The Office of the Prosecutor**

Ms Fatou Bensouda  
Mr James Stewart  
Mr Eric MacDonald

**Counsel for Mr Laurent Gbagbo**

Mr Emmanuel Altit  
Ms Agathe Bahi Baroan

**Counsel for Mr Charles Blé Goudé**

Mr Geert-Jan Alexander Knoops  
Mr Claver N'dry

**Legal Representatives of Victims**

Paolina Massidda

**Legal Representatives of 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**

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**Registrar**

Mr Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Others**

**Trial Chamber I** (“Chamber”) of the International Criminal Court (“Court”), in the case of *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, having regard to articles Articles 58(1)(b), 60, 61(11) and 64(6)(a) of the Rome Statute (“Statute”), Rules 118 and 119 of the Rules of Procedure and Evidence (“Rules”), and Regulation 51 of the Regulations of the Court (“Regulations”), by majority, Judge Herrera Carbuccion dissenting, convenes a hearing on the continued detention of the accused.

1. On 20 April 2018, by majority, Judge Cuno Tarfusser dissenting, the Chamber rejected Mr Gbagbo’s request for interim release<sup>1</sup>.
2. On 9 February 2018, the Chamber issued the “Order on the further conduct of the proceedings”, inviting the Prosecutor to file “a trial brief illustrating her case and detailing the evidence in support of the charges” (“First Order”).<sup>2</sup>
3. On 19 March 2018, the Office of the Prosecutor filed the “Prosecution’s Mid-Trial Brief submitted pursuant to Chamber’s Order on the further conduct of the proceedings”.<sup>3</sup>
4. On 23 April 2018, the Defence of Mr Charles Blé Goudé and the Defence of Mr Laurent Gbagbo filed their observations on the continuation of the trial proceedings, indicating *inter alia* that they intended to bring motions challenging the adequacy of the Prosecutor’s evidence and asking for a full acquittal on all the charges.<sup>4</sup>
5. On 4 June 2018, the Chamber issued the “Second Order on the further conduct of the proceedings” (“Second Order”),<sup>5</sup> declaring the presentation of Prosecutor’s evidence completed and ordering the Defence for Mr Gbagbo and

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<sup>1</sup> ICC-02/11-01/15-1156-Red. The previous decisions had been issued on 10 March 2017 (-846) and 25 September 2017 (-1038).

<sup>2</sup> “Order on the further conduct of the proceedings” ICC-02/11-01/15-1124

<sup>3</sup> ICC-02/11-01/15-1136 and Annexes 1, A, B, C, D and E

<sup>4</sup> “Defence’s written observations on the continuation of the trial proceedings pursuant to Chamber’s Order on the further conduct of the proceedings (ICC-02/11-01/15-1124)”, ICC-02/11-01/15-1158-Conf (‘Blé Goudé Defence observations’); “Observations de la Défense présentées à la suite de l’ordonnance de la Chambre ‘on the further conduct of the proceedings’ du 9 février 2018 (ICC-02/11-01/15-1124)”, ICC-02/11-01/15-1157-Conf.

<sup>5</sup> ICC-02/11-01/15-1174

the Defence for Mr Blé Goudé to file submissions “addressing the issues for which, in their view, the evidence presented by the Prosecutor is not sufficient to sustain a conviction”.

6. On 23 July 2018, the Defence for Mr Charles Blé Goudé filed the “Blé Goudé Defence No Case to Answer Motion” (“Mr Blé Goudé’s Request”)<sup>6</sup> and the Defence for Mr Laurent Gbagbo the “*Requête de la Défense de Laurent Gbagbo afin qu’un jugement d’acquittement portant sur toutes les charges soit prononcé en faveur de Laurent Gbagbo et que sa mise en liberté immédiate soit ordonnée*” (“Mr Gbagbo’s Request” ; collectively, the “Defence Requests”).<sup>7</sup>
7. On 10 September 2018, the Office of the Prosecutor filed the “Prosecution’s Response to Defence No Case to Answer Motions” (“Prosecutor’s Response”)<sup>8</sup> and the Office of the Public Counsel for Victims the “Response to Defence Submissions on the specific factual issues for which the evidence presented could be insufficient to reasonably support a conviction” (“OPCV Response”).<sup>9</sup>
8. On 1, 2 and 3 October 2018 the Chamber held public hearings,<sup>10</sup> during which the Prosecutor presented orally her response to the Defence Requests. On 12, 13, 14, 19, 20 and 21 November 2018 the Chamber heard the Defence for Mr Gbagbo’s and the Defence for Mr Blé Goudé’s oral responses to the Prosecutor.<sup>11</sup>
9. The Chamber has the statutory duty and responsibility to ensure that the duration of the detention of an accused shall not be unreasonable. Rule 118(3) of the Rules states that the Chamber may decide to hold a hearing and that a hearing “must be held at least once every year”. The Chamber received the

<sup>6</sup> ICC-02/11-01/15-1198-Conf and Annex 1

<sup>7</sup> ICC-02/11-01/15-1199 and 7 annexes

<sup>8</sup> ICC-02/11-01/15-1207 and Annex 1 and Annexes A and B

<sup>9</sup> ICC-02/11-01/15-1206-Conf

<sup>10</sup> ICC-02/11-01/15-T-221-Conf; ICC-02/11-01/15-T-222-Conf, ICC-02/11-01/15-T-223-Conf

<sup>11</sup> ICC-02/11-01/15-T-224-Conf, ICC-02/11-01/15-T-225-Conf, ICC-02/11-01/15-T-226-Conf, ICC-02/11-01/15-T-227-Conf, ICC-02/11-01/15-T-228-Conf, ICC-02/11-01/15-T-229-Conf.

written and oral submissions made by the parties and participants pursuant to the First and Second Order. No date has yet been set for the presentation of evidence by the Defence.

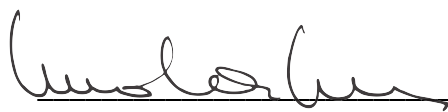
10. The last hearing for the presentation of the evidence of the Prosecutor was held in January 2018 and the presentation of the evidence by the Prosecutor has been declared closed. The Chamber considers that under these circumstances it is necessary to revisit whether or not the risks that were previously identified as justifying the deprivation of the personal liberty of the accused continue to exist and, if so, to what extent. Accordingly, the Chamber finds it necessary to proceed *motu proprio* to the review of the basis for the continued detention of the accused. In particular, the Chamber finds it necessary to determine whether, at this stage, interim release with or without conditions would adequately address any risks which might still be outstanding under article 58(1) of the Statute.
11. For these reasons, the Chamber decides to convene a hearing in closed session, with a view to hearing from the parties and participants as well as from representatives of the Registry. In particular, the Chamber requests the parties and participants to address the following issues: appropriateness and modalities of interim release; identification of States where the accused would wish to be released on an interim basis, should they be provisionally released; conditions which, in the parties' and participants' submission, would be necessary, including as appropriate in light of those listed in rule 119(1) of the Rules.
12. In light of the current calendar, and the imminence of the winter recess and the festive period, the Chamber considers it necessary to convene such hearing at a short notice.

**FOR THE FOREGOING REASONS, THE CHAMBER, BY MAJORITY, HEREBY**

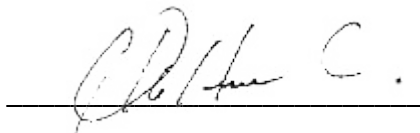
**CONVENES** a hearing, to be held in closed session, on Thursday 13 December 2018 at 10:00 hours.

Judge Herrera Carbuccia will append a dissenting opinion in due course.

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



**Judge Cuno Tarfusser, Presiding Judge**



**Judge Olga Herrera Carbuccia**



**Judge Geoffrey Henderson**

Dated 10 December 2018

At The Hague, The Netherlands