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No.: ICC-02/11
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PRE-TRIAL CHAMBER III

Before: Judge Silvia Fernández de Gurmendi, Presiding Judge
Judge Elizabeth Odio Benito
Judge Adrian Fulford

SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE

Public redacted version
With Annexes A, B, C, D and E
and
Confidential *ex parte* Annexes 1 to 1089 available only Registry
Report on Victims' Representations

Source: Registry

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

The Office of the Prosecutor

Mr Luis Moreno-Ocampo

Ms Fatou Bensouda

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**

Ms Paolina Massidda

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

Mr Xavier-Jean Keïta

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Counsel Support Section

Deputy Registrar

Mr Didier Preira

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Ms Fiona McKay

Other

The Registrar of the International Criminal Court (“the Court”)

NOTING the Prosecutor’s letter of 19 May 2011 indicating his intention to submit a request under article 15(3) of the Statute for authorization to open investigations in the Situation in the Republic of Côte d’Ivoire;¹

NOTING the Prosecutor’s public notice of 17 June 2011 (“Public Notice”); ²

NOTING the Presidency’s Decision Constituting Pre-Trial Chamber III (“Chamber”), and Re-assigning the Situation in the Republic of Côte d’Ivoire (“Côte d’Ivoire”);³

NOTING the Prosecutor’s Request for authorisation of an investigation pursuant to article 15 of the Statute, dated 23 June 2011 (“Prosecutor’s Request”);⁴

NOTING the Decision notifying the election of the Presiding Judge, issued by Pre-Trial Chamber III on 28 June 2011;⁵

NOTING the Chamber’s Order of 6 July 2011 (“Order”) instructing the Victims Participation and Reparations Section to submit, by 1 August 2011, a single, consolidated report on the collective and individual representations received with the original representations annexed thereto;⁶

NOTING the Registry’s Request for an Extension of Time to Report on Victims’ Representations Pursuant to Regulation 35 of the Regulations of the Court (“Registry’s Request”);

NOTING the Chamber’s Decision on the Registry’s Request dated 28 July 2011, extending the deadline for filing the present report to 29 August 2011;⁷

¹ ICC-02/11-1-Anx.

² <http://www.icc-cpi.int/NR/exeres/EBF86FD2-CF42-400E-B47A-71FFA771AA04.htm>

³ ICC-02/11-2.

⁴ ICC-02/11-3.

⁵ ICC-02/11-4.

⁶ Order to the Victims Participation and Reparations Section Concerning Victims’ Representations Pursuant to Article 15(3) of the Statute, ICC-02/11-6.

⁷ Decision on the VPRS request for an extension of time to report on victims’ representations pursuant to Regulation 35 of the Regulations of the Court, ICC-02/11-9.

NOTING the Prosecution's provision of additional information in relation to its request for authorisation of an investigation pursuant to Article 15;⁸

NOTING the Chamber's extension of the page limit for the present report, to 30 pages;⁹

NOTING articles 15 and 68(1) of the Rome Statute ("Statute"), rules 50(1) and (3) and rule 85 of the Rules of Procedure and Evidence ("Rules"), regulations 23*bis*, 50(1) and 38(2)(a) of the Regulations of the Court;

CONSIDERING that the Registry has received 1047¹⁰ representations relating to the Situation in the Republic of Côte d'Ivoire;

CONSIDERING that the Registry has undertaken initial *prima facie* assessments of these representations regarding whether their sources are potentially victims within the meaning of rule 85 of the Rules;

CONSIDERING that the Registry has prepared a consolidated report concerning these representations;

CONSIDERING that Annexes 1 to 1089, which contain the representations, are classified as confidential *ex parte* since they contain information which would identify victims and other persons who have communicated with the Court and who may thereby be put at risk;

TRANSMITS to the Chamber the Registry's Report on Victims' representations received in the situation in Côte d'Ivoire, in compliance with the Chamber's Order.

⁸ ICC-02/11-7-Red

⁹ Email from Legal Officer, Pre-Trial Chamber III to Legal Coordinator (Acting), VPRS, of 25 August 2011.

¹⁰ One representation is composed of 42 annexes which were given a reference number. The total of annexes transmitted to the Chamber is therefore 1089.

1 Introduction

1.1 Procedural history

1. On 6 July 2011, the Chamber issued its “Order to the Victims Participation and Reparations Section Concerning Victims’ Representations Pursuant to article 15(3) of the Statute”¹¹, requiring the VPRS to:
 - (i) receive and register communications appearing to potentially constitute victim representations which were submitted to the OTP, Chambers or directly to the Registry;
 - (ii) make an initial *prima facie* assessment of rule 85 victim status for each individual and community who has submitted a representation by the deadline;
 - (iii) in respect of those representations received from a person or community meeting the requirements of rule 85, produce a consolidated report setting out the characteristics and views of those victims.
2. In compliance with the Chamber’s order, the Registry hereby submits its report on representations received from victims from Côte d’Ivoire, in accordance with article 15(3) of the Statute and rule 50(3) of the Rules, with the original representations received attached thereto.
3. The present report is divided into four parts. First, it provides an overview of the representations received (Section I). Thereafter, it sets out information about the victims who submitted representations to the Chamber (Section II) and then summarizes their views (Section III). Lastly, the report includes a consideration of lessons learned and further action to be taken (Section IV). Annex A sets out the methodology it adopted to assess the representations received.
4. In compliance with the Chamber’s Order, the Registry attaches to this report the 679 original individual and collective representations considered to meet the requirements of rule 85 (Listed in Annex B). Documents not considered to meet

¹¹ ICC-02/11-6.

the requirements of rule 85 are also annexed to the report and are listed in Annex C.

1.2 Legal basis and relevance

5. Article 15(3) of the Statute provides that in the context of an application under that provision by the Prosecutor, victims may make representations to the Pre-Trial Chamber.
6. The legal texts of the Court nowhere specify on which subjects victims are expected or permitted to make representations, nor do they limit the purposes for which such representations may be used by the Pre-Trial Chamber. However given the context in which this procedure is established, it can be inferred that its purpose is to assist the Chamber in reaching a decision the Prosecutor's article 15(3) request. In order to provide in the present report information which is of use to the Chamber, the Registry has sought to bear in mind the ways in which victims' representations may be relevant to a decision issued under article 15(4). It appears to the Registry that such representations may be of use to the Chamber in considering whether the requirements of article 53(1) are satisfied, and in particular in relation to article 53(1)(c).

2 Overview of representations received

2.1 Summary of representations

7. By the 20 July 2011 deadline,¹² the Registry received a total of 1038 communications, including written materials, compact discs and video tapes, apparently purporting to be victims' representations submitted under article 15(3) of the Statute and rule 50(1) of the Rules.
8. Of these, 679 representations appeared to the Registry to meet the requirements of rule 85 of the Rules. 359 documents, including 28 audio-video materials, were considered to fall outside the scope of the rule.

¹² This date is calculated under regulation 33 of the Regulations of the Court, as 30 calendar days from the first working day after the issue of the Public Notice (which occurred on a Friday).

9. Among the 679 representations considered to meet the requirements of rule 85 of the rules, 655 are individual representations. Twenty-six are collective representations all of which met the requirements of rule 85. No representations were submitted by any organization.
10. The Registry notes that a further 51 documents were received by it after the 20 July deadline for the receipt of representations.
11. However as explained below, few of the representations received expressed a view on whether an ICC investigation should be authorized by the Chamber, or on the scope of a potential investigation.

2.2 Means of receipt

12. Of the 1038 materials submitted by the 20 July deadline, 141 documents were sent by the Office of the Prosecutor (“OTP”) via email to the Registry during the period from 6 to 19 July 2011.
13. A further 359 communications, including written and audio-video materials were delivered in person directly to the Registry’s premises on 19 July 2011 by two Ivorian lawyers representing a large number of victims.
14. A further 478 documents were received by the Court and delivered to the Registry on 19 and 20 July 2011.
15. In addition, 51 documents¹³, sent by post to the Court, were received after the 20 July deadline. Although recorded in the Registry’s information management system, these documents were not processed within the framework of the present report, due to their late submission.
16. Each of the representations received was provided with a reference number: from r/0001/11 to r/1047/11. These reference numbers will be used to refer to the representations in this report.

¹³ 42 documents were part of a representation submitted before the 20 July deadline.

17. Information contained in the representations was entered into a database, assessed, extracted and summarized in sections II and III of this report.
18. As required by the Chamber in its Order, the Registry has conducted *prima facie* assessments of whether the requirements of rule 85 are met by those persons and groups of persons who have submitted representations. Annex A to the present report sets out the approach which was followed by the Registry in making these assessments.
19. Having undertaken such assessments, the Registry concludes that of the representations received 679 meet the requirements of rule 85. The figures provided in the rest of this report refer therefore to these representations.

2.3 Types of documents received

20. The Registry received various types of materials purporting to be representations, including *inter alia* victims' statements, reports from human rights groups, local authorities and associations, individual facts sheets, standard application forms for reparations or participation in ICC proceedings and audio-video materials. The Registry has categorized these materials as individual or collective representation as the case may be.

(1) Individual representations

21. Most of the individual representations were submitted in the form of individual fact sheets using a standard form and containing information on the identity and whereabouts of the victim, along with description of the events experienced. In some cases the fact sheet also expresses the victim's expectations in terms of justice. Although received as batches of documents and presumably pertaining to different groups of victims, those fact sheets were treated by the Registry as individual representations and separately assessed against the requirements of rule 85 of the Rules since they are not accompanied by a single representation made on their behalf and in fact show a variety of experiences and views.

22. In addition, the Registry also received a number of completed standard application forms for reparations or participation in ICC proceedings. The Registry notes that such forms are not intended for use in article 15 proceedings, and that most of those submitted did not expressly include views on the question of a possible ICC investigation. However the Registry considers that these applications are relevant because it might be inferred from the fact of their submission that these individuals want the ICC to be involved in Côte d'Ivoire. Taking these forms into consideration also appears fair given that victims were not provided with any explanations as to what information might be covered by their representations, and that the Registry has also accepted other types of document which provide information of the same nature and extent.

23. [REDACTED]¹⁴

(2) *Collective representations*

24. Of the documents received and assessed, the Registry identified 26 collective representations. Of these 2 were submitted by associations on behalf of groups the individual members of which are not identified. A further 24 collective representations were submitted by legal representatives of individual victims, many of whom provided comprehensive reports on the crimes alleged by their clients. Each report was supported by individual victims' statements including detailed information and in some cases material presented as potential evidence, which were taken and signed by a bailiff (*huissier de justice*). Those statements were also given an individual reference number for the sake of information management and are therefore counted in the 1047 total. However, they have not been individually assessed but have been grouped according to the collective representation they belong to, and the group assessed by reference to the requirements for collective representations.

¹⁴ [REDACTED]

3 Overview of victims and victim groups

25. Of those 679 representations received by the Registry from persons appearing to meet the requirements of rule 85 of the Rules:

- 655 were provided by individuals
- 26 were provided by groups of victims.

26. In this section of the report the Registry aims to provide an overview of the features of the persons who have submitted these representations, as well as a summary of the events and harm which they describe. It is hoped that this information will assist the Chamber by providing:

- insight into the scope and characteristics of the victims who have submitted representations, which may be useful in evaluating the credibility and representativeness of the information provided;
- information on the nature and extent of the reported crimes, including the places and time at which they occurred as well as the persons accused of their commission.

27. The Registry emphasizes (as further explained below) that it is not in a position to comment on the extent to which the victims who have participated in this process are representative of the overall victim population. It is therefore possible that the demographic features and crime patterns demonstrated in this data are reflective not of the victim population as a whole but of those victims who were able and willing to access the current process.

3.1 Individual representations

(1) *Ethnic diversity*

28. The individual representations received by the Registry were submitted by members of various ethnic groups and from different parts of the affected areas.

29. Côte d'Ivoire's population includes more than sixty indigenous ethnic groups. These can be categorized into four major clusters of ethnic families based on

cultural and historical characteristics, as follows: the Akan, the Kru, the Voltaic and the Mandé.¹⁵

30. The Akan are the largest ethnic group (42.2 % of the population). They are generally spread from the central regions to the southeast towards Ghana.
31. The Northern Mandé and Voltaic speakers (32% of the population) reside predominantly in the northern part of Côte d'Ivoire while the Southern Mandés (10%) reside predominantly in the west. The Northern Mandé include the Dioula, of which president Ouattara is a member.
32. Krus, which include the Bété subtribe (of which Laurent Gbagbo is a member), live mainly in the south-western part of the country.
33. The remaining population (approximately 26%) is comprised of non-Ivorian Africans mostly from Burkina Faso and Malians. Other minority groups include populations originating from Ghana, Guinea, Mali, Nigeria, Benin, Senegal, Liberia, Mauritania and non-African countries (primarily France and Lebanon).¹⁶
34. Upon review of the 655 individual representations, the Registry has identified a number of diverse ethnic sub-groups, which it has grouped under one of the four above mentioned key categories accordingly. This resulted in the following findings regarding the victims who made individual representations:
 - 151 victims belong to the Akan group
 - 287 victims belong to the Krou group
 - 5 victims belong to the Voltaique group
 - 97 victims belong to the Mandé group
 - 21 victims belong to other ethnic groups¹⁷
 - 94 victims have not specified their ethnicity.

¹⁵"Background Note: Côte d'Ivoire," Bureau of African Affairs, 16 July 2010, <http://www.state.gov/r/pa/ei/bgn/2846.htm>

¹⁶ "Background Note: Côte d'Ivoire," Bureau of African Affairs, 16 July 2010, <http://www.state.gov/r/pa/ei/bgn/2846.htm>

¹⁷ Mainly from Burkina Faso, Mali, Nigeria and other neighbouring countries.

(2) *Age*

35. The persons who made individual representations and were considered as victims within the meaning of rule 85 of the Rule were categorized by age range when they provided their age or date of birth as follows:

- 20 persons were between 0 and 20 years old
- 81 between 21 and 30 years old
- 232 between 31 and 50 years old
- 198 were more than 50 years old
- 124 victims did not provide information regarding their age.

(3) *Sex*

36. Of the 655 victims who made individual representations, 423 are men and 179 are women. This information was not specified in 53 representations.

(4) *Alleged acts which may constitute crimes within the jurisdiction of the Court*

37. On the basis of the descriptions provided by the victims in their representations, the Registry has identified a range of acts which may amount to crimes within the jurisdiction of the Court. As mentioned in Annex A,¹⁸ the nature and limited extent of the information provided in the representations do not allow for a proper and full assessment of the contextual elements of the alleged crimes, neither do they enable a genuine evaluation of the subjective or mental elements of the said crimes. This also has a bearing in many cases on the ability of the Registry to precisely characterize particular acts. For instance it is usually impossible to determine whether an act constitutes infliction of “severe physical or mental pain or suffering” (torture) or, similar in character, “infliction of great suffering or serious injury to body or mental or physical health” (other inhumane acts or inhumane treatment). For this reason, for the purposes of the present report, the Registry has treated potentially overlapping instances of these alleged conducts as fulfilling the elements of each of these crimes.

¹⁸ Annex A, para. 16.

38. Additionally, in determining whether an alleged conduct may amount to a crime falling within the jurisdiction of the Court, the Registry has taken into consideration contextual factors from extrinsic publicly available information as well as from the Prosecutor's Request¹⁹ and its related additional information,²⁰ in combination with the details provided by the victims in their representations. The assessments performed resulted in the following conclusions:

- 347 victims reported pillage
- 256 victims reported murder
- 112 victims reported torture, inhuman treatment or other inhuman acts
- 97 victims reported destruction of property
- 60 victims reported attacks against civilians
- 20 victims reported rape
- 14 victims reported enforced disappearance
- 5 victims reported imprisonment or other severe deprivation of liberty.

39. The Registry notes that many victims reported more than one of the above crimes.

(5) *Time period of the alleged commission of the crimes*

40. Bearing in mind the Prosecutor's Request to conduct investigations into crimes committed in Côte d'Ivoire since 28 November 2010²¹, the VPRS has categorized the individual representations according to the date of the alleged commission of crime(s) when indicated by the victim.

41. Accordingly, the VPRS has identified those victims who report one or several crimes allegedly committed against them:

- (a) on or after 28 November 2010 and,
- (b) before 28 November 2010.

¹⁹ ICC-02/11-4

²⁰ ICC-02/11-7-Red

²¹ ICC-02/11-4, para. 41.

(a) Crimes allegedly committed on or after 28 November 2010

42. Of the 655 individual representations who meet the requirements of rule 85 of the Rules, 567 victims claim to have suffered one or several crimes alleged to have been committed on or after 28 November 2010.²²

43. Regarding the nature of the crimes alleged by these victims to have occurred on or after 28 November 2010:

- 300 assert that they have been victims of pillage
- 186 claim to have suffered a harm as a result of the death of a relative who was murdered
- 105 allege that they have suffered physical abuses
- 75 report the destruction of their property, usually through arson
- 52 allege that they have been victim of an attack against civilians
- 18 report a rape
- 14 report the enforced disappearance of a family member
- 3 suffered imprisonment or other severe deprivation of physical liberty.

44. Based on the information provided by the victims, the Registry has also identified the main areas where crimes are alleged to have been committed on or after 28 November 2010 as follows:

- 257 victims reported one or more crimes allegedly committed against them in the populated neighbourhoods of Abidjan: (Abobo: 43; Adjamé: 35; Attécoubé: 2; Banco: 1; Cocody: 1; Niangon: 26; Port-Bouet: 5; Rivera Palmerai: 2; Treichville: 5; Yopougon: 93; Abidjan: 44).
- 119 victims reported one or several crimes allegedly committed against them in the Central region of Côte d'Ivoire (Agboville: 5; Bangolo: 4; Beoue: 26; Bocanda: 1; Bongouanou: 1; Bouaké: 3; Bloléquin: 27; Duékoué: 29; Gueya: 8; Kouassi: 3; Man: 2; Sinfra: 9; Logoualé: 1).

²² 13 of the 655 representations describe crimes occurring both before and on or after November 2010. They have therefore also been included in the figures for crimes occurring before 28 November 2010.

- 63 victims reported one or several crimes allegedly committed against them in the south west region of Côte d'Ivoire (Adiaké: 1; Bahe: 1; Gagnoa: 21; Guiglo: 9; Lakota: 11; San Pedro: 13; Sassandra: 3 Soubré: 4).
- 111 victims reported one or several crimes allegedly committed against them in the south east region of Côte d'Ivoire: (Ahoua: 6; Anaguie: 3; Anyama: 3; Azaguie: 3; Banguié: 1; Bassam: 1; Bouna: 5; Divo: 5; Grand-Morié: 40; Guitry: 7; Offa: 11; Rubino: 7; Tiassale: 3; Yakassé: 3; Yapo: 13).
- The location of the alleged crimes is not known in respect of 17 individual representations.

45. The information provided in the representations indicates that 302 persons claim to have suffered one or more crimes committed on or after 28 November 2010 by individuals or groups linked or belonging to Alassane Ouattara, whereas 107 identify pro-Gbagbo forces or supporters as having committed one or several crimes against them. Ninety-three victims refer to other perpetrators and 82 victims did not provide this information. In some instances victims accuse both camps of having committed crimes.

46. The individuals or groups referred to by victims as Pro-Ouattara forces include members or supporters of the *Rassemblement des houphouétistes pour la démocratie et la paix* (RHDP), the *Forces républicaines de Côte d'Ivoire* (FRCI) and the *Forces nouvelles* (FN). Victims who attribute the crime(s) they have suffered to pro-Ouattara supporters also refer to "traditional hunters" (*chasseurs traditionnels*) known as *Dozo* or *Dioula*. Reference is also made to a group of people coming from the northern part of the territory and speaking *Bambara*. Furthermore, 11 victims accuse the United Nations Operation in Côte d'Ivoire (UNOCI) as well as the French *Licorne* Force as being involved in the crimes committed by pro-Ouattara supporters.²³

47. Groups or individuals identified by victims as pro-Gbagbo forces include the *Forces de défense et de sécurité* (FDS), the *Compagnie républicaine de sécurité* (CRS), the

²³ r/0006/11; r/0011/11 ; r/0023/11; r/0029/11; r/0120/11; r/0131/11 ; r/ 0181/11 ; r/0182/11 ; r/0693/11; r/0713/11 and r/0872/11.

national Police and members of the *Fédération estudiantine et scolaire de Côte d'Ivoire* (FESCI), which is a youth and student organization allegedly controlled by former Laurent Gbagbo's Ivorian Popular Front, as well as members of the *Dida* Community.

48. In some instances there is no reference to any of the above-mentioned groups or individuals but victims instead identify the perpetrators as rebels, militiamen, armed soldiers, men wearing uniforms and carrying weapons or as mercenaries from Burkina Faso, Mali and Liberia.

(b) Crimes allegedly committed before 28 November 2010

49. Seventy two victims allege that they suffered harm as a result of one or more crimes committed before 28 November 2010. These victims refer to crimes which occurred during the following periods:

- in 2002: 17 victims
- since 2002: 2 victims
- between September and December 2002: 25 victims
- in 2003: 2
- between January and March 2003: 23 victims
- between April and May 2003: 13 victims
- in February 2010: 3 victims

50. In addition, 16 victims have not provided this information.

51. The information provided suggests that before 28 November 2010 crimes were mainly committed in the central part of Côte d'Ivoire.²⁴

52. Regarding the persons accused of the crimes committed prior to 28 November 2010, 49 victims refer to pro-Ouattara supporters as the perpetrators, 20 identify Guillaume Soro and his *Forces nouvelles* (FN) as being the perpetrators of the

²⁴ As follows: 39 crimes reported in Gueyebli, 9 in Diehiba, 9 in Bangolo, 7 in Toulepleu, 6 in Man, 5 in Duékoué, 3 in Gagnoa, 1 in Seguela, 2 in Logoualé, 2 in Bloléquin and 1 in Bouaké. Two victims did not provide this information.

crimes, 3 accuse pro-Gbagbo forces of having committed one or several crimes against them, and 13 victims did not provide this information.

3.2 Collective representations

53. While it is clear from the Chamber's Order that collective representations are intended to emanate from community leaders, who in turn, are to provide, to the extent possible, sufficient information about the community they represent,²⁵ the Registry notes that none of the 26 collective representations were provided by community leaders.

54. Instead, out of these 26 collective representations, 24 were submitted by Ivorian lawyers on behalf of victims from different parts of the affected areas and belonging to various ethnic groups. The remaining two were submitted by two Ivorian associations, one purporting to represent the "Wê" community,²⁶ and the other stating that it represents victims of Gbagbo's regime.

55. The size of victims groups covered by these collective representations varies enormously, with the smallest being 2 and the largest 273 households. Six representations did not indicate the number of victims they represent.

(1) *Time period of the alleged commission of the crimes*

56. The crimes reported by the collective groups (which relate to at least 826 persons) were all committed after 28 November 2010. Out of the 26 collective representations, only two refer to crimes committed both before and after 28 November 2010.

(2) *Persons or groups involved and location of the alleged commission of crimes*

(a) Crimes alleged to have been committed by pro-Gbagbo forces

57. Of the 26 collective representations, 22 refer to crimes committed by pro-Gbagbo forces, which represent at least 799 victims, bearing in mind that, of these, 6 representations did not indicate the number of victims represented.

²⁵ ICC-02/11-6, para. 10.

²⁶ Ethnic group mainly located in the west part.

58. The information provided by victims shows that of these 26 representations, 12 report crimes committed in the populated neighbourhoods of Abidjan. This represents at least 714 victims considering that 5 collective groups do not specify the number of victims represented.
59. Four representations report crimes in the Central region of Côte d'Ivoire, mainly in Duékoué and Sinfra. This represents a total of 43 victims.
60. Four other collective representations, representing together a total of 32 victims, refer to crimes were committed in the south west region of the Ivorian territory, including the towns of San Pedro, Gagnoa and Lakota.
61. The remaining two collective representations suggest that the crimes suffered by victims they represent were committed in the south-east of Côte d'Ivoire.

(b) Crimes alleged to have been committed by pro-Ouattara forces

62. Four representations were submitted on behalf of victims of crimes committed by individuals or groups linked or belonging to pro-Ouattara forces, representing at least 127 victims. The number of victims represented is not known for one of these representations.
63. The information provided in these four representations indicates that the crimes reported were committed in the south-west region of Côte d'Ivoire, including but not limited to Duékoué.

3.3 Conclusions regarding victims and crimes reported

64. While noting, as explained elsewhere, that the Registry cannot confirm the representativeness of this process, some limited conclusions may be drawn regarding the crimes which were reported through it. For example:
- The overwhelming majority of crimes reported appear to have been directed against civilians, at least to the extent that the representations do not make any mention of any involvement by the victims in the hostilities;

- The crimes reported occurred over a widespread geographical area and appear to have affected a large number of persons;
- Some information provided might tend to indicate that the crimes were premeditated and to some extent organized – for example reference to the existence of lists of intended targets for the violence;
- The representations make clear the interrelationship between political and ethnic affiliations (real or perceived) and their centrality in the crimes alleged. For example many representations indicate that they were targeted for their presumed support of Gbagbo or Ouattara, based on their ethnicity, which was identified for example by use of an identity card or by the targeting of areas where particular ethnic groups are known to reside;

65. Finally, it is noted that the representations appear to be generally consistent among themselves concerning the events reported. Regarding the patterns identified above the representations therefore to some extent corroborate each other. However the Registry again notes that some caution is required given the lack of information about the manner in which representations were collected.

4 Victims' views

66. Having reviewed and catalogued the representations received from victims from Côte d'Ivoire, the Registry provides below a summary of the views expressed. The Registry notes however that very few victims gave an opinion on whether an investigation should be authorized by the Chamber, or on the scope of a potential investigation. In most cases, this information was not provided at all. In some cases victims expressed general views, not necessarily on the subject of the Prosecutor's Request, but expressing a general desire for justice to be done, requesting that the perpetrators be punished and/or asking for reparations for the harm suffered as a result of the alleged crimes.

67. Notwithstanding that most of the victims did not expressly provide views on the question of a possible ICC investigation as set out above, the Registry considers that it might be inferred from the fact that they have sent communications to the

ICC that these individuals want the Court to become engaged in Côte d'Ivoire. Furthermore, the Registry notes that none of the victims who submitted representations, whether individually or collectively, expressly rejects the idea of having an investigation opened into the crimes committed in Côte d'Ivoire.

4.1 Views from individual representations

68. Of the 655 individual representations considered to meet the requirement of rule 85 of the Rules, 362 did not express a view on justice or a potential investigation, while the others express one or several of the following views:

- The majority of victims (123) expressed the hope that perpetrators are punished.
- A large number (104) indicated that they wanted justice to be done.
- 99 victims expressed the hope that justice would bring them compensation or reparations.
- 40 indicated that they are willing to support the Court.
- 9 victims indicated that they wanted justice to be done in order to be relieved of their psychological burden.
- 3 victims requested the ICC to investigate to end violence and the culture of impunity in Côte d'Ivoire.
- 1 victim stated that he does not trust the Ivorian justice system which he considers is partial.

4.2 Views from collective representations

69. Of the 26 collective representations appearing to meet the requirements of rule 85 of the Rules, 5 did not provide information on the victims' views regarding the question of a potential ICC investigation. The others expressed one or several of the following views:

- 10 collective representations indicated that victims wanted justice to be done.
- 8 indicated that victims expressed the hope that perpetrators are punished.

- 3 suggested that victims do not trust the Ivorian justice system.
- 2 representations expressed victims' hope that inter-ethnic conflicts stop.
- 2 indicated that victims wished to receive compensation and reparation
- 1 representation indicated that victims are willing to support the Court.

4.3 Conclusions regarding victims' views

70. While emphasizing again that the Registry is not able to provide the Chamber with any assurances or even estimates regarding the representativeness of the information gathered during this exercise, it is considered that some limited conclusions may nonetheless be drawn from the views expressed.

71. First, the Registry considers it significant that no victims, from either "side" of the conflict contacted the Court in order to request that an investigation not be authorized. Likewise, no mention was made in any representations, collective or individual, of any factual information which might suggest that jurisdiction or admissibility are lacking, or that there are reasons for the Court to abstain from investigations "would not serve the interests of justice".

72. Secondly, the Registry notes that a significant number of victims made efforts to contact the Court, many of them expressly stating that they want justice to be done. Although it is recognized that the victims who have participated in this process represent only a small portion of the possible victim population in Côte d'Ivoire, nonetheless it is striking that so many persons submitted representations given the very limited timeframe made available to them for this purpose. It is particularly remarkable that a very large number of persons did so individually and directly – that is, without having been contacted and assisted by an intermediary or legal representative. The Registry considers that this may be considered as an indicator of the level of interest among victims in Côte d'Ivoire in ICC involvement in their country.

5 Conclusions and recommendations

5.1 Challenges encountered and lessons learned

73. In seeking to comply with the Chamber's Order the Registry notes that it has encountered challenges of two main kinds:

- Issues relating to the source and number of representations received
- The absence of relevant information in the representations received

(1) *Sources and number of representations*

74. Several difficulties were encountered regarding the source of representations.

75. First, the Registry has found itself ill-placed to verify the identity of persons submitting representations. The Registry notes that rather than expecting the provision of an identity document, the Chamber required that individuals submit "sufficient information about [their] identity."²⁷ This approach is of considerable value in enhancing the accessibility of the process, especially given the short timeframe available for victims to submit their representations, and taking into account the limited purpose of this process.²⁸ However in the absence of identity documents, a Chamber may be somewhat reassured regarding the legitimacy of representations if they are received from individuals and communities specifically identified through a mapping exercise and engaged with by the Registry on this basis. In the present case, neither the Registry nor, so far as the Registry is aware, any other part of the Court has engaged with the persons who have submitted representations. No independent information is available regarding their identity or background. For the great majority of representations the Registry is also without any information regarding the circumstances in which victims were assisted to provide representations or the identity and trustworthiness of persons who provided such assistance. Although the Registry has no basis on which to suspect fraud, it is equally unable to provide any

²⁷ ICC-02/11-6, paragraph 10.

²⁸ Indeed such an approach was recommended by the Registry in the context of the Kenya article 15 process: ICC-01/09-17-Anx5-Corr-Red, paragraph 13.

reassurance to the Chamber regarding the identity of those who submitted representations.

76. Secondly, the Registry also notes that it is not currently in a position to inform the Chamber of whether the representations received might be said to roughly reflect the pattern of violence which occurred in Côte d'Ivoire. This is largely because of a lack of access to reliable detailed information regarding the pattern of violence or a mapping of victims.

77. Thirdly, the Registry notes that few collective applications were received and that most of those which were came from groups of identified individuals, rather than from communities as was apparently envisaged by the Chamber.²⁹ Two associations presented collective representations on behalf of groups of victims represented by them. No such representations were received from community leaders. This may have had the consequence of reducing the reach of the article 15 victim process, since the views expressed are largely those of individuals who form a relatively small fraction of the potential victim population. Having had minimal interaction with victims, the UN, civil society or others in Côte d'Ivoire the Registry can only speculate regarding the reasons why community leaders did not submit representations. However it seems likely that a significant contributing factor was that the Public Notice, which appears to have been well publicized, did not refer to the possibility of community leaders making collective representations. Although the Chamber made this issue clear in its Order, that decision was issued in English, and only 11 days before the deadline for the submission of representations, and as a result may not have been widely accessed in time to impact on the representations presented.

78. Finally, the Registry notes the large number of communications received as 1047. Although relatively small given the estimated number of persons affected by

²⁹ ICC-02/11-6, paragraph 10.

crimes in Côte d'Ivoire,³⁰ this is a substantial number of representations given the short period of time which was available to victims pursuant to the Regulations. It is noted that the process would have been more efficient had a greater proportion of the representations been made collectively – in this way the perspectives of a wider group of victims can be accessed with less time required for the processing of documentation and information.

79. Indeed, regarding the time required by the Registry to process the large number of applications received, it is noted that the current process has ultimately required almost as much time as that undertaken in the Kenya situation.³¹ The Registry therefore considers that a process of mapping victims and identifying and approaching community leaders for their representations can potentially prove more expeditious than the approach taken in the present case. This is because in the former approach a more limited number of representations would be received (and therefore require analysis and processing).

(2) *Absence of relevant information*

80. The Registry considers that ordinarily a “representation” submitted by a victim under article 15(3) should ideally contain three types of information:

- (i) information sufficient to demonstrate that it emanates from a “victim” or community of “victims” within the meaning of rule 85; and
- (ii) personal information (for example regarding the person’s age, gender, ethnicity, place of residence etc);
- (iii) the views of those persons regarding the Prosecutor’s application under article 15.

³⁰ For example the UN Commission of Inquiry reported an estimate that more than 700,000 persons were displaced during the violence: Rapport de la Commission d’enquête internationale indépendante sur la Côte d’Ivoire (Advance Unedited Version), 14 June 2011, A/HRC/17/48, para. 105.

³¹ The present process ran for 73 days (from the Public Notice of 17 June to the filing of this report). In the Kenya Situation, the process ran for 112 days, from the Prosecutor’s notice of 23 November 2009 to the filing of the Registry’s report on 15 March 2010, although it likely would have required less time if the period of winter recess and vacations had not fallen within it.

81. Regarding the first category of information, that relevant to rule 85, the Chamber required that the representations include:

“(...) sufficient information about the identity of any individuals who make representations in this context; the harm they suffered; and the link with any crimes coming within the jurisdiction of the Court. Similarly, with collective representations, community leaders, to the extent possible, are to provide sufficient information about the community they represent; the harm suffered by members of that community; and the links to any crimes coming within the jurisdiction of the Court”.³²

82. In this regard the Registry notes that a number of the representations received did not contain such information and did not enable the Registry to assess whether the person or persons submitting the representation could be a victim according to the definition in rule 85.

83. Amongst the individual representation, the apparent absence of harm to the person submitting the representation constituted one the most frequent omissions. In a large number of individual representations considered as not satisfying rule 85 assessment, individuals expressly declared themselves as witnesses to the events described without any suggestion that the persons themselves suffered harm as a result.

84. The Registry notes that in some instances relevant information was lacking apparently because of the use of standard forms which were devised for this purpose by lawyers or others but which did not appear to take account of the information required to satisfy a rule 85 assessment. Various different standard forms were received, such as: *grille de recueil de témoignages de victime/témoins*,³³ sometimes appended to a *procès verbal d’audition*;³⁴ *attestation*; *fiche d’identification et de déposition pour victimes de crise post électorale*; *procès verbal d’audition*;³⁵ *fiche de présentation*.³⁶ Most of these forms are titled and designed in a way suggesting that they could be completed *either* by a victim or witnesses.

³² ICC-02/11-6, paragraph 10.

³³ E.g. r/0217/11-r/0226/11, r/0310/11-r/0350/11.

³⁴ E.g. r/0227/11-r/0267/11.

³⁵ E.g. r/0268/11-r/0318/11.

³⁶ E.g. r/558/11

85. In addition, 28 audio-visual documents were received by the Registry, including some interviews with individuals who say they were victims of crimes under the jurisdiction of the Court but who do not provide sufficient information to enable a rule 85 assessment. The video material also includes images of bodies and wounded victims, as well short videos of crimes being committed. The Registry notes that while some of this material may be relevant to the Chamber's decision, it did not include information required to demonstrate that it emanated from victims within the meaning of rule 85 of the Rules.
86. Given that the Public Notice did not contain instructions regarding the types of information to be submitted by victims in their representation, the Registry infers that this may be the reason why many persons omitted to include in their representations facts which are relevant to a rule 85 assessment. To some extent this might be rectified in future processes by including additional instructions in the notice issued by the Prosecutor. However more extensive interventions, such as the provision of a brief form (as was used in the Kenya Situation) and direct meetings with community leaders, would also assist.
87. Similarly, victims were not encouraged to give information regarding their age, gender, ethnicity, location etc. As identified above in section 3.1 in many cases such information was not provided. Such information would have been of use in understanding the sources of representations received and to the extent to which they represent the victim population as a whole.
88. Regarding the third category of information which might be expected to be included in representations submitted under article 15, such information was notably lacking from 365 of the 682 communications received which satisfied the *prima facie* rule 85 assessment. Moreover the Registry notes that in only a very small number of communications have victims expressed a view on whether an ICC investigation should be authorized by the Chamber. No representations indicated expressly what the scope of an investigation should be. In the large majority of representations received, victims expressed their views in a general

way, demanding justice to be done or reparations to be granted, not necessarily on the subject of the Prosecutor's Request.

89. The Registry notes that standard forms submitted by potential victims, whether individual or collective, include *pro forma* statements such as: « *La présente attestation est établie en vue de sa présentation en justice* »;³⁷ « *[L]e témoin accepte que son témoignage soit utilisé pour poursuivre en justice le(s) responsable(s) de ses violations notamment devant la Cour Pénale Internationale (CPI)* »;³⁸ « *Je souhaite que justice soit rendu à moi et à ma famille* ».³⁹
90. In some rare cases, representations include a description of crimes which is addressed to the ICC Prosecutor, although they do not expressly comment on the role of the ICC.⁴⁰ In others⁴¹ the standard form used itself includes a *pro forma* statement that the alleged victim can submit the form to the ICC Pre-Trial Chamber, directly or through focal points, such as NGOs, parliaments or “*agoras*”⁴². It appears to the Registry that only limited inferences can be drawn from such material regarding victims' views on the Prosecutor's Request.
91. As indicated above, the Registry has endeavoured to make what use it can of the information in the representations received, including by the drawing of what it considers to be reasonable inferences regarding the victims' views on the ICC. The Registry believes that more information on victims' wishes may have been of use to the Chamber. Based on its experiences working with victims in various situation countries (including in the context of the Kenya article 15 process) the Registry note that victims hold a variety of views concerning justice and the ICC. If the Chamber intends to evaluate the questions of victims interests and the interests of justice pursuant to article 53(1)(c) of the Statute there is a need to solicit in a more meaningful and detailed way the views of victims on these issues.

³⁷ E.g. r/0097/11-r/0176/11.

³⁸ E.g. r/0217/11-r/0267 /11, r/0310/11-r/0358/11, r/0360/11-r/0364/11.

³⁹ E.g. r/0394/11

⁴⁰ E.g. r/0437/11- r/0467/11.

⁴¹ E.g. r/0558/11- r/0792/11; r/0795/11- r/0866/11

⁴² Public spaces for open debates in the streets in Côte d'Ivoire, predominantly formed by young people in Abidjan and some other cities, and usually affiliated with political parties.

92. In addition, and even independently of the use of made of this information by the Chamber, the Registry notes that the process established by article 15(3) provides the only mechanism for enabling victims' voices to be heard by the public and the Court as a whole on a subject which is likely to be of great importance to them, namely whether they are supportive or opposed to an investigation. Because of the limited nature of other forms of victim participation outside the context of a given case, the article 15 process represents the only opportunity for victims to voice their opinions concerning not only whether an investigation should occur, but also how the Prosecutor might prioritize his investigations. Without binding the Prosecutor, such views may be of use to him and to the Chamber. The opportunity to present such views also provides victims with a sense of their connection to the Court and involvement in its work. The inclusion of victims' voices in a public Registry report (as opposed to a mere compilation of numbers) presents one avenue through which their statements can be made known and given due recognition.

93. Regarding the lessons which may be drawn from the present process, and the possible reasons why such information was particularly lacking, the Registry considers that it may to some extent be a result of the use in the Public Notice of the Information and Evidence Unit email address which is also provided on the Court's website for "communications and claims under art.15 of the Rome Statute".⁴³ This means that numerous communications might have been sent to that address by victims for other purposes entirely – for example in order to make complaints or provide evidence to the Prosecutor –but these cannot readily be distinguished from representations sent pursuant to article 15(3) and have therefore been transmitted to the Registry by the OTP.

94. In addition, the Registry notes that the Public Notice requested victims to send "their comments... on whether an investigation on such alleged crimes should be opened". The Registry that, at a minimum, future notices issued under rule 50

⁴³ www.icc-cpi.int/Menus/ICC/Contact

should better explain the nature of the information which might be provided. This could involve a more detailed explanation of the types of information which might be provided, and a simpler phrasing and more prominent placement of this information in the notice. The Registry notes, based on its experience in the Kenya situation, that significant efforts are required to assist victims in understanding the nature and purpose of this process. Such efforts might include distributing information materials, providing a simple standard form (as was done in the Kenya Situation) and/or conducting information sessions with victims or community leaders. A variety of such efforts could be undertaken depending on the time and resources available. Regardless of the nature and extent of steps taken, they could be achieved with the maximum speed and efficiency if information is shared by the Prosecution with the Registry well in advance of the issuance of a notice under rule 50(1) so that sufficient and appropriate preparation can be undertaken. In the absence of such efforts victims may believe that they are providing evidence or requesting reparations. This can result not only in the omission of the victims' actual views from the information provided, but also in the raising of expectations.

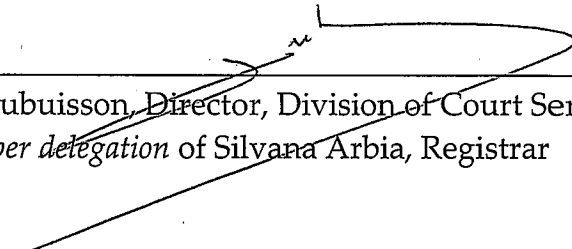
5.2 Further steps

95. The Registry notes rule 50(5) of the Rules which provides that the Chamber shall give notice of its decision under article 15(4) to victims who have made representations. Considering the logistical challenges involved in complying with this requirement, the Registry informs the Chamber that it is ready to assist the Chamber in this regard, whether:

- (i) a general information campaign for the benefit of the whole Ivorian population, but with particular attention to affected communities including those from which representations have been provided; and/or
- (ii) meetings held directly with victims, victim groups and the lawyers and associations who have represented them in this process; and/or

- (iii) through written correspondence sent to those victims for whom an email or postal address is known.

96. As always, any such measures would first be subject to a security assessment to ensure that their consistency with the Court's obligations under article 68(1). The Registry remains at the Chamber's disposal regarding any matters in relation to the present report.



Marc Dubuisson, Director, Division of Court Services
per delegation of Silvana Arbia, Registrar

Dated this 29 August 2011

At The Hague, The Netherlands