

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/11
Date: 6 July 2011

PRE-TRIAL CHAMBER III

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

SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE

Public

**Order to the Victims Participation and Reparations Section Concerning
Victims' Representations Pursuant to Article 15(3) of the Statute**

Decision to be notified, in accordance with regulation 31 of the Regulations of the Court, to:

Counsel for the Defence

he Office of the Prosecutor

Mr Luis Moreno-Ocampo,

Prosecutor

Ms Fatou Bensouda, Deputy

Prosecutor

Legal Representatives of Victims **Legal Representatives of
Applicants**

Unrepresented Victims **Unrepresented Applicants for
Participation/Reparation**

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

States' Representatives *Amicus Curiae*

REGISTRY

Registrar **Detention Section**

Ms Silvana Arbia, Registrar

Victims and Witnesses Unit **Others**

**Victims Participation and
Reparations Section**

Ms Fiona McKay

Pre-Trial Chamber III (“Chamber”) of the International Criminal Court (“Court” or “ICC”) issues the following order to the Victims Participation and Reparations Section (“VPRS”) concerning victims’ representations pursuant to article 15(3) of the Rome Statute (“Statute”).

1. On 23 June 2011, the Prosecutor filed a “Request for authorization of investigation pursuant to Article 15” in which he requested authorization from the Chamber to proceed with an investigation into the Situation in the Republic of Côte d’Ivoire in relation to the post-election violence (*viz.* since 28 November 2010).¹
2. The Prosecutor indicated that on 17 June 2011 he had notified victims (or their legal representatives) of his intention to request authorization, setting out their right to make representations to the Chamber.²
3. On 30 June, the Prosecutor requested the Chamber to identify an email address, should it order that any emails regarding victims’ representations are to be provided directly to the Chamber.³
4. The relevant provisions from the Rome Statute framework are article 15(3) of the Statute, rule 50 of the Rules of Procedure and Evidence (“Rules”) and regulation 50(1) of the Regulations of the Court (“Regulations”).
5. By article 15(3) of the Statute, rule 50(3) of the Rules and regulation 50(1) of the Regulations, victims “may make representations in writing” to the Chamber within

¹ Situation in the Republic of Côte d’Ivoire, Request for authorisation of an investigation pursuant to article 15, Pre-Trial Chamber III, 23 June 2011, ICC-02/11-3, paragraph 40.

² ICC-02/11-3, paragraph 174.

³ Situation in the Republic of Côte d’Ivoire, Prosecution’s submission regarding email address to receive victims’ representations pursuant to Rule 50, 30 June 2011, ICC-02/11-5, paragraph 5.

30 days following the date on which the information was provided by the Prosecutor.

6. Pursuant to rule 50(4) of the Rules, the Chamber in deciding “on the procedure to be followed” pursuant to the Prosecutor’s request for authorization, may request further information from the Prosecutor or any of the victims who have made representations. The Chamber is of the view that in establishing the procedure for receiving victims’ representations, it must ensure, *inter alia*, that the proceedings are carried out in an expeditious manner.
7. The Chamber has considered the procedure adopted by Pre-Trial Chamber II for victims’ representations in the situation of the Republic of Kenya.⁴
8. The Chamber recognises the importance of engaging victims as early as possible in the process and of ensuring they are able to make appropriate representations within the context of the present application. The Chamber has taken into account the steps taken by the prosecution to notify any potential victims and their representatives of the opportunity to file representations,⁵ and it has borne in mind the limited purpose of representations at this stage as well as the security concerns raised by the prosecution.⁶ The Chamber is of the view that the procedure adopted by Pre-Trial Chamber II will disproportionately delay the Chamber in resolving the present request for authorisation, given the steps that would need to be followed. In

⁴ Situation in the Republic of Kenya, Order to the Victims Participation and Reparations Section Concerning Victims’ Representations Pursuant to Article 15 (3) of the Statute, 10 December 2009, ICC-01/09-4, paragraph 9.

⁵ According to their request, the Prosecution publicized a notice (1) by posting it on the ICC website, and sending it to a) its media contact database of 3,500 entries worldwide, b) 15 newspapers in Côte d’Ivoire which all published or referred to it in their 17 or 18 June edition, c) the main national TV and radio stations as well as ONUCI FM radio which also disseminated the information subsequently d) and about one hundred individual recipients (Ivorian civil society actors, NGO representatives and senders of art. 15 communications). In addition, from 27 June until 5 July, the Prosecution is conducting a mission to Côte d’Ivoire, during which it will further publicize the fact that it has requested the Chamber’s authorization to open an investigation into the situation in Côte d’Ivoire (ICC-02/11-3, paragraph 176).

⁶ ICC-02/11-3, paragraph 178.

the view of the bench, it is in the best interest of the victims for this application to be considered expeditiously.

9. The Chamber therefore concludes that it is appropriate to ask the VPRS to prepare a report for the Chamber based on the representations that are received following the notice given by the Prosecutor pursuant to rule 50(1) of the Rules. The Chamber may request additional information pursuant to rule 50(4) of the Rules at a later stage, if needed.

10. Rule 85 of the Rules provides the definition of "victims" for the purposes of article 15(3) of the Statute and rule 50(3) of the Rules. The Chamber is therefore of the view that any individual representations, to the extent possible, are to 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. For the limited purpose of ensuring the efficient conduct of the article 15 proceedings, the Chamber requests the VPRS to undertake an initial *prima facie* assessment to ensure that only those representations emanating from sources who are potentially victims within the meaning of rule 85 of the Rules are sent to the Chamber for consideration, within the context of the prosecution's present application. This initial rule 85 assessment by the VPRS is unrelated to any subsequent applications that may be made to participate in the proceedings, which will be considered separately in due course.

FOR THESE REASONS THE CHAMBER HEREBY ORDERS

- a) that all victims' representations received by the Court in relation to this application are provided forthwith to the VPRS;
- b) the VPRS to provide a single, consolidated report on the collective and individual representations, to be submitted to the Chamber by 1 August 2011 with the original representations annexed thereto.

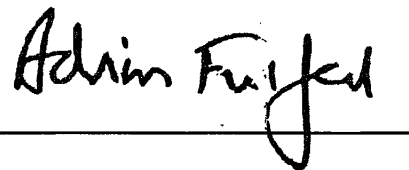
Done in both English and French, the English version being authoritative.



Judge Silvia Fernández de Gurmendi



Judge Elizabeth Odio Benito



Judge Adrian Fulford

Dated this 6 July 2011

At The Hague, The Netherlands