

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No. **ICC-01/21**

Date: **17 June 2021**

PRE-TRIAL CHAMBER I

Before:

**Judge Péter Kovács, Presiding Judge
Judge Reine Adélaïde Sophie Alapini-Gansou
Judge María del Socorro Flores Liera**

SITUATION IN THE REPUBLIC OF THE PHILIPPINES

Public

**Decision on the 'Registry Request for Extension of Notice Period and
Submissions on the Article 15(3) Process'**

Decision to be notified, in accordance with regulation 31 of the *Regulations of the Court*, to:**The Office of the Prosecutor**Karim A. A. Khan
James Stewart**Counsel for the Defence****Legal Representatives of Victims****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 Representative****Amicus Curiae****REGISTRY**

Registrar

Peter Lewis

Counsel Support Section**Victims and Witnesses Unit**

Nigel Verrill

Detention Section**Victims Participation and Reparations
Section**

Philipp Ambach

Other

PRE-TRIAL CHAMBER I ('Chamber') of the International Criminal Court ('Court') issues this decision on the 'Registry Request for Extension of Notice Period and Submissions on the Article 15(3) Process' ('Request').¹

1. On 24 May 2021, the Prosecutor filed, as 'Secret, Ex parte, only available to the Prosecution', the 'Request for authorisation of an investigation pursuant to article 15(3)' ('Article 15(3) Request'),² requesting authorisation to commence an investigation into the Situation in the Philippines, in relation to 'crimes within the jurisdiction of the Court allegedly committed on the territory of the Philippines between 1 November 2011 and 16 March 2019 in the context of the [War on Drugs] campaign, as well as any other crimes which are sufficiently linked to these events'.³

2. On 14 June 2021, the Prosecutor filed a public redacted version of the Article 15(3) Request.⁴ Thus, the Prosecutor provided notice to victims under Article 15(3) of the Rome Statute ('Statute') and Rule 50(1) of the Rules of Procedure and Evidence ('Rules').

3. On 15 June 2021, the Registry filed the Request. The Registry seeks an extension of the time limit for victims to make representations to the Chamber to 'altogether three months'.⁵ As a basis for the requested extension, the Registry refers to the need to conduct preparations, and submits that it has not been able to conduct any such preparations in advance, as a result of the original level of classification of the Article 15(3) Request.⁶ The Registry also makes specific submissions on the challenges it has identified with respect to the process of submission of victim representations under Article 15(3) of the Statute.⁷ As a result, the Registry submits that '[c]onsidering the factors and circumstances [...] the default 30-day time limit will be insufficient to produce a meaningful sample of victims' representations'.⁸

4. In addition, the Registry makes certain submissions in relation to the victim representation form to be used, its translation and publication.⁹ It also suggests transmitting to the Chamber the received representations on a rolling basis, together with a brief preliminary

¹ ICC-01/21-Conf. A public redacted version of the Request was filed on 16 June 2021, see ICC-01/21-8-Red.

² ICC-01/21-7-SECRET-Exp, with secret *ex parte* Annexes 1, 2, 3, 4 and 5.

³ Article 15(3) Request, para. 131.

⁴ ICC-01/21-7-Red. Annexes 1, 4 and 5 were reclassified by the Chamber as 'public' on the same day following a request to this effect submitted by the Prosecutor by email.

⁵ Request, para. 1.

⁶ Request, para. 8.

⁷ Request, paras 8-9.

⁸ Request, para. 11.

⁹ Request, paras 16-18.

assessment, as well as submitting a final consolidated report on all victims' representations received at the latest two weeks after the time limit for the victims to submit representations.¹⁰

5. On 16 June 2021, the Prosecution informed the Chamber that it would not file a response to the Request.¹¹

6. The Chamber notes Article 15(3) and (4) of the Statute, Rule 50(3) of the Rules and Regulations 35 and 50(1) of the Regulations of the Court.

7. The Chamber emphasises the limited scope and purpose of the procedure for authorisation of an investigation under Article 15(4) of the Statute.¹² It notes in particular that this is a very preliminary stage of the proceedings where there is not yet an investigation, and *a fortiori* no criminal proceedings against an identified person for specific crimes. While victims have the right to make representations to the Chamber under Article 15(3) of the Statute and Rule 50(3) of the Rules, this is a limited *sui generis* procedural right which must be interpreted in its specific context and cannot be equated or compared to victim participation in proceedings under Article 68(3) of the Statute. It is important to bear these considerations in mind when designing the process leading up to the decision of the Chamber under Article 15(4) of the Statute.

8. Furthermore, the Judges of the Court have recently recognised the need for expeditiousness in the adjudication of requests for authorisation of investigations under Article 15(3) of the Statute, and have inserted into the latest edition of the Chambers Practice Manual a provision requiring that 'the written decision of the Pre-Trial Chamber under Article 15, paragraph 4 shall be delivered within 120 days from the date the Prosecutor's request for authorisation of an investigation is filed with the Court'.¹³ It is the intention of the Chamber to issue its decision within the time limit envisaged in the Chambers Practice Manual. Moreover,

¹⁰ Request, paras 20-21.

¹¹ Email to the Chamber received at 15:13.

¹² See Appeals Chamber, Judgment on the appeal against the decision on the authorisation of an investigation into the situation in the Islamic Republic of Afghanistan, 5 March 2020, ICC-02/17-138, para. 1; Pre-Trial Chamber III, Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the People's Republic of Bangladesh/Republic of the Union of Myanmar, 14 November 2019, ICC-01/19-27, para. 12; Pre-Trial Chamber I, Decision on the Prosecutor's request for authorisation of an investigation, ICC-01/15-12, para. 3.

¹³ Chamber's Practice Manual, 4th edition, 29 November 2019, para. 2, p. 1. The Chamber notes the Registry's suggestion to consider that the time limit runs from the filing of the public redacted version of the Article 15(3) Request (see Request, para. 15), but considers that this would be an interpretation contrary to the text of the manual, as well as in tension with the purpose of the establishment of time limits for issuance of decisions under Article 15(4) of the Statute.

taking into account the relevant provisions of the applicable law and considering the scope and purpose of the procedure for authorisation of an investigation under Article 15(4) of the Statute, it is the view of the Chamber that, while the Chamber should seek to organise the proceedings in a way to give victims a meaningful opportunity to make representations, the issuance of the decision under Article 15(4) of the Statute should not in principle be delayed in order to accommodate an extension of the time limit under Regulation 50(1) of the Regulations of the Court.

9. It is for this reason that the requested extension of time cannot be granted in full. However, the Chamber accepts that there exist circumstances with respect to the present situation which may make it difficult for victims to make observations within the 30-day limit. Thus, good cause within the meaning of Regulation 35(2) of the Regulations of the Court has been established for a partial extension of the time limit. For convenience, the time limit is set at a calendar date – 13 August 2021. In the view of the Chamber, this will provide victims an adequate opportunity to make representations, also considering that, as envisaged by the Registry, they will be able to do so via forms available on the Court's internet site.

10. Otherwise, the Chamber notes the submissions of the Registry with respect to the envisaged steps in the process, and considers that the Registry may proceed without the need for specific orders or instructions of the Chamber at this time. It is only with respect to the completion of the process and the submission to the Chamber of all victims' representations received and the final consolidated report of the Registry that the Chamber deems it necessary to set a time limit, *i.e.* two weeks after the time limit for the submission of representations by the victims as suggested by the Registry.¹⁴

¹⁴ See Request, para. 21.

FOR THESE REASONS, THE CHAMBER HEREBY

GRANTS the Request in part;

DECIDES that victims may make representations to the Chamber under Article 15(3) of the Statute and Rule 50(3) of the Rules by **13 August 2021**;

ORDERS the Registry to transmit the victims' representations to the Chamber on a rolling basis, together with a brief preliminary assessment, and to submit all victims' representations received and a final consolidated report by **27 August 2021**; and

REJECTS the remainder of the Request.

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



Judge Péter Kovács, Presiding Judge



**Judge Reine Adélaïde Sophie
Alapini-Gansou**



**Judge María del Socorro
Flores Liera**

Dated this 17 June 2021

At The Hague, The Netherlands