



Original: English

No.: ICC-01/13
Date: 4 February 2015

PRE-TRIAL CHAMBER I

**Before: Judge Silvia Fernández de Gurmendi, Presiding Judge
Judge Ekaterina Trendafilova
Judge Christine Van den Wyngaert**

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

Public

**Decision on the “Prosecution Request concerning its Response to the
Government of the Union of the Comoros’ Application under article
53(3)(a) of the Rome Statute, and the applicable time limit”**

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

The Office of the Prosecutor

Fatou Bensouda

James Stewart

Counsel for the Defence

Legal Representatives of the Victims

Legal Representatives of the 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

Geoffrey Nice

Rodney Dixon

Amicus Curiae

REGISTRY

Registrar

Herman von Hebel

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”) hereby issues the decision on the “Prosecution Request concerning its Response to the Government of the Union of the Comoros’ Application under article 53(3)(a) of the Rome Statute, and the applicable time limit” (the “Request”).¹

1. On 14 May 2013, the Union of the Comoros (“Comoros”) referred to the Prosecutor the situation “with respect to the 31 May 2010 Israeli raid on the Humanitarian Aid Flotilla bound for Gaza Strip”.² In a letter sent to the Prosecutor on 29 May 2013, the Comoros specified that, in terms of temporal scope, the referral encompasses incidents allegedly committed from 31 May 2010 through to “6 June 2010 and onwards”.³ In another letter to the Prosecutor dated 21 June 2013, the Comoros clarified that, in terms of territorial scope, the referral encompasses incidents allegedly committed on “other flotilla vessels bearing State party flags in addition to the *Mavi Marmara* [registered in the Comoros]”.⁴

2. On 5 July 2013, the Presidency assigned the present situation to the Chamber.⁵

3. On 6 November 2014, the Prosecutor publicly released a document entitled “Situation on Registered Vessels of Comoros, Greece and Cambodia: Article 53(1) Report” (the “Article 53(1) Report”), wherein she announced her

¹ ICC-01/13-4.

² See ICC-01/13-1-Anx1.

³ See ICC-01/13-1-Anx2.

⁴ *Id.*

⁵ “Decision Assigning the Situation on Registered Vessels of the Union of the Comoros, the Hellenic Republic and the Kingdom of Cambodia to Pre-Trial Chamber I”, ICC-01/13-1 and annexes.

determination that there was no reasonable basis to proceed with an investigation into the situation.⁶

4. On 29 January 2015, the Comoros submitted the “Application for Review pursuant to Article 53(3)(a) of the Prosecutor’s Decision of 6 November 2014 not to initiate an investigation in the Situation” (the “Application”).⁷ The Comoros request that the Chamber review the decision of the Prosecutor not to proceed and request the Prosecutor to reconsider that decision.⁸

5. On 30 January 2015, the Prosecutor submitted the Request, seeking that the Chamber “confirm that [the Prosecutor] is entitled to file a document not exceeding 100 pages in length in response to the Application, or [...] authorize such a response if necessary, to be filed not earlier than 30 March 2015”.⁹ The Prosecutor submits that “a document in response to the Application will both permit the Prosecution to clarify any areas of agreement or disagreement with [the Comoros], and to address [Comoros’] concerns in an open and public forum”.¹⁰ Making reference to the scope and length of the Application, the Prosecutor further submits that any time limit for her document responding to the Application should be set at no earlier than 30 March 2015.¹¹

6. The Chamber agrees with the Prosecutor that it is appropriate for its review under article 53(3)(a) of the Rome Statute to receive observations from the Prosecutor on the submissions made by the Comoros in the Application. In light of the nature of the matter at issue and the scope of the submissions in the Application, the Chamber also accepts the proposal of the Prosecutor to

⁶ The Article 53(1) Report is available at: [http://www.icc-cpi.int/iccdocs/otp/OTP-COM-Article_53\(1\)-Report-06Nov2014Eng.pdf](http://www.icc-cpi.int/iccdocs/otp/OTP-COM-Article_53(1)-Report-06Nov2014Eng.pdf) (last visited on 3 February 2015).

⁷ ICC-01/13-3-Conf and confidential annexes 1-3. A public redacted version is also available, see ICC-01/13-3-Red.

⁸ Application, para. 142.

⁹ Request, para. 15.

¹⁰ *Ibid.*, para. 9.

¹¹ *Ibid.*, para. 12.

set the time limit for the filing of the observations, not exceeding 100 pages, at 30 March 2015.

7. The Chamber also notes that the Article 53(1) Report, while publicly available, is currently not registered in the record of the situation. In order to ensure completeness of the record, the Chamber requests the Prosecutor to file the Article 53(1) Report in the record of the situation.

FOR THESE REASONS, THE CHAMBER

GRANTS the Prosecutor until 30 March 2015 to file observations on the Application;

REQUESTS the Prosecutor to file the Article 53(1) Report in the record of the situation.

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



Judge Silvia Fernández de Gurmendi
Presiding Judge



Judge Ekaterina Trendafilova



Judge Christine Van den Wyngaert

Dated this Wednesday, 4 February 2015

At The Hague, The Netherlands