Cour
Pénale
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International
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Court

Original: **English**

No.**: ICC-01/16**
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 IN THE GABONESE REPUBLIC

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**
☐ **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 Section**	☐ **Other**

Introduction

1. Pursuant to the recently adopted regulation 66*ter*(2),[1] and recalling its 21 September 2018 decision not to open an investigation in the *Situation in the Gabonese Republic* ("Gabon"),[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 this 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 28 September 2016, in accordance with regulation 45, the Prosecutor notified the Presidency of her receipt of a referral from Gabon pursuant to article 14 of the Statute.[4]
- On 21 September 2018, the Prosecutor announced her determination that the legal requirements for opening an investigation in the situation were not met. In particular, the Prosecutor concluded that there was no reasonable basis to believe that acts allegedly

[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 Office of the Prosecutor, *International Criminal Court Prosecutor on Gabon: "The legal criteria for this Court to investigate have not been met"*, 21 September 2018; ICC Office of the Prosecutor, *Situation in the Gabonese Republic*, Article 5 Report, 21 September 2018; ICC-01/16-5 ("Article 15(6) Notice").
[3] ICC, "ICC Judges amend the Regulations of the Court to regulate the closure of case and situation records", 25 June 2026.
[4] ICC-01/16-1-AnxI ("Regulation 45 Notification").

committed in Gabon in the context of the 2016 post-election violence constituted crimes against humanity within the meaning of the Statute. Nor did the information available provide a reasonable basis to believe that the crime of incitement to genocide was committed during the election campaign.[5] The Prosecutor issued a detailed report presenting and explaining the Office's findings.[6] No request for review of the Prosecutor's decision was made by Gabon pursuant to article 53(3), and such a request would now be time-barred.

- On 11 September 2019, the Prosecution observed that (at that time) there was "no specific procedure set out in the Court's legal instruments for the termination of proceedings" but, since "no further judicial proceedings [were] envisaged to arise from the situation," invited the Chamber "to formally terminate the Situation record."[7] On 15 January 2020, the Chamber dismissed this request, in part because the Court's legal texts (at that time) contained no provision under which a situation record could be "terminated".[8]

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 15 January 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.

Conclusion

5. Having decided not to initiate an investigation in the *Situation in the Gabonese Republic*, 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).

[5] ICC Office of the Prosecutor, *International Criminal Court Prosecutor on Gabon: "The legal criteria for this Court to investigate have not been met"*, 21 September 2018.
[6] ICC Office of the Prosecutor, *Situation in the Gabonese Republic*, Article 5 Report, 21 September 2018.
[7] Article 15(6) Notice, para. 6.
[8] ICC-01/16-6 ("Article 15(6) Notice Decision").



Mame Mandiaye Niang, Acting Prosecutor

Dated this 10th day of November 2026

At The Hague, the Netherlands