



Original: English

No.: ICC-01/19

Date: 26 June 2019

PRE-TRIAL CHAMBER III

Before: Judge Robert Fremr
Judge Olga Herrera Carbuca
Judge Geoffrey Henderson

**SITUATION IN THE PEOPLE'S REPUBLIC OF BANGLADESH / REPUBLIC OF
THE UNION OF MYANMAR**

PUBLIC

**Request for extension of page limit for a request for authorisation of an
investigation pursuant to article 15 of the Rome Statute**

Source: Office of the Prosecutor

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 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**

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Mr Philipp Ambach

I. INTRODUCTION

1. The Prosecution intends to seek authorisation from the Pre-Trial Chamber (“Chamber”) to proceed with an investigation into the situation in the People’s Republic of Bangladesh/Republic of the Union of Myanmar (“Situation in Bangladesh/Myanmar”) in the period since 9 October 2016, pursuant to article 15(3) of the Rome Statute and rule 50(2) of the Rules of Procedure and Evidence (“Article 15 Request”). The Prosecution seeks an extension of the page limit for its Article 15 Request, pursuant to regulation 37(2) of the Regulations of the Court (“Regulations”), to 146 pages, plus 40 pages across three annexes to be designated Confidential *ex parte* Annexes 5, 7 and 8.¹

II. SUBMISSIONS

2. The complexity of the factual and legal issues contained in the Article 15 Request,² constitute exceptional circumstances that warrant an extension of the page limit by an additional 126 pages. An extension of the page limit would permit the Prosecution to set forth in sufficient detail the factual and legal issues relevant to its request for authorisation from the Chamber to proceed with an investigation of the Situation in Bangladesh/Myanmar in the period since 9 October 2016. This would also ensure that the Chamber is furnished with adequate information to assess the merits of the Article 15 Request.³

¹ According to regulation 38(2)(e) of the Regulations, a request for authorisation of an investigation pursuant to article 15(3) and rule 50(2) “shall not exceed 60 pages”, unless otherwise ordered by the Chamber. The remaining Annexes 1, 2, 3, 4, 6, 9 and 10 consist of non-argumentative lists and maps.

² *Prosecutor v. Lubanga*, Decision on the “Prosecutor’s Motion for Extensions of the Time and Page Limits”, ICC-01/04-01/06-177, 3 July 2006, para. 6; *Prosecutor v. Lubanga*, Judgment on the appeals of Mr Lubanga Dyilo and the Prosecutor against the Decision of Trial Chamber I of 14 July 2009 entitled “Decision giving notice to the parties and participants that the legal characterisation of the facts may be subject to change in accordance with Regulation 55(2) of the Regulations of the Court”, ICC-01/04-01/06-2205, 8 December 2009, para. 21; *Prosecutor v. Katanga*, Decision on the “Urgent Defence Application for Extension of Page Limit for its Document in Support of Appeal against Trial Chamber II’s Decision of 21 November 2012 on Regulation 55 (Decision 3319)”, ICC-01/04-01/07-3334, 8 January 2013, para. 7.

³ *Situation in the Islamic Republic of Afghanistan*, Decision on the Prosecutor’s Request for Extension of the Page Limit, ICC-02/17-5, 9 November 2017, para. 7.

3. In particular, the requested extension of the page limit is warranted by the exceptional scale of the coercive acts underlying the alleged crime of deportation. The scale of the alleged criminality required the Prosecution to review a large body of documentation by intergovernmental, governmental and non-governmental organisations, as well as academic institutions and media agencies. The Article 15 Request references over 150 factual sources in its examination of potential crimes.
4. Further, the Prosecution has carefully considered the existence of other crimes, as referred to by Pre-Trial Chamber I in its Decision on the Prosecution's Request for a Ruling on Jurisdiction.⁴ Consideration of these potential crimes has called for additional detailed legal and factual analysis, to assist the Chamber in deciding upon the Article 15 Request.

III. RELIEF SOUGHT

5. The Prosecution requests the Chamber to grant an extension of the page limit for the Article 15 Request to 146 pages, plus 40 pages of annexed material, pursuant to regulation 37(2) of the Regulations.



Fatou Bensouda, Prosecutor

Dated this 26th day of June 2019

At The Hague, The Netherlands

⁴ Request under regulation 46(3) of the Regulations, Decision on the "Prosecution's Request for a Ruling on Jurisdiction under Article 19(3) of the Statute", ICC-RoC46(3)-01/18-37, 6 September 2018, paras. 74-79.