

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: ICC-01/13
Date: 12 February 2019

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' Request in relation to the Application submitted by the Shurat Ha-Din –
Israeli Law Centre**

Source: Office of Public Counsel for Victims

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 Defence

Legal Representatives of the Victims

Mr Rodney Dixon
Ms Paolina Massidda

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda
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**The Office of Public Counsel for the
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States' Representatives

Mr Rodney Dixon

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I. PROCEDURAL HISTORY

1. On 1 February 2019, the Registry transmitted to the Pre-Trial Chamber (the “Chamber”), the parties and participants an application (the “Application”) received from the *Shurat Ha-Din* – Israel Law Centre (the “Applicant”) relating to an alleged dispute concerning the judicial function of the Court pursuant to article 119(1) of the Rome Statute (the “Statute”).¹

2. On 5 February 2019, the Prosecution filed a “Request to Dismiss *In Limine* the Application under Article 119(1) by *Shurat Ha-Din*” (the “Prosecution’s Request”).²

3. On 8 February 2019, the Registry transmitted to the Chamber, the parties and participants two more documents received from the Applicant, one of which contained a request for leave to reply to the Prosecution’s Request (the “Request to Reply”).³ In the same document, the Applicant also asked that its observations be received as *amicus curiae* pursuant to rule 103(1) of the Rules of Procedure and Evidence (the “Rules”).⁴

II. SUBMISSIONS

4. While not taking a position on the merits of the Application, the Principal Counsel of the Office of Public Counsel for Victims, acting as legal representative of the unrepresented victims (the “Principal Counsel”)⁵ submits that the Application

¹ See the “Transmission of Three Documents received from the Shurat Ha-Din – Israel Law Centre”, No. ICC-01/13-82, 1 February 2019, in particular its Annex 1 (the “Application”).

² See the “Request to Dismiss *In Limine* an Application under Article 119(1) by *Shurat Ha-Din*”, No. ICC-01/13-83, 5 February 2019 (the “Prosecution’s Request”).

³ See the “Transmission of Two Documents received from the Shurat Ha-Din – Israel Law Centre”-, No. ICC-01/13-84, 8 February 2019, in particular its Annex 1, (the “Request to Reply”).

⁴ *Idem*, para. 7.

⁵ 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

should be dismissed *in limine*. Indeed, the Applicant does not have *locus standi* before the Chamber. *Shurat Ha-Din* – a non-governmental organisation - is neither a party, nor a participant in the present proceedings, nor did it obtain standing as *amicus curiae* to submit observations pursuant to rule 103 of the Rules.

5. Given the lack of standing, the Applicant conversely has no right to request leave to reply to the Prosecution's Request which is provided for "participants" by regulation 24(5) of the Regulations of the Court.

6. Furthermore, the Applicant's incidental request to be considered as *amicus curiae*⁶ should also be dismissed *in limine*. In this regard, the Applicant is attempting to intervene in the current proceedings trying to amend its original request after the Prosecution has filed its response. Should the Chamber, however, be minded to entertain the *de facto* request to be heard as *amicus curiae* pursuant to rule 103 of the Rules, the Principal Counsel opposes said request on the basis that the Applicant has not shown that the issues are relevant to a matter properly before the Chamber at this stage of the proceedings, nor that its intervention is desirable for the proper determination of the proceedings.

7. Finally, the Principal Counsel concurs with the Prosecution that article 119(1) of the Statute does not confer *per se* standing upon third parties to intervene in perceived or actual disputes concerning judicial functions.⁷ She also underlines that the Applicant is misrepresenting a previous decision of the Chamber on a jurisdictional matter issued on 6 September 2018.⁸ Indeed, in that proceedings, the Chamber recognised the victims' standing pursuant to article 68(3) of the Statute;⁹

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.

⁶ See the Request to Reply, *supra* note 3, paras. 3-4..

⁷ See the Prosecution's Request, *supra* note 2, paras. 2-3.

⁸ See the "Decision on the "Prosecution's Request for a Ruling on Jurisdiction under Article 19(30) of the Statute"" (Pre-Trial Chamber I), No. ICC-RoC46(3)-01/18-37, 6 September 2018.

⁹*Idem*, para. 21.

and nothing in said ruling can be understood as to confer a general right of *locus standi* on 'any interested party' as suggested by the Applicant.¹⁰

III. CONCLUSION

8. For the foregoing reasons, the Principal Counsel respectfully requests the Chamber to reject *in limine* the Application, the Request to Reply, and the incidental request to appear as *amicus curiae* contained in the latter, submitted by the Applicant.



Paolina Massidda
Principal Counsel

Dated this 12th day of February 2019

At The Hague, The Netherlands

¹⁰ See the Application, *supra* note 1, para. 15.