



Original: **English**

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

Date: **11 April 2018**

PRESIDENT OF THE PRE-TRIAL DIVISION

Before: Judge Antoine Kesia-Mbe Mindua

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

Public

Decision assigning the "Prosecution's Request for a Ruling on Jurisdiction under Article 19(3) of the Statute" to Pre-Trial Chamber I

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

The Office of the Prosecutor

Fatou Bensouda, Prosecutor
James Stewart, Deputy Prosecutor

Counsel for Applicant

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

Other
Pre-Trial Chamber I
Presidency

REGISTRY

Registrar
Herman von Hebel

Division of Judicial Services

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Judge Antoine Kesia-Mbe Mindua, acting as President of the Pre-Trial Division of the International Criminal Court (the “Court”), hereby renders this decision on the “Prosecution’s Request for a Ruling on Jurisdiction under Article 19(3) of the Statute” (the “Request”), submitted to the President of the Pre-Trial Division under regulation 46(3) of the Regulations of the Court (the “Regulations”).

1. On 9 April 2018, the Prosecutor submitted her Request seeking a ruling under article 19(3) of the Rome Statute (the “Statute”) on whether the Court may exercise jurisdiction under article 12(2)(a) of the Statute over the alleged deportation of the Rohingya people from Myanmar to Bangladesh.¹ In this regard, the Prosecutor requested *inter alia* that the President of the Pre-Trial Division assign this matter promptly to a Pre-Trial Chamber.²

2. The President of the Pre-Trial Division notes regulation 46(3) of the Regulations whereby:

Any matter, request or information not arising out of a situation assigned to a Pre-Trial Chamber in accordance with sub-regulation 2, shall be directed by the President of the Pre-Trial Division to a Pre-Trial Chamber according to a roster established by the President of that Division.³

As previously held, regulation 46(3) of the Regulations requires the President of the Pre-Trial Division to direct the “matter, request or information” to a Pre-Trial Chamber “as long as the subject-matter [...] pertains to an issue that does not appear (a) to fall outside the competence of the Pre-Trial Chamber, or (b) to be manifestly frivolous”.⁴ In the event that the “matter, request or information” passes this test, the President of the Pre-Trial Division will order the Registrar, by way of email, to file the “matter, request or information” into the record ICC-RoC46(3) and assign it a

¹ ICC-RoC46(3)-01/18-1.

² ICC-RoC46(3)-01/18-1, para. 63.

³ A roster was established on 19 December 2007 by the then President of the Pre-Trial Division and amended on 30 June 2009; *see* “Administrative Decision concerning the establishment of a Roster according to regulation 46 para. 3 of the Regulations of the Court”, ICC-PTD-01/2007; and “Administrative Decision with Annex concerning the amendment of the Roster according to regulation 46(3) of the Regulations of the Court”, ICC-PTD-01/2009. *See also* the administrative decision dated 19 December 2007 addressed to the Registrar, ICC-PTD-02/2007, as amended by the administrative decision dated 18 February 2015, ICC-PTD-01/2015.

⁴ President of the Pre-Trial Division, “Decision assigning the ‘Request for review of the Prosecution’s decision of 23 April 2014 not to open a Preliminary Examination concerning alleged crimes committed in the Arab Republic of Egypt, and the Registrar’s Decision of 25 April 2014’ to Pre-Trial Chamber II”, 10 September 2014, ICC-RoC46(3)-01/14-1, para. 3.

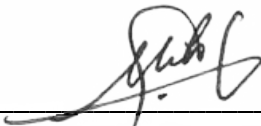
new serial number in a given year, as provided in regulations 20(1) and 27 of the Regulations of the Registry.⁵

3. Without any prejudice to the determination by the competent Pre-Trial Chamber, the President of the Pre-Trial Division is of the view that the matter raised in the Request fulfills the above criteria.

**FOR THESE REASONS, THE PRESIDENT OF THE PRE-TRIAL DIVISION
HEREBY**

- a) **ASSIGNS** the Request to Pre-Trial Chamber I; and
- b) **ORDERS** the Registrar to notify Pre-Trial Chamber I of the Request.

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



Judge Antoine Kesia-Mbe Mindua
President of the Pre-Trial Division

Dated this Wednesday, 11 April 2018

At The Hague, The Netherlands

⁵ President of the Pre-Trial Division, Administrative Decision establishing a procedure for the handling of any “matter, request or information” falling under regulation 46(3) of the Regulations of the Court, 18 February 2015, ICC-PTD-01/2015, para. 7. By virtue of an email dated 9 April 2018 from the Senior Legal Adviser of the Pre-Trial Division to the Court Management Section, the Request was filed into the record ICC-RoC46(3).