



Original: English

**No. ICC-01/04
Date: 10 July 2026**

PRE-TRIAL CHAMBER I

Before:

**Judge Iulia Antoanella Motoc, Presiding
Judge Reine Adélaïde Sophie Alapini-Gansou
Judge María del Socorro Flores Liera**

**SITUATION IN
THE DEMOCRATIC REPUBLIC OF THE CONGO I**

Public

Order to the Prosecution to provide information

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

☒ **The Office of the Prosecutor**

☐ **Counsel for the Defence**

☐ **Legal Representatives of the Victims**

☐ **Legal Representatives of the Applicants**

☐ **Unrepresented Victims**

☐ **Unrepresented Applicants
(Participation/Reparation)**

☐ **The Office of Public Counsel for Victims**

☐ **The Office of Public Counsel for the
Defence**

☐ **States' Representatives**

☐ **Amicus Curiae**

REGISTRY

Registrar

Mr Osvaldo Zavala Giler

☐ **Counsel Support Section**

☐ **Victims and Witnesses Unit**

☐ **Detention Section**

☐ **Victims Participation and Reparations**

☐ **Other**

Section

PRE-TRIAL CHAMBER I (the ‘Chamber’) of the International Criminal Court (the ‘Court’) issues this ‘Order to the Prosecution to provide information’.

1. On 17 June 2004, the Prosecution notified the Presidency that on 3 March 2004 it had received a referral from the Government of the Democratic Republic of the Congo (the ‘DRC’) pursuant to article 14 of the Statute concerning alleged crimes under the jurisdiction of the Court ‘committed within the territory of the DRC since 1 July 2002’ (the ‘First Referral’).¹ On 5 July 2004, following the Prosecution’s announcement of its determination under article 53 of the Statute to initiate an investigation, the Presidency assigned the Situation in the Democratic Republic of Congo to the Chamber (the ‘Situation in DRC’).²

2. On 5 June 2023, the Prosecution notified the Presidency that on 23 May 2023 it had received a second referral from the Government of the DRC concerning ‘alleged crimes within the jurisdiction of the Court committed in North Kivu, DRC, from 1 January 2022 to date’ (the ‘Second Referral’).³ On 15 June 2023, the Presidency assigned the Situation in the Democratic Republic of the Congo II to the Chamber (the ‘Situation in DRC II’).⁴

3. On 14 October 2024, the Prosecution informed the Chamber that, following a preliminary investigation into the events described in the Second Referral, it had concluded that ‘any alleged Rome Statute crimes committed in North Kivu since 1 January 2022 would fall within the parameters of, and are in any event sufficiently linked to, the [First Referral]’. As a result, the Prosecution considered that there was no ‘further requirement to “initiate an investigation” within the meaning of article 53(1) [of the Statute]’ and announced that it would investigate the events described in the Second Referral within the scope of the existing Situation in DRC (the ‘Notification’).⁵

4. In its Notification, the Prosecution indicated that it had reached the above determination after considering ‘(a) the contextual elements of war crimes; (b) the actors/groups allegedly involved; and (c) the types and pattern of crimes committed and groups of victims’.⁶ In a footnote, the Prosecution further explained that it had ‘assessed the alleged criminality [in the

¹ See Presidency, Decision assigning the Situation in the Democratic Republic of the Congo to Pre-Trial Chamber I, ICC-01/04-1 (‘Decision Assigning DRC Situation’), p. 4.

² Decision Assigning DRC Situation.

³ Annex 1 to Decision Assigning DRC Situation, ICC-01/23-1-AnxI.

⁴ Decision assigning the Situation in the Democratic Republic of the Congo II to Pre-Trial Chamber I, ICC-01/23-1.

⁵ Notification concerning the Prosecution’s determination with respect to the referral of the Democratic Republic of the Congo dated 23 May 2023, ICC-01/23-4-Conf (public redacted version filed on the same day, ICC-01/23-4-Red) (‘Notification’), with confidential annexes A and B.

⁶ Notification, para 7.

Second Referral] as being similar in scale, nature, manner of commission and impact to that occurring in eastern DRC since 1 July 2002, and as having targeted similar groups of victims based on similar lines of affiliation (actual or perceived), for similar apparent motivations’.⁷

5. While the Chamber notes the Prosecution’s explanation of the factors underlying its determination that the events in the Second Referral fall within the parameters of the existing Situation in the DRC, it considers that further clarification on the scope and progress of the investigation is required. In particular, in light of the time elapsed since the Notification, the Chamber seeks clarification regarding (i) the Prosecution’s understanding of the temporal scope of the First Referral; (ii) the legal and factual criteria on which it concluded that the alleged criminality described in the Second Referral is ‘similar in scale, nature, manner of commission and impact’ to that in the First Referral and targeted ‘similar groups of victims’ and ‘for similar apparent motivations’; and (iii) whether, and if so how, the events in the Second Referral are being incorporated within the existing investigation in the Situation in the DRC.

⁷ Notification, footnote 10.

FOR THESE REASONS, THE CHAMBER HEREBY

ORDERS the Prosecution to provide the clarifications identified in paragraph 6 above, by Monday, 27 July 2026.

Done in English. A French translation will follow. The English version remains authoritative.



Judge Iulia Antoanella Motoc, Presiding



**Judge Reine Adélaïde Sophie Alapini-
Gansou**



Judge María del Socorro Flores Liera

Dated this Friday, 10 July 2026

At The Hague, The Netherlands