

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

No.: ICC-01/22

Date: 7 March 2022

**PRE-TRIAL CHAMBER II**

**Before:** Judge Rosario Salvatore Aitala  
Judge Antoine Kesia-Mbe Mindua  
Judge Tomoko Akane

**SITUATION IN UKRAINE**

**Public**

**with Public Annexes A, C, D, E and Confidential Annex B**

**Notification on receipt of referrals and on initiation of investigation**

**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**

Mr Karim A. A. Khan QC  
Ms Nazhat Shameen Khan  
Mr Alexis Demirdjian

**Counsel for the Defence**

**Legal Representatives of Victims**

**Legal Representatives of Applicants**

**Unrepresented Victims**

**Unrepresented Applicants  
(Participation/Reparation)**

**The Office of Public Counsel for  
Victims**

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

**States Representatives**

Competent authorities of Ukraine

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Mr Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

## I. Introduction

1. The Prosecutor hereby informs Pre-Trial Chamber II that it has received referrals with respect to the situation in Ukraine and has decided to open an investigation in the situation. Although the Prosecutor had notified the Presidency of its intention to submit a request to the Pre-Trial Chamber for authorisation to open an investigation under article 15 of the Statute, this is no longer required in light of the referrals received from 40 State Parties.

## II. Classification

2. This notification and its annexes are filed publicly, except for Annex B which, pursuant to Regulation 23*bis*, is filed confidentially as the submitting State requested that their article 15 communication and the information contained therein be treated confidentially.

## III. Notification

3. On 1 March 2022, the Prosecutor submitted a memorandum to the Presidency in accordance with regulation 45 of the Regulations of the Court (the 'Regulations'), informing that he intends to submit a request to a Pre-Trial Chamber for authorisation to open an investigation into the situation in Ukraine, under article 15(3) of the Rome Statute.<sup>1</sup>
4. On 1 March 2022, the Prosecutor received a State Party referral from the Republic of Lithuania, pursuant to articles 13(a) and 14(1) of the Statute.<sup>2</sup>

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<sup>1</sup> ICC-01/22-1-AnxI.

<sup>2</sup> Annex A. The referral submitted by Lithuania referenced an earlier communication transmitted by the Republic of Lithuania on 28 February 2022, transmitted confidentially under article 15 of the Statute, which submitted, on the basis of the information contained therein, that there was a reasonable basis to believe that war crimes and crimes against humanity have been committed in Ukraine since at least 24 February 2022 (*see* Annex B).

5. On 2 March 2022, the Prosecutor received State Party referrals from the following 38 States Parties, pursuant to articles 13(a) and 14(1) of the Statute: Republic of Albania, Commonwealth of Australia, Republic of Austria, Kingdom of Belgium, Republic of Bulgaria, Canada, Republic of Colombia, Republic of Costa Rica, Republic of Croatia, Republic of Cyprus, Czech Republic, Kingdom of Denmark, Republic of Estonia, Republic of Finland, Republic of France, Georgia, Federal Republic of Germany, Hellenic Republic, Hungary, Republic of Iceland, Ireland, Republic of Italy, Republic of Latvia, Principality of Liechtenstein, Grand Duchy of Luxembourg, Republic of Malta, New Zealand, Kingdom of Norway, Kingdom of the Netherlands, Republic of Poland, Republic of Portugal, Romania, Slovak Republic, Republic of Slovenia, Kingdom of Spain, Kingdom of Sweden, Swiss Confederation, United Kingdom of Great Britain and Northern Ireland.<sup>3</sup>
6. The referral by the above group of States Parties was submitted as an annex to a letter signed on behalf of the Government of the United Kingdom. The letter stated that the referral was submitted acting in coordination with the said grouping of States Parties, representatives of which were placed in copy. The letter informed that each such representatives would submit a signed communication to the Office of the Prosecutor shortly.<sup>4</sup> Since receipt of this letter, the Prosecution can confirm that it has started to receive a number of such signed communications, with others to follow. The Prosecution transmits communications received so far to the Chamber and will transmit the remainder once collated.<sup>5</sup>
7. On 7 March 2022, the Prosecutor was additionally informed by the Republic of North Macedonia that it also wished to associate itself with the above mentioned referral.<sup>6</sup>

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<sup>3</sup> Annex C.

<sup>4</sup> The letter also specified that with respect to two States Parties, Bulgaria and Sweden, the participation of that State in the referral was pending a final decision by its respective government.

<sup>5</sup> Annex D.

<sup>6</sup> Annex E.

8. The above referral by the group of States Parties specifies that the participating States “[d]ecide to refer the Situation in Ukraine to the Prosecutor of the International Criminal Court for the purpose of requesting the Prosecutor to investigate any acts of war crimes, crimes against humanity and genocide alleged to have occurred on the territory of Ukraine from 21 November 2013 onwards, including any allegations of current and ongoing crimes occurring throughout the territory of Ukraine, thereby requesting the Court to exercise its jurisdiction with respect to the jurisdictional scope accepted by Ukraine”.
9. In view of the referrals received, and acting further to the Prosecutor’s notification to the Presidency of 1 March 2022 under regulation 45 of the Regulations of the Court, the Prosecutor submitted on 2 March 2022 a second notification to the Presidency, in order to provide notice of the above procedural development with respect to the exercise of the Court’s jurisdiction.
10. The Prosecutor further notified the Presidency that having previously determined that there is a reasonable basis to proceed with an investigation into the Situation in Ukraine, namely in relation to the events already assessed during the preliminary examination by the Office, he had decided to initiate an investigation into the Situation in Ukraine from 21 November 2013 onwards acting under article 53(1) of the Statute. The Prosecutor thereafter proceeded to convey the referral documentation received to the Presidency.
11. Finally, the Prosecutor’s second notification to the Presidency noted that given that the situation has already been assigned by the Presidency to Pre-Trial Chamber II, it would also be filing this information into the record of the situation.

12. On the same day, the Prosecutor provided public notice of his decision, on the basis of the referrals received, to proceed with opening an investigation into the Situation in Ukraine from 21 November 2013 onwards.<sup>7</sup>
13. The Prosecutor will also proceed to notify all States Parties and those States which, taking into account the information available, would normally exercise jurisdiction over the crimes concerned, of the commencement of the investigation, pursuant to article 18(1) of the Statute.
14. The Prosecutor stands ready to provide the Chamber any additional information it may require at this stage.



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**Mr Karim A. A. Khan QC, Prosecutor**

Dated this 7<sup>th</sup> day of March 2022  
At The Hague, The Netherlands

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<sup>7</sup> [Statement of ICC Prosecutor, Karim A.A. Khan QC, on the Situation in Ukraine: Receipt of Referrals from 39 States Parties and the Opening of an Investigation](#), 2 March 2022.