

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

No.: ICC-01/16  
Date: **11 September 2019**

**PRE-TRIAL CHAMBER I**

**Before:** Judge Marc Perrin de Brichambaut  
Judge Reine Alapini-Gansou  
Judge Péter Kovács

**SITUATION IN THE GABONESE REPUBLIC**

**Public**

**Prosecutor's notice of her decision under article 15(6) of the 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**

**The Office of Public Counsel for Victims**

Ms Paolina Massidda

**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**

1. On 28 September 2016, acting in accordance with regulation 45 of the Regulations of the Court, the Prosecutor notified the Presidency of her receipt of a referral from the Government of the Gabonese Republic pursuant to article 14 of the Rome Statute.
2. On 4 October 2016, the Presidency assigned the Situation in the Gabonese Republic to Pre-Trial Chamber II in accordance with regulation 46 of the Regulations of the Court.<sup>1</sup> On 16 March 2018, the Presidency re-assigned the situation in the Gabonese Republic from Pre-Trial Chamber II to Pre-Trial Chamber I.<sup>2</sup>
3. On 21 September 2018, the Prosecutor determined that the legal requirements for opening an investigation into the situation in the Gabonese Republic had not been satisfied. In particular, the Prosecutor concluded that there was no reasonable basis to believe that the acts allegedly committed in Gabon in the context of the 2016 post-election violence, either by members of the opposition or by the Gabonese security forces, constituted crimes against humanity within the meaning of the Rome Statute of the ICC. Nor did the information available provide a reasonable basis to believe that the crime of incitement to genocide was committed during the election campaign.<sup>3</sup>
4. Pursuant to rules 49 and 105(2), the Prosecutor provided notice of her decision under article 15(6) to those who provided information to the Office, while advising of the possibility to submit further information regarding the same situation in the light of new facts and evidence. The Prosecutor issued a detailed report presenting and explaining her findings.<sup>4</sup>
5. Following the lapse of 90 days following the notification of the Prosecutor's decision not to proceed, no request for review of her decision was made by the Gabonese Republic pursuant to article 53(3).
6. The Prosecution observes that there appears to be no specific procedure set out in the Court's legal instruments for the termination of proceedings in such circumstances. Considering that the situation remains assigned to Pre-Trial Chamber I, but given that no

<sup>1</sup> *Situation in the Gabonese Republic*, Decision assigning the Situation in the Gabonese Republic to Pre-Trial Chamber II, ICC-01/16-1, 4 October 2016.

<sup>2</sup> *Situation in the Gabonese Republic*, Decision assigning judges to divisions and recomposing Chambers, ICC-01/16-2, 16 March 2018.

<sup>3</sup> [\*International Criminal Court Prosecutor on Gabon: "The legal criteria for this Court to investigate have not been met"\*](#), ICC-OTP, 21 September 2018.

<sup>4</sup> *Situation in the Gabonese Republic*, [Article 5 Report](#), ICC-OTP, 21 September 2018.

further judicial proceedings are envisaged to arise from the situation, the Prosecution invites the Chamber to formally terminate the situation record.



---

Fatou Bensouda, Prosecutor

Dated this 11<sup>th</sup> day of September 2019

At The Hague, The Netherlands