

Pre-trial chambers I affirms Laurent Gbagbo Trial

Laurent Gbagbo who was the former president of Côte d'Ivoire is charged with committing crimes against humanity by the ICC following the political stalemate between his forces and the pro-Outattara supporters sometimes around December 2010 to April 2011. Following this ugly scenario, the Trial Chambers III of the International Criminal Court (ICC) issued a warrant under seal to arrest him on 23 November 2011 and after intense fighting with the aid of the French forces he was disgracefully captured and transferred to ICC custody on 30 November 2011 in The Hague to face the charges levied against him.¹ He is charged with offending Article 25(3) (a) (b) and (d) of the Rome Statute titled “Individual Criminal Responsibility”. This provision command as follows:

- "3. *In accordance with this Statute, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the court if that person:*
- (a) *Commits such a crime whether as an individual jointly with another or through another person, regardless of whether that other person is criminally responsible;*
 - (b) *Orders, solicits or induces the commission of such a crime which in fact occurs or is attempted;*
 - (c) *...*
 - (d) *In any other way contributes to the commission or attempted commission of such a crime by group of persons acting with a common purpose. Such contribution shall be intentional... ”*

Gbagbo initial appearance before the Trial Chamber I was on 5 December 2011. In her preliminary remark in the case of *The Prosecutor v Laurent Gbagbo*² the Prosecutor enumerated the events and provisions of the Rome Statute that link the accused to the charges against him; specifically the events around the Ivorian Radio and Television (RTI) on the 16 and 19 December 2010; the attack against women who were demonstrating in Abobo; the Abobo market shelling; and the Yopougon attacks.³ She proceed similarly with the merits of the charges to ensure that the alleged crimes satisfy Article 19 of the Rome Statute that provides that

¹ ICC, http://www.icc-cpi.int/en_menus/icc/situations%20and%20cases/situations/icc0211/Pages/situation%20index.aspx, [20 June 2014].

² *Prosecutor v. Laurent Gbagbo* (Case No. ICC/01/11-01/11), Decision on confirmation of charges, [12 June 2014].

³ *Prosecutor v. Laurent Gbagbo* (Case No. ICC/01/11-01/11), Decision on confirmation of charges, [12 June 2014], para. 17.

“[t]he court shall satisfy its self that it has jurisdiction to any case brought before it”, building on the evidence provided by the prosecutor, the Chamber found that the alleged crimes committed by Gbagbo offends Article 7 of the Rome Statute titled “Crimes Against Humanity” and falls within the jurisdiction of the court.⁴ To corroborate her evidence to the alleged charges the Prosecutor cited earlier jurisprudence to support her case as commanded under Article 61 (7) of the Rome Statute.⁶

Drawing from the evidence presented the Trial Chambers I found former president of Côte d’Ivoire on 12 June 2014, for four charges of crimes against humanity⁷ bearing on Mr. Gbagbo with Judge Christine Van den Wyngaert appending a separate opinion.⁸

Though the chambers submitted that it had sufficient evidence to incriminate the accuse including statements of over 100 witnesses and more than 22, 000 documentary evidence, audio and video materials, judge Christine Van den Wyngaert in paragraph two of her dissenting opinion reiterated that there has been too much reliance on anonymous hearsay evidence.⁹

Van den Wyngaert submit that article 25(3)(a) does not constitute substantial grounds to believe that Gbagbo and he so called “inner circle” committed crimes against innocent

⁴ *Prosecutor v. Laurent Gbagbo* (Case No. ICC/01/11-01/11), Decision on confirmation of charges, [12 June 2014], para 18.

⁶ Section 61(7) of the Rome Statute provides that;

The Pre- Trial Chamber shall, on the basis of the hearing, determine whether there is sufficient evidence to establish substantial grounds to believe that the person committed each of the crimes charged. Based on its determination, the Pre- Trial Chamber shall:

- a) *Confirm those in relation to which it has determined that there is sufficient evidence, and commit the person to a Trial Chamber for trial on the charges as confirmed;*
- b) *Decline to confirm those charges in relation to which it has determined that there is sufficient evidence;*
- c) *Adjourn the hearing and request the prosecutor to consider:*
 - (i) *Providing further evidence or conducting further investigation with respect to a particular charge: or*
 - (ii) *Amending a charge because the evidence submitted appears to establish a different crime within the jurisdiction of the court...*

See also the Prosecutor v. Laurent Gbagbo (Case No. ICC/01/11-01/11), Decision on confirmation of charges [12 June 2014], para 19.

⁷ ICC: http://www.icc-cpi.int/en_menus/icc/situations%20and%20cases/situations/icc0211/related%20cases/icc02110111/court%20records/chambers/pretrial%20chamber%20i/Pages/656.aspx, [20 June 2014].

⁸ ICC: http://www.icc-cpi.int/en_menus/icc/situations%20and%20cases/situations/icc0211/related%20cases/icc02110111/court%20records/chambers/pretrial%20chamber%20i/Pages/656.aspx, [Access date 21 June 2014]

⁹ See other instances of hearsay evidence: ICC-02/11-01/11-432, para. 29 and 36; Pre-Trial Chamber I, *Prosecutor v. Calixte Mbarushimana*, Decision on the confirmation of charges [16 December 2011]; ICC-01/04-01/10-465, para. 49.

civilians by deliberately incite supporters to commit crimes against pro-Ouattara supporters as interpreted by her colleagues.¹⁰

She proceed similarly that she is not convinced that articles 25(3) (b) and 28 of the Statute has been exhausted rather she submitted that the Chambers should have applied Article 61(7) (c) (ii) of the Statute that provides for adjournment of the hearing so that the prosecutor can provide further evidence or amend some of the evidence already presented; this she argue will relief us from the legal conundrum which may arise from application of Regulation 55 in later stages of the proceedings.

Gbagbo was charged alongside with two other people: His wife Simone Gbagbo¹¹ and Blé Blaudé who is presently under ICC custody.¹²

¹⁰ *Prosecutor v. Laurent Gbagbo* (Case No. ICC/01/11-01/11), Decision on confirmation of charges [12 June 2014], Dissenting opinion, para. 5.

¹¹ ICC: http://www.icc-cpi.int/en_menus/icc/situations%20and%20cases/situations/icc0211/related%20cases/icc02110112/Pages/index.aspx [20 June 2014].

¹² ICC: http://www.icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Pages/pr988.aspx [20 June 2014]