



Original: English

No. ICC-RoC46(3)-01/18

Date: 7 May 2018

PRE-TRIAL CHAMBER I

**Before: Judge Péter Kovács, Presiding Judge
Judge Marc Perrin de Brichambaut
Judge Reine Adélaïde Sophie Alapini-Gansou**

REQUEST UNDER REGULATION 46(3) OF THE REGULATIONS OF THE COURT

Public

Decision Inviting the Competent Authorities of the People's Republic of Bangladesh to Submit Observations pursuant to Rule 103(1) of the Rules of Procedure and Evidence on the "Prosecution's Request for a Ruling on Jurisdiction under Article 19(3) of the Statute"

Decision 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 the Defence

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

**The Office of Public Counsel for
Victims**

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

States Representatives

Competent Authorities of the
People's Republic of Bangladesh

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

PRE-TRIAL CHAMBER I (the “Chamber”) of the International Criminal Court (the “Court”) issues this decision inviting the competent authorities of the People’s Republic of Bangladesh (“Bangladesh”) to submit observations pursuant to Rule 103(1) of the Rules of Procedure and Evidence (the “Rules”) on the “Prosecution’s Request for a Ruling on Jurisdiction under Article 19(3) of the Statute” (the “Request” or the “Prosecutor’s Request”).

1. On 9 April 2018, the Prosecutor submitted her Request pursuant to regulation 46(3) of the Regulations of the Court and article 19(3) of the Rome Statute (the “Statute”).¹
2. On 11 April 2018, the President of the Pre-Trial Division assigned the Prosecutor’s Request to the Chamber.²
3. In the Request, the Prosecutor seeks a ruling from the Chamber on the question whether the Court may exercise jurisdiction over the alleged deportation of more than 670,000 members of the Rohingya people from Myanmar into Bangladesh.³ The specific legal matter arising from this Request is whether the Court may exercise territorial jurisdiction over alleged acts of deportation of persons from the territory of Myanmar (a State not party to the Statute) into the territory of Bangladesh (a State party to the Statute) on the basis of articles 7(1)(d) and 12(2)(a) of the Statute.
4. The Chamber notes article 21(1)(a) of the Statute and rule 103(1) of the Rules.

¹ ICC-RoC46(3)-01/18-1.

² President of the Pre-Trial Division, “Decision assigning the ‘Prosecution’s Request for a Ruling on Jurisdiction under Article 19(3) of the Statute’ to Pre-Trial Chamber I”, 11 April 2018, ICC-RoC46(3)-01/18-2.

³ Request, paras 2-3.

5. Rule 103(1) of the Rules of Procedure and Evidence provides that, “[a]t any stage of the proceedings, a Chamber may, if it considers it desirable for the proper determination of the case, invite or grant leave to a State, organization or person to submit, in writing or orally, any observation on any issue that the Chamber deems appropriate”.

6. Bangladesh has been particularly affected by the events concerning the alleged deportation of Rohingya people from Myanmar. Accordingly, the Chamber considers it appropriate to seek observations from the competent authorities of Bangladesh on the Prosecutor’s Request.⁴ Such observations would, in these particular circumstances, assist the Chamber in its determination of the Request *sub judice*.

7. Thus, the Chamber invites the competent authorities of Bangladesh to submit written observations, either publicly or confidentially, on the following matters: (i) the circumstances surrounding the presence of members of the Rohingya people from Myanmar on the territory of Bangladesh; (ii) the possibility of the Court’s exercise of territorial jurisdiction over the alleged deportation of members of the Rohingya people from Myanmar into Bangladesh; and (iii) any other matter in connection with the Prosecutor’s Request that, in the opinion of the competent authorities of Bangladesh, would assist the Chamber in its determination of this Request.

⁴ See also Request, para. 61.

FOR THESE REASONS, THE CHAMBER HEREBY

- a) **INVITES** the competent authorities of Bangladesh to submit written observations, either publicly or confidentially, on the Prosecutor's Request, as specified in paragraphs 6 and 7 of the present decision, by no later than 11 June 2018 at 16.00hrs; and
- b) **ORDERS** the Registrar to notify this decision to the competent authorities of Bangladesh together with a copy of the Prosecutor's Request.

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



Judge Péter Kovács
Presiding Judge



Judge Marc Perrin de Brichambaut



Judge Reine Adélaïde Sophie
Alapini-Gansou

Dated this Monday, 7 May 2018

At The Hague, The Netherlands