

**Cour
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**International
Criminal
Court**

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PRE-TRIAL CHAMBER I

Before: Judge Péter Kovács, Presiding Judge
Judge Marc Perrin de Brichambaut
Judge Reine Adélaïde Sophie Alapini-Gansou

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

Public

**Victims' Response to the Prosecutor's "Request for Leave to
Appeal the 'Decision on the 'Application for Judicial
Review by the Government of the Union of the Comoros'"**

Source: Office of Public Counsel for Victims

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

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I. INTRODUCTION

1. The Principal Counsel of the Office of Public Counsel for Victims, acting as legal representative of the unrepresented victims (the “Principal Counsel”)¹ respectfully submits that the Prosecution’s “Request for Leave to Appeal the ‘Decision on the ‘Application for Judicial Review by the Government of the Union of the Comoros’” (the “Request”)² should be rejected.

2. In particular, the Principal Counsel contends that all the three purported issues referred to in the Request either do not properly arise from the “Decision on the ‘Application for Judicial Review by the Government of the Union of the Comoros’” (the “Impugned Decision”)³ or fail to properly constitute appealable issues. In any case, even if the Pre-Trial Chamber (the Chamber) deems otherwise, the Request further fails to meet the remaining criteria for granting interlocutory appeals under article 82(1)(d) of the Rome Statute (the “Statute”).

II. PROCEDURAL HISTORY

3. On 14 May 2013, the authorities of the Union of the Comoros (the “Comoros”) referred to the Prosecutor the situation relating to the incidents allegedly committed from 31 May 2010 through 5 June 2010 on Registered Vessels of the Union of the

¹ See the “Decision on the Victims’ Participation in the Situation” (Pre-Trial Chamber I), No. ICC-01/13-18, 24 April 2015, para. 17; and the “Decision on the Requests for Withdrawal of the Legal Representative of Victims pursuant to Regulation 82 of the Regulations of the Court” (Pre-Trial Chamber I), No. ICC-01/13-54, 26 September 2016.

² See the “Request for Leave to Appeal the ‘Decision on the ‘Application for Judicial Review by the Government of the Union of the Comoros’”, No. ICC-01/13-69, 21 November 2018 (the “Request”).

³ See the “Decision on the ‘Application for Judicial Review by the Government of the Union of the Comoros’” (Pre-Trial Chamber I), No. ICC-01/13-68, 15 November 2018 (the “Impugned Decision”).

Comoros, the Hellenic Republic and the Kingdom of Cambodia bound for the Gaza Strip.⁴

4. On 6 November 2014, the Prosecutor reached a decision not to open an investigation in the situation (the “Decision Not to Investigate”).⁵ On 29 January 2015, the Comoros requested the Chamber to review the Decision Not to Investigate and direct the Prosecutor to reconsider said decision (the “First Request for Review”).⁶

5. On 16 July 2015, the Chamber rendered its ruling on the Request for Review, requesting the Prosecutor to reconsider her decision not to initiate an investigation in the situation (the “Review Decision”).⁷

6. On 27 July 2015, the Prosecutor filed the Notice of Appeal of the Review Decision.⁸ On 6 November 2015, the majority of the Appeals Chamber found said appeal inadmissible.⁹

⁴ See the “Annex 1: 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” (Presidency), No. ICC-01/13-1-Anx1, 5 July 2013.

⁵ See “Situation on Registered Vessels of Comoros, Greece, and Cambodia: Article 53(1) Report”, No. ICC-01/13-6-AnxA, 4 February 2015 (dated 6 November 2014), paras. 149-151 (the “Decision Not to Investigate”).

⁶ See 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”, No. ICC-01/13-3-Conf, 29 January 2015 (the “First Request for Review”).

⁷ See the “Decision on the request of the Union of the Comoros to review the Prosecutor’s decision not to initiate an investigation” (Pre-Trial Chamber I), No. ICC-01/13-34, 16 July 2015 (the “Review Decision”).

⁸ See the “Notice of Appeal of the ‘Decision on the request of the Union of the Comoros to review the Prosecutor’s decision not to initiate an investigation’”, No. ICC-01/13-35, 27 July 2015.

⁹ See the “Decision on the admissibility of the Prosecutor’s appeal against the ‘Decision on the request of the Union of the Comoros to review the Prosecutor’s decision not to initiate an investigation’” (Appeals Chamber), No. ICC-01/13-51 OA, 6 November 2015. See also the “Joint dissenting opinion of Judge Silvia Fernández De Gurmendi and Judge Christine Van Den Wyngaert”, No. ICC-01/13-51-Anx OA, 6 November 2015.

7. On 29 November 2017, the Prosecutor notified her further decision not to initiate an investigation in the situation following the Chamber's ruling (the "29 November 2017 Decision").¹⁰

8. On 23 February 2018, the referring State filed a further "Application for Judicial Review by the Government of the Union of the Comoros" (the "Application for Review"),¹¹ asking the Chamber to review the 29 November 2017 Decision. On 2 March 2018, the Chamber extended until 3 April 2018 the time limit for responding to said Application.¹² On 13 March 2018, the Prosecutor filed her response,¹³ requesting the dismissal of the Application for Review for lack of jurisdiction and the stay of the deadline to respond pending a ruling on the matter. On 15 March 2018, the Comoros requested the Chamber to maintain said deadline for the submissions on the jurisdiction and the merits or to permit the Comoros to respond by said date to the Prosecutor's response.¹⁴

9. On 29 March 2018, the Principal Counsel filed her response to the Application for Review.¹⁵ On 3 April 2018, the other team of Legal Representative of Victims also responded to said Application.¹⁶

¹⁰ See the "Annex 1 to the Notice of Prosecutor's Final Decision under Rule 108(3)", No. ICC-01/13-57-Anx1, 30 November 2017 (the "29 November 2017 Decision").

¹¹ See the "Application for Judicial Review by the Government of the Union of the Comoros", with Confidential Annexes 1-3, No. ICC-01/13-58-Conf, 26 February 2018. A public redacted version was made available on the same day, see ICC-01/13-58-Red.

¹² See the "Decision on the Request for an Extension of Time" (Pre-Trial Chamber I), No. ICC-01/13-60, 2 March 2018.

¹³ See the "Prosecution's Response to the Government of the Union of the Comoros' "Application for Judicial Review" (ICC-01/13-58) (Lack of Jurisdiction)", No. ICC-01/13-61, 13 March 2018.

¹⁴ See the "Application by the Government of the Comoros regarding the Pre-Trial Chamber's Scheduling Order", No. ICC-01/13-62, 15 March 2018.

¹⁵ See the "Victims' Response to the Application for Judicial Review by the Government of the Union of the Comoros", ICC-01/13-65-Conf, 29 March 2018 (Pursuant to Pre-Trial Chamber I's instruction, dated 6 April 2018, this document was reclassified as "Public")

¹⁶ See the "Victims' Response to the Application for Judicial Review by the Government of the Comoros filed pursuant to the Pre-Trial Chamber's 'Decision on the Request for an Extension of Time' of 2 March 2018, No. ICC-01/13-66, 3 April 2018.

10. On 15 November 2018, the Chamber, by majority, rendered the Impugned Decision which, *inter alia*, found that “the 29 November 2017 decision cannot be considered to be final within the meaning of rule 108(3) of the Rules” and partially granted the Application for Review, instructing the Prosecutor to reconsider her decision on the basis of the guidelines of the Chamber by 15 May 2019.¹⁷

11. On 21 November 2018, the Prosecutor filed the Request.¹⁸

III. SUBMISSIONS

A. Applicable law

12. Article 82(l)(d) of the Statute sets out the criteria for granting a request for leave to appeal as follows: (a) the decision shall involve an issue that would significantly affect: (i) the fair and expeditious conduct of proceedings; or (ii) the outcome of the trial; and (b) for which, in the opinion of the relevant Chamber, an immediate resolution by the Appeals Chamber may materially advance the proceedings.

13. For the purposes of the first prong of the above mentioned test, the Appeals Chamber defined an “issue” as “an identifiable subject or topic requiring a decision for its resolution, not merely a question over which there is disagreement or conflicting opinion”.¹⁹ Moreover, the Appeals Chamber ruled that “the Pre-Trial or Trial Chamber is vested with power to state, or more accurately still, to certify the existence of an appealable issue”.²⁰

¹⁷ See the Impugned Decision, *supra* note 3, pp. 44-45.

¹⁸ See the Request, *supra* note 2.

¹⁹ See the “Judgement on the Prosecutor’s Application for Extraordinary Review of Pre-Trial Chamber I’s 31 March 2006 Decision Denying Leave to Appeal” (Appeals Chamber), No. ICC-01/04-168 OA3, 13 July 2006, para. 9.

²⁰ *Idem*, para. 20.

14. Consequently, it must first be determined whether the purported “issues” in the Request are “*appealable issues*” within the meaning of article 82(1)(d) of the Statute as interpreted by the jurisprudence of the Court. Indeed, “*while an application for leave to appeal should not contain in detail the arguments which the party intends to raise before the Appeals Chamber, it must still identify clearly the appealable issue, including by way of indicating a specific factual and/or legal error. Only in this case can the Chamber assess whether the issue, provided it was wrongly decided, may have implications on the fairness and expeditiousness of the proceedings or outcome of the trial*”.²¹

B. Merits of the Purported “Issues”

15. The Prosecutor identifies three purported issues in her Request. At the outset, the Principal Counsel underlines that the Prosecutor does not clearly identify whether these matters constitute legal, factual or procedural error(s). In any case, the first purported issue is phrased as follows:

1. *Whether the Pre-Trial Chamber may entertain and rule upon the merits of further requests for reconsideration under article 53(3)(a) of the Statute, once the Prosecutor has formally notified the Pre-Trial Chamber of her final decision not to initiate an investigation under rule 108(3).*²²

16. The Principal Counsel submits that the first purported issue does not arise from the Impugned Decision. Indeed, according to the explicit wording of the Chamber’ reasoning and the dispositive part of the Impugned Decision, “*the 29 November 2017 decision cannot be considered to be final within the meaning of rule 108(3) of the Rules.*”²³ Consequently, what happened in the proceedings so far is not what the Prosecutor alleges in the Request, which is that the Chamber would have entertained

²¹ See the “Decision on the Gbagbo Defence request for leave to appeal the ‘Decision on Defence requests relating to the Prosecution’s Pre-Trial Brief’” (Trial Chamber I), No. ICC-02/11-01/11-307, 21 October 2015, para. 70.

²² See the Request, *supra* note 2, para. 9.

²³ See the Impugned Decision, , *supra* note 3, paras. 114-116 and p. 45 (emphasis added.)

and ruled upon the requests for reconsideration under article 53(3)(a) of the Statute after she had formally notified her *final* decision not to initiate an investigation under rule 108(3) of the Rules of Procedure and Evidence (“the Rules”). This simply did not take place because the Prosecutor’s decision at hand was not *final*. This finding was stated in an absolutely clear fashion in the Impugned Decision. Thus, the Prosecutor mischaracterises the proceedings in question and further misconstrues the relevant rulings of the Chamber contained in the Impugned Decision.

17. As held by the Appeals Chamber, a properly constituted appealable issue must first and foremost arise from the Impugned Decision.²⁴ In other words, the issue identified by the appellant must be a “specific issue” which has been dealt within²⁵ or must “emanate” from the Impugned Decision and “cannot represent a hypothetical concern or abstract legal question”.²⁶ Yet, as shown above, the purported ruling that the Prosecutor presently challenges is extraneous to the Impugned Decision.

18. Even if the Prosecutor insists that her 29 November 2017 Decision is final, the purported “first issue” should still fail since such differing view is nothing more than a mere disagreement with the relevant ruling, contesting the Chamber’s conclusions.²⁷ Especially, when a party challenges the legal interpretation of statutory instruments, more is needed than simply expressing a difference of opinion

²⁴ See the “Judgment on the Prosecutor’s Application for Extraordinary Review of Pre-Trial Chamber I’s 31 March 2006 Decision Denying Leave to Appeal”, *supra* note 19, para. 9.

²⁵ See the “Decision on the ‘Defence Application for Leave to Appeal the ‘Decision on the defence request for a temporary stay of proceedings’”, (Trial Chamber IV), No. ICC-02/05-03/09-428, No. 13 December 2012, para. 7.

²⁶ See the “Decision on the Prosecutor’s and Defence requests for leave to appeal the decision adjourning the hearing on the confirmation of charges”, No. ICC-02/11-01/11-464, 31 July 2013, para. 8 and the “Decision on the Defence Request for Leave to Appeal”, (Pre-Trial Chamber II), No. ICC-01/04-02/06-207, 13 January 2014, para. 11.

²⁷ See the “Decision on the ‘Request for Leave to Appeal against the ‘Decision on the Request for an order for the commencement of the pre-confirmation phase by the Defence of Saif Al-Islam Gaddafi’” (Pre-Trial Chamber I), No. ICC-01/11-01/11-490, 11 December 2013, para. 31 and the “Decision on Defence requests for leave to appeal the ‘Order setting the commencement date for trial’” (Trial Chamber I), No. ICC-02/11-01/15-117, 02 July 2015, para. 22.

regarding the question *sub judice* or with the interpretation provided by the Chamber in the Impugned Decision.²⁸ Again, “*mere disagreement*” or “*conflict of opinion*” do not constitute an “*appealable issue*” within the meaning of article 82(1)(d) of the Statute.²⁹ Therefore, the purported first issue does not arise from the Impugned Decision.

19. The second purported issue is phrased as follows:

2. *Whether and under what circumstances the Pre-Trial Chamber may set aside the conclusion and reasons of the Prosecutor — her final decision not to initiate an investigation — once it has been formally notified to the Pre-Trial Chamber under rule 108(3).*³⁰

20. Again, the Principal Counsel submits that the second purported issue does not arise from the Impugned Decision. As elaborated above, the 29 November 2017 Decision is not considered to be final within the meaning of rule 108(3) of the Rules. Thus, the Prosecutor again mischaracterises the plain nature of said decision and further misconstrues the relevant ruling of the Chamber.

21. Moreover, the Chamber never made such blanket rulings that the Prosecutor now alleges since the Impugned Decision does not even attempt to define “[w]hether and under what circumstances the Pre-Trial Chamber may set aside the conclusion and reasons of the Prosecutor — her final decision not to initiate an investigation — once it has been formally notified to the Pre-Trial Chamber under rule 108(3).” Indeed, the Prosecutor now either challenges non-existent rulings or, at least, grossly and inadmissibly expands the relevant rulings contained in the Impugned Decisions. Consequently, the second purported issue does not emanate from the Impugned Decision.

²⁸ See the “Decision on the ‘Requête de la Défense sollicitant l’autorisation d’interjeter appel de la Décision sur la confirmation des charges datée du 9 juin 2014’”, (Pre-Trial Chamber II), No. ICC-01/04-02/06-322, 4 July 2014, para. 33.

²⁹ See the “Judgement on the Prosecutor’s Application for Extraordinary Review of Pre-Trial Chamber I’s 31 March 2006 Decision Denying Leave to Appeal”, *supra* note 19, para. 9.

³⁰ See the Request, *supra* note 2, para. 11.

22. Moreover, the Principal Counsel submits that the second purported issue calls for a purely academic exercise before the Appeals Chamber. These matters, in particular, the propriety and the specific circumstances in which the Chamber may “set aside the conclusion and reasons of the Prosecutor — her final decision not to initiate an investigation” were not adjudicated before the Chamber. Nor was the Chamber under any legal obligation to make such theoretical rulings. Simply, the Chamber cannot possibly have made any factual or legal findings in relation to such matters since the 29 November 2017 Decision is not considered to be final within the meaning of rule 108(3) of the Rules.

23. As stressed earlier, an appealable “issue” must be a “subject or topic requiring a decision for its resolution”,³¹ identifying “a specific factual and/or legal error.”³² On the contrary, the Request raises a hypothetical issue which did not form a part of the Chamber’s ruling in the Impugned Decision and is unavailable for the Appeals Chamber’s review.

24. While the propriety and the specific circumstances in which the Chamber may set aside the conclusion and reasons of the Prosecutor’s decision not to investigate may be of interest to the Prosecutor, “the mere fact that an issue is of general interest or that, given its overall importance, could be raised in, or affect, future pre-trial or trial proceedings before the Court is not sufficient to warrant the granting of leave to appeal”.³³ This reflects the narrow parameters of interlocutory appeals under the Statute, excluding any possibility to lodge appeals on matters such as general importance to

³¹ See the “Judgement on the Prosecutor’s Application for Extraordinary Review of Pre-Trial Chamber I’s 31 March 2006 Decision Denying Leave to Appeal”, *supra* note 19, para. 9

³² See the “Decision on the Gbagbo Defence request for leave to appeal the Decision on Defence requests relating to the Prosecution’s Pre-Trial Brief”, *supra* note 21, para. 70.

³³ See the “Decision on Prosecutor’s Application for Leave to Appeal in Part Pre-Trial Chamber II’s Decision on the Prosecutor’s Applications for Warrants of Arrest under Article 58” (Pre-Trial Chamber II), No. ICC-02/04-01/05-20-US-Exp, 19 August 2005, para. 21. Further unsealed pursuant to Decision no. ICC-02/04-01/05-52 dated 13 October 2005.

proceedings, like other international criminal tribunals have allowed.³⁴ Thus, the second purported issue fails to arise from the Impugned Decision.

25. The third proposed issue is phrased as follows:

3. *Whether the Prosecutor, in carrying out a reconsideration under article 53(3)(a) of the Statute and rule 108, is obliged to accept particular conclusions of law or fact contained in the Pre-Trial Chamber's request, or whether she may continue to draw her own conclusions provided that she has properly directed her mind to these issues.*³⁵

26. The Principal Counsel submits that the third purported issue also fails to constitute an appealable issue. Indeed, the Prosecutor asks whether she is obliged to accept "*particular conclusions of law or fact*" contained in the Chamber's request or whether she may draw her own conclusions. As it stands, this issue is framed in an overly broad manner without pointing to specific legal or factual error(s) that the Chamber allegedly committed. Depending on one's manner of interpretation, there could be number of particular conclusions of law or fact in a judicial decision. Yet, the Prosecutor fails to specify even single such conclusion, either legal or factual, made by the Chamber. Thus, it is plain that the Prosecutor now challenges the entirety of the Impugned Decision via this issue.

27. Yet, in accordance with the established jurisprudence of the Court, article 82(l)(d) of the Statute "*requires the parties to articulate discrete issues for Appeals Chamber's resolution and [...] it is generally insufficient to argue that the entirety of the Chamber's reasoning is erroneous when requesting leave to appeal*".³⁶ Moreover, the issues

³⁴ *Idem*, para. 16.

³⁵ See the Request, *supra* note 2, para. 13.

³⁶ See the "Decision on the joint defence request for leave to appeal the decision on witness preparation" (Trial Chamber V), No. ICC-01/09-01/11-596, 11 February 2013, para. 11; and the "Decision on Defence Request for Reconsideration of or Leave to Appeal/Decision on 'Defence Request for Disclosure and Judicial Assistance'" (Trial Chamber VII), No. ICC-01/05-01/13-1282, 22 September 2015, para. 10.

for which a party seeks leave to appeal must not be “*generic assertions*”³⁷; in other words, issues whose formulation is exceedingly broad or so general, essentially challenging the entirety of the Chamber’s reasoning, are not sufficiently discrete to qualify as appealable issues.³⁸ Indeed, “[i]t is not the Chamber’s duty to decompose broadly formulated issues in order to identify potential issues for certification.”³⁹ A party seeking leave to appeal a decision must “*identify clearly the appealable issue, including by way of indicating a specific factual and/or legal error*” and “[l]eave to appeal cannot be granted if the party seeking to appeal, instead of identifying appealable issues, seeks leave to litigate *ex novo* before the Appeals Chamber the entire decision”.⁴⁰

28. Consequently, the Principal Counsel argues that the third purported issue fails to properly constitute an appealable issue since it is not only formulated in an overly broad manner but also is a challenge to the entirety of the Impugned Decision.

29. Even if the Chamber considers that the three purported issues referred to in the Request properly arise from the Impugned Decision or constitute appealable issues, the Principal Counsel contends that the remaining requirements of article 82(1)(d) of the Statute are not fulfilled.

³⁷ See the “Decision on Defence Request for Leave to Appeal Decision on the Request to strike two witnesses from the Prosecution’s Witness List” (Trial Chamber VII), No. ICC-01/05-01/13-1307, 28 September 2015, para. 14.

³⁸ See the “Decision on the joint defence request for leave to appeal the decision on witness preparation”, *supra* note 36, para. 17; the “Decision on the ‘Defence Application for Leave to Appeal the ‘Decision on the defence request for a temporary stay of proceedings’” (Trial Chamber IV), No. ICC-02/05-03/09-428, 13 December 2012, para. 28; the “Decision on the Prosecutor’s and Defence requests for leave to appeal the decision adjourning the hearing on the confirmation of charges”, *supra* note 26, para. 67 and the “Decision on Babala Defence request for leave to appeal ICC-01/05-01/13-800” (Trial Chamber VII), No. ICC-01/05-01/13-877, 27 March 2015, para. 7.

³⁹ See the “Decision on the Prosecutor’s and Defence requests for leave to appeal the decision adjourning the hearing on the confirmation of charges”, *supra* note 26, para. 70.

⁴⁰ See the “Decision on three applications for leave to appeal” (Pre-Trial Chamber I), No. ICC-02/11-01/11-307, 30 November 2012, para. 70 (emphasis added).

30. Firstly, these purported issues would not significantly affect the fair and expeditious conduct of the proceedings. They cannot possibly have any impact on the fairness of the proceedings since the Chamber has adequately treated each party's requested reliefs in strict compliance of the Statute and the Rules. Indeed, in issuing the Impugned Decision, the Chamber did provide the Prosecutor with fair and ample time and opportunity to reconsider her decision not to investigate, after having heard the submissions of the referring State and the views and concerns of the victims. Similarly, these purported issues do not have any impact on the expeditious conduct of the proceedings. Since the issuance of the Impugned Decision, it solely depends on the Prosecutor herself who will decide the amount of time and resources that she will employ in making her determination whether or not to reconsider her decision not to investigate. The Prosecutor's arguments related to *potential* difficulties it might face due to the alleged uncertainty of the future proceedings are purely speculative and unsubstantiated.

31. Moreover, an immediate resolution by the Appeals Chamber of the purported issues would not materially advance the proceedings. Indeed, it must be stressed that the Appeals Chamber's review is "*corrective in nature*"⁴¹ and an appeal is conducted with the purpose of reviewing the proceedings that took place before a lower Chamber.⁴² However, the purported issues either do not arise from the Impugned Decision or fail to properly constitute appealable issue(s). Consequently, the Appeals Chamber cannot be asked to engage in an academic exercise, supported by speculative arguments. Moreover, an intervention by the Appeals Chamber cannot in

⁴¹ See the "Judgment on the appeal of the Prosecutor against the decision of Trial Chamber IV of 12 September 2011 entitled 'Reasons for the Order on translation of witness statements (ICC-02/05-03/09-199) and additional instructions on translation'" (Appeals Chamber), No. ICC-02/05-03/09-295 OA2, 17 February 2012, para. 20.

⁴² See the "Decision on the 'Filing of Updated Investigation Report by the Government of Kenya in the Appeal against the Pre-Trial Chamber's Decision on Admissibility'" (Appeals Chamber), No. ICC-01/09-02/11-202 OA, 28 July 2011, para. 11.

any way accelerate the Prosecutor's own decision making process on whether to reconsider her decision not to investigate.

32. Therefore, the Principal Counsel posits that none of the issues identified by the Request constitutes appealable issues nor do they meet the stringent requirements for granting interlocutory appeal under article 82(1)(d) of the Statute.

33. Lastly, the Principal Counsel wishes to stress that victims – as indicated by the Chamber - demand an expeditious proceeding since *“extended preliminary examinations affect the rights of victims and maintain them in a state which is prejudicial”*.⁴³ This is particularly true in the present situation in which victims have been waiting to know whether their quest to justice will be pursued by the Court since several years already.

34. In this regard, should the Chamber grant the Request, the Principal Counsel opposes the Prosecutor's application to provisionally stay the effects of the Impugned Decision.⁴⁴ Indeed, said application is contrary to the victims' interests and has no legal basis in the texts governing the Court.

⁴³ See the Impugned Decision, *supra* note 3, para. 120.

⁴⁴ See the Request, *supra* note 2, para. 22.

IV. CONCLUSION

35. For the foregoing reasons, the Principal Counsel requests the Chamber to reject the Request.

A handwritten signature in black ink, reading "Paolina Massidda". The signature is written in a cursive style and is underlined.

Paolina Massidda
Principal Counsel

Dated this 26th day of November 2018

At The Hague, The Netherlands