



Original: English

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

Date: 7 June 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 on the Request of Mr. Mohammad Hadi Zakerhossein for Leave to Submit
Amicus Curiae Observations pursuant to Rule 103(1) of the Rules of Procedure and
Evidence

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 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

Amicus Curiae

Mohammad Hadi Zakerhossein

REGISTRY

Registrar

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 on the request of Mr. Mohammad Hadi Zakerhossein (“Mr. Zakerhossein”) for leave to submit *amicus curiae* observations (the “Request”),¹ pursuant to rule 103(1) of the Rules of Procedure and Evidence (the “Rules”).

1. On 9 April 2018, the Prosecutor filed the “Prosecution’s Request for a Ruling on Jurisdiction under Article 19(3) of the Statute” (the “Prosecutor’s Request”), pursuant to regulation 46(3) of the Regulations of the Court and article 19(3) of the Rome Statute (the “Statute”).²

2. On 11 April 2018, the President of the Pre-Trial Division assigned the Prosecutor’s Request to the Chamber.³

3. On 29 May 2018, the Chamber granted leave to the International Commission of Jurists and members of the Canadian Partnership for International Justice to submit observations in writing on the Prosecutor’s Request, pursuant to rule 103(1) of the Rules.⁴

4. On 4 June 2018, the Chamber received the Request in which Mr. Zakerhossein sought leave to submit *amicus curiae* observations on the Prosecutor’s Request.⁵

5. The Chamber notes article 21(1)(a) of the Statute and rule 103 of the Rules. The Chamber recalls in particular rule 103(1) of the Rules, according to which the

¹ ICC-RoC46(3)-01/18-10.

² ICC-RoC46(3)-01/18-1.

³ 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.

⁴ Pre-Trial Chamber I, “Decision on the ‘Request for Leave to Submit Amicus Curiae Observations by the International Commission of Jurists (pursuant to Rule 103 of the Rules)’”, 29 May 2018, ICC-RoC46(3)-01/18-7; and “Decision on the ‘Request for leave to submit an *Amicus Curiae* brief 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*’”, 29 May 2018, ICC-RoC46(3)-01/18-8.

⁵ ICC-RoC46(3)-01/18-10, para. 1 and p. 5.

Chamber may, at any stage of the proceedings, “if it considers it desirable for the proper determination of the case, [...] grant leave to a State, organization or person to submit [...] any observation on any issue that the Chamber deems appropriate”.

6. The Chamber recalls that the Appeals Chamber has underlined that, when acting within the parameters of rule 103 of the Rules, the respective Chamber should take into consideration whether the proposed submission of observations may assist it “in the proper determination of the case”.⁶

7. The Chamber notes that Mr. Zakerhossein seeks to submit observations on the scope of the Court’s territorial jurisdiction pursuant to article 12(2) of the Statute and to provide the Chamber with a comparative analysis of the exercise of territorial jurisdiction in different national systems by focusing on a number of Islamic States.⁷ The Chamber recalls that on 29 May 2018 it has granted leave for two *amicus curiae* submissions to be made which also seek to address, *inter alia*, the scope of territorial jurisdiction under article 12(2) of the Statute and to provide the Chamber with a comparative analysis of the national exercise of territorial jurisdiction.⁸ Mr. Zakerhossein’s observations are therefore expected to overlap with the submissions for which the Chamber has already granted leave. Accordingly, the Chamber considers that in the present circumstances Mr. Zakerhossein’s observations are not desirable for the proper determination of the Prosecutor’s Request, within the meaning of rule 103 of the Rules.

⁶ Appeals Chamber, “Decision on ‘Motion for Leave to File Proposed Amicus Curiae Submission of the International Criminal Bar Pursuant to Rule 103 of the Rules of Procedure and Evidence’”, 22 April 2008, ICC-01/04-01/06-1289, para. 8.

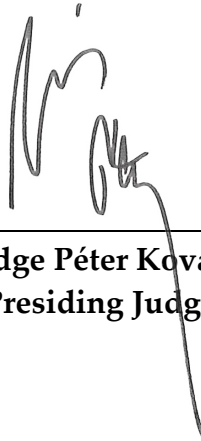
⁷ ICC-RoC46(3)-01/18-10, paras 8-9.

⁸ ICC-RoC46(3)-01/18-5, para. 16; and ICC-RoC46(3)-01/18-6, para. 13.

FOR THESE REASONS, THE CHAMBER HEREBY

REJECTS the 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 Thursday, 7 June 2018

At The Hague, The Netherlands