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Court

Original: **English**

No.**: ICC-01/13**
Date: **10 November 2026**

PRE-TRIAL CHAMBER I

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

SITUATION ON THE REGISTERED VESSELS OF THE UNION OF THE COMOROS, THE HELLENIC REPUBLIC AND THE KINGDOM OF CAMBODIA

Public

Prosecution request to close the record of the situation

Source: **Office of the Prosecutor**

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

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☐ **Legal Representatives of the Victims**	☐ **Legal Representatives of the Applicants**
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☐ **The Office of Public Counsel for Victims**	☐ **The Office of Public Counsel for the Defence**
☐ **States' Representatives**	☐ **Amicus Curiae**

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☐ **Victims and Witnesses Unit**	☐ **Detention Section**
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Introduction

1. Pursuant to the recently adopted regulation 66*ter*(2),[1] and recalling its 2 December 2019 decision not to open an investigation into the *Situation on the Registered Vessels of the Union of the Comoros, the Hellenic Republic and the Kingdom of Cambodia*,[2] the Prosecution hereby provides Pre-Trial Chamber I ("the Chamber") with the information "in writing" required by regulation 66*ter*(2)(a) and respectfully requests closure of the record of the situation.

Submissions

2. On 22 June 2026, the Judges adopted regulation 66*ter*, creating a mechanism for the closure of situation records.[3] Pursuant to regulation 66*ter*(2):

> (a) When the Prosecutor, having provided information in accordance with regulation 45, sub-regulation 1, decides not to initiate an investigation, […] , he or she shall inform in writing the Pre-Trial Chamber to which the situation has been assigned.
>
> (b) Having been so informed, the Pre-Trial Chamber may, upon application *or proprio motu*, order the Registrar, when appropriate, to close the record of the situation. […]
>
> (c) The closure of the record of a situation shall be without prejudice to a future reopening should the Prosecutor decide to initiate or resume the investigation in accordance with the Statute, the Rules and these Regulations.

3. The requirements of regulation 66*ter*(2) for the closure of the situation record are met. Notably, the Prosecution recalls that:

- On 14 May 2013, in accordance with regulation 45, the Prosecutor notified the Presidency of her receipt of a referral from the Union of the Comoros ("the Comoros") pursuant to article 14 of the Statute.[4]

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[1] Regulations of the Court ("RoC"), regulation 66*ter* (adopted on 22 June 2026, entered into force on 25 June 2026). Any reference to a regulation in this request is to a regulation of the RoC, unless otherwise specified.
[2] ICC-01/13-99 ("Revised Second Decision Not to Investigate"); ICC-01/13-99-Anx1 ("Revised Second Report"). *See further* ICC-01/13-57 ("Second Decision Not to Investigate"); ICC-01/13-57-Anx1 ("Second Report"); ICC-01/13-6 ("Notice of First Decision Not to Investigate"); ICC-01/13-6-AnxA ("First Report"). *See also* ICC Office of the Prosecutor, *Statement of ICC Prosecutor, Fatou Bensouda, on the Situation on registered vessels of the Union of the Comoros et al*, 30 November 2017; *Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, on concluding the preliminary examination of the situation referred by the Union of Comoros: "Rome Statute legal requirements have not been met"*, 6 November 2014.
[3] ICC, "ICC Judges amend the Regulations of the Court to regulate the closure of case and situation records", 25 June 2026.
[4] *See* ICC-01/13-1-Anx1("Regulation 45 Notification"); ICC-01/13-1-Anx2 ("Additional Information").

- On 6 November 2014, the Prosecutor announced her determination that the legal requirements for opening an investigation in the situation were not met.[5] In particular, although there was a reasonable basis to believe that war crimes had been committed in connection with the boarding of the *Mavi Marmara* (a Comorian-registered vessel) on 31 May 2010, there was no potential case of sufficient gravity under the Statute to be admissible before the Court.[6]

- The following years saw protracted litigation as a consequence of the Comoros' requests for review of the Prosecutor's determination under article 53(3)(a) of the Statute,[7] which resulted in the Prosecutor further elaborating upon her reasoning on multiple occasions at the request of the Chamber.[8]

- On 2 December 2019, the Prosecutor last affirmed her decision not to initiate an investigation.[9] On 21 December 2020, the Chamber dismissed the Comoros' request for leave to appeal its decision rejecting the Comoros' further request for judicial review.[10] Any further litigation including pursuant to article 53(3) would now be time-barred.

4. The Prosecution now provides the information in writing required by regulation 66*ter*(2)(a). Furthermore, the Prosecution notes that the only filings made in the situation record since 21 December 2020 have been purely administrative in nature. Consequently, given all the circumstances and also having regard to the consideration in regulation 66*ter*(2)(c), it is appropriate for the Chamber to close the record of the situation.

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[5] *See* *Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, on concluding the preliminary examination of the situation referred by the Union of Comoros: "Rome Statute legal requirements have not been met"*, 6 November 2014; First Report.

[6] *Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, on concluding the preliminary examination of the situation referred by the Union of Comoros: "Rome Statute legal requirements have not been met"*, 6 November 2014; First Report, paras. 149-152 *see further* paras. 142-148. *See also* Notice of First Decision Not to Investigate.

[7] *See respectively* ICC-01/13-3-Red ("First Comoros Request for Review"); ICC-01/13-58-Red ("Second Comoros Request for Review"); ICC-01/13-100 ("Third Comoros Request for Review").

[8] *See* Second Decision Not to Investigate; Second Report; Revised Second Decision Not to Investigate; Revised Second Report. For the relevant judicial decisions, *see* ICC-01/13-34 ("First Reconsideration Decision"); ICC-01/13-34-Anx-Corr ("Judge Kovács Partly Dissenting Opinion"); ICC-01/13-51 ("Appeal Admissibility Decision"); ICC-01/13-51-Anx ("Judge Fernández and Judge Van Den Wyngaert Joint Dissenting Opinion"); ICC-01/13-68 ("Second Reconsideration Decision"), paras. 115, 117; ICC-01/13-68-Anx (Judge Kovács Second Partly Dissenting Opinion"); ICC-01/13-73 ("First Leave to Appeal Decision"); ICC-01/13-98 ("Judicial Review Appeal Judgment"); ICC-01/13-98-Anx ("Judge Eboe-Osuji Partly Dissenting Opinion"); ICC-01/13-98-AnxI ("Judge Ibáñez Separate and Partly Dissenting Opinion").

[9] Revised Second Decision Not to Investigate.

[10] *See* ICC-01/13-115 ("Second Leave to Appeal Decision"); ICC-01/13-115-Anx ("Judge Alapini-Gansou Partly Dissenting Opinion"). *See also* ICC-01/13-111("Third Reconsideration Decision").

Conclusion

5. Having decided not to initiate an investigation in the *Situation on the Registered Vessels of the Union of the Comoros, the Hellenic Republic and the Kingdom of Cambodia*, and having now expressly provided the information in writing required by regulation 66*ter*(2)(a), the Prosecution respectfully requests the Chamber to close the record of the situation pursuant to regulation 66*ter*(2)(b).



Mame Mandiaye Niang, Acting Prosecutor

Dated this 10th day of November 2026
At The Hague, the Netherlands