

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

No.: ICC-01/13
Date: 18 May 2015

PRE-TRIAL CHAMBER I

Before: Judge Joyce Aluoch, Presiding Judge
Judge Cuno Tarfusser
Judge Péter Kovács

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

Public Document

**Request for extension of time to submit Victims' Observations
in relation to the article 53 proceedings**

Source: Office of Public Counsel for Victims

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

The Office of the Prosecutor

Ms. Fatou Bensouda

Mr. James Stewart

Counsel for Defence

Legal Representatives of the Victims

Mr. Geoffrey Nice

Mr. Rodney Dixon

Ms. Paolina Massidda

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**

States' Representatives

Mr. Geoffrey Nice

Mr. Rodney Dixon

Amicus Curiae

REGISTRY

Registrar

Mr. Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I. INTRODUCTION

1. On 24 April 2015, Pre-Trial Chamber I (the “Chamber”) issued the “Decision on the Victims’ Participation in the Situation” (the “Decision”)¹, appointing, *inter alia*, the Principal Counsel of the Office of Public Counsel for Victims (the “OPCV” or the “Office”) as legal representative of unrepresented victims who have applied for participation in the proceedings and ordering that any observations by victims in relation to the proceedings ex article 53 of the Rome Statute be filed by 5 June 2015.

2. On 8 May 2015, as ordered by the Chamber in the Decision, the Registry filed the “Report on Applications Received from Victims who have Communicated with the Court pursuant to Decision ICC-01/13-18”² indicating, *inter alia*, that it “*will transmit [the] applications [of applicants who have not provided powers of attorney] to the Office of Public Counsel for Victims as their legal representative for the purposes of the article 53 proceedings*”.³

3. On 11 May 2015, late in the evening, the Principal Counsel received an Internal Memorandum from the Victims Participation and Reparations Section (the “VPRS”) transmitting 118 applications of victims in compliance with the Decision.

4. On 15 May 2015, the Principal Counsel received an e-mail communication from the VPRS informing her that, following verification of the Registry’s records and in light of new information received, three applications previously transmitted to her fall outside the scope of the situation and one victim has provided a power of attorney and therefore should not be considered as represented by the Principal Counsel. Moreover, one application not previously transmitted to the Principal

¹ See the “Decision on the Victims’ Participation in the Situation” (Pre-Trial Chamber I), No. ICC-01/13-18, 24 April 2015 (the “Decision”).

² See the “Report on Applications Received from Victims who have Communicated with the Court pursuant to Decision ICC-01/13-18”, No. ICC-01/13-21, 8 May 2015.

³ *Idem*, para. 13.

Counsel will be provided to her as soon as possible. At the time of the filing of the present request a *Corrigendum* to the Internal Memorandum has not yet been received.

5. In the circumstances, and as further explained below, the Principal Counsel is not in the position of consulting the victims she represents in the short time left before the expiration of the deadline set by the Chamber and she respectfully requests an extension of the time-limit in order to be able to submit the observations of the victims she represents for the purposes of article 53 proceedings.

6. Considering the deadline established by the Chamber, the Principal Counsel respectfully requests the Chamber to treat this request on an urgent basis.

II. REASONS FOR THE REQUEST FOR EXTENTION OF TIME LIMIT

7. Pursuant to regulation 35(1) of the Regulations of the Court, “[a]pplications to extend or reduce any time limit [...] ordered by the Chamber shall be made in writing or orally to the Chamber seized of the matter setting out the grounds on which the variation is sought”. Sub-paragraph (2) of the said regulation further states that “[t]he Chamber may extend or reduce a time limit if good cause is shown [...]”.

8. Interpreting regulation 35 of the Regulations of the Court, the Appeals Chamber has clarified that “[a] cause is good, if founded upon reasons associated with a person’s capacity to conform to the applicable procedural rule or regulation or the directions of the Court. Incapability to do so must be for sound reasons, such as would objectively provide justification for the inability of a party to comply with his/her obligations”.⁴

⁴ See the “Reasons for the ‘Decision of the Appeals Chamber on the request of counsel to Mr. Thomas Lubanga Dyilo for modification of the time limit pursuant to regulation 35 of the Regulations of the Court of 7 February 2007’ issued on the 16 February 2007” (Appeals Chamber), No. ICC-01/04-01/06-834 OA8, 21 February 2007, para. 7; and the “Reasons for the ‘Decision on the ‘Application for Extension of Time Limits Pursuant to Regulation 35 of the Regulations of the Court to Allow the

9. In this regard, the Principal Counsel submits that the request for extension of time is objectively justified by the fact that she was unable to perform her obligations as counsel until she received communication by the Registry of the applications of unrepresented victims. As indicated above, the Principal Counsel received said communication 17 days after the issuance of the Decision.

10. The Principal Counsel is currently in the process of reviewing the applications, contacting the victims and explaining to them the proceedings; only thereafter will the victims be able to convey to her their views and concerns on the matter. It is also foreseen that travel to the location(s) where the victims reside might be necessary in order to collect their observations in the most efficient and expeditious way. In this regard, the Principal Counsel estimates to be able to undertake missions in the field, if necessary, at the beginning of June. Indeed, certain logistical matters will need to be arranged before any travel is planned.

11. Consequently, the Principal Counsel will not be able to receive the views and concerns of the victims and to submit to the Chamber their observations prior to the expiration of the deadline of 5 June 2015.

12. Considering that the issue *sub-judice* is of paramount importance to the victims, particularly because said issue could potentially led to the confirmation of the Prosecutor's decision not to open an investigation into the events they suffered from, the Principal Counsel submits that she should be given further time to a) satisfactorily contact the victims she has been appointed to represent, and b) submit their observations to the Chamber after being given the opportunity to consult with them about the possible legal ramifications of the article 53 proceedings.

Defence to Submit its Observations on the Prosecutor's Appeal regarding the Decision on Evidentiary Scope of the Confirmation Hearing and Preventative Relocation"" (Appeals Chamber), No. ICC-01/04-01/07-653 OA7, 27 June 2008, para. 5.

13. Accordingly, the Principal Counsel argues that in the circumstances the deadline established by the Chamber does not suffice for enabling victims to submit their observations on the important issue at stake and that good cause is shown for the extension of the time-limit.

FOR THE FOREGOING REASONS

The Principal Counsel respectfully requests the Pre-Trial Chamber to extend the time-limit for submitting the observations by the victims she represents for the purposes of the article 53 proceedings until 22 June 2015.

A handwritten signature in black ink, appearing to read 'Paolina Massidda', with a horizontal line drawn underneath the name.

**Paolina Massidda
Principal Counsel**

Dated this 18th day of May of 2015

At The Hague, The Netherlands