

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

No.: **ICC- ROC46(3)-01/24**

Date: **16 June 2025**

**PRE-TRIAL CHAMBER I**

**Before:** Judge Iulia Antoanella Motoc, Presiding Judge  
Judge Reine Adélaïde Sophie Alapini-Gansou  
Judge María del Socorro Flores Liera

**REQUEST UNDER REGULATION 46(3) OF THE REGULATIONS OF THE  
COURT**

**Public**

**Decision on a request to compel the Prosecution to seek authorisation to open an  
investigation in relation to Nigeria**

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

**The Office of the Prosecutor**

**Counsel for the Defence**

**Legal Representatives of the Victims**

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants  
(Participation/Reparation)**

**The Office of Public Counsel for Victims**

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

**States' Representatives**

**Amicus Curiae**

## **REGISTRY**

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**Registrar**

Mr Osvaldo Zavala Giler

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

Amnesty International

**PRE-TRIAL CHAMBER I** (the ‘Chamber’) of the International Criminal Court (the ‘Court’), by majority, Judge María del Socorro Flores Liera dissenting, hereby issues the present decision.

## **I. Relevant procedural history**

1. On 3 December 2024, the Registry transmitted a filing submitted by Amnesty International, entitled the ‘Victims’ request for clarification and an order to compel the Prosecutor to act on their legal obligations under article 15(3)’ (the ‘Request’),<sup>1</sup> to the President of the Pre-Trial Division.<sup>2</sup>
2. On 5 December 2024, the Request was assigned to the Chamber.<sup>3</sup>
3. On 13 December 2024, the Prosecution filed its response to the Request (the ‘Prosecution’s Response’).<sup>4</sup>
4. On 19 December 2025, the Registry transmitted the a request by Amnesty International doe leave to reply to the Prosecution’s Response (the ‘Request for Leave to Reply’) to the Chamber’).<sup>5</sup>

## **II. Determination**

5. In the Request, Amnesty International submits that ‘[h]aving concluded that there is a reasonable basis to proceed with an investigation into the situation in Nigeria, [...]was and still is under a legal obligation to request authorisation from the Pre-Trial Chamber to do so, without further delay’. According to Amnesty International, the Prosecution should request such authorisation ‘in view of the rights of victims’, in particular their ‘right to information about the status and progress of criminal proceedings’. Furthermore, Amnesty International requests the Chamber to, *inter alia*, ‘find that, in failing to request authorisation to open an investigation into the situation in Nigeria, the Prosecutor is acting inconsistently with their obligation under

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<sup>1</sup> ICC-ROC46(3)-01/24-1-Anx1.

<sup>2</sup> Registry Transmission of “Victims’ Request for Clarification and an Order to Compel the Prosecutor to Act on their Legal Obligations under Article 15(3)”, ICC-ROC46(3)-01/24-1.

<sup>3</sup> Decision assigning the ‘Victims’ request for clarification and an order to compel the Prosecutor to act on their legal obligations under article 15(3)’, ICC-ROC46(3)-01/24-2.

<sup>4</sup> Prosecution’s response to the ‘Victims’ request for clarification and an order to compel the Prosecutor to act on their legal obligations under article 15(3), ICC-ROC46(3)-01/24-3.

<sup>5</sup> Registry Transmission of the “Request for leave to Reply to the “Prosecution’s response to the ‘Victims’ request for clarification and an order to compel the Prosecutor to act on their legal obligations under article 15(3)”, ICC-ROC46(3)-01/24-4. The Request for leave to Reply to the “Prosecution’s response to the ‘Victims’ request for clarification and an order to compel the Prosecutor to act on their legal obligations under article 15(3)” was sent to the Registry by email on 18 December 2024.

article 15(3) of the Statute’ and that the Chamber ‘take any appropriate measures to remedy the situation’.<sup>6</sup>

6. According to the Prosecution, the Request must be dismissed *in limine* because the applicants ‘lack standing in the absence of any judicial proceedings’ and ‘[j]udicial proceedings under article 15 can only be initiated by the Prosecutor, and the Prosecutor has not yet determined how to proceed’.<sup>7</sup>

7. The following determination is made by majority, consisting of Judge Motoc and Judge Alapini-Gansou, with Judge Flores Liera dissenting. As set out in her dissenting opinion, appended to the present decision, Judge Flores Liera would have granted the request.

8. The majority notes that on 11 December 2020, the Prosecution announced ‘the conclusion of the preliminary examination of the situation in Nigeria’ and that with ‘the statutory criteria for opening an investigation into the situation in Nigeria hav[ing] been met’,<sup>8</sup> ‘the next step will be to request authorisation from the Judges of the Pre-Trial Chamber of the Court to open investigations.’<sup>9</sup> In the Prosecution’s Response, it is explained that following the aforementioned announcement, the Prosecution ‘continued to engage with the national authorities in Nigeria to support relevant national proceedings in line with the principle of complementarity’ and that its engagement ‘included the review of additional information on relevant cases provided by the Nigerian authorities’.<sup>10</sup>

9. In 2022, after the new Prosecutor had taken office, he indicated that the Prosecution ‘will continue to fulfil its statutory obligations in relation to the situation in Nigeria, in cooperation with relevant national authorities’.<sup>11</sup> The Prosecution, in pointing to the ‘Policy on Complementarity and Cooperation’ of 2024 and a visit to Nigeria by one of the Deputy Prosecutor in 2024, it ‘has renewed its commitment to supporting domestic accountability efforts in appropriate circumstances, while moving forward with investigations if necessary in the absence of relevant proceedings’ and that the Prosecution ‘has continued to engage with the Nigerian authorities’.

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<sup>6</sup> Request, para. 85.

<sup>7</sup> Prosecution’s Response, para. 8.

<sup>8</sup> Report on Preliminary Examination Activities 2020, 14 December 2020, para. 248.

<sup>9</sup> Press Release, ‘Statement of the Prosecutor, Fatou Bensouda, on the conclusion of the preliminary examination of the situation in Nigeria’, 11 December 2020.

<sup>10</sup> Prosecution’s response to the ‘Victims’ request for clarification and an order to compel the Prosecutor to act on their legal obligations under article 15(3), 13 December 2024, ICC-ROC46(3)-01/24-3, para. 11.

<sup>11</sup> ICC Prosecutor, Mr Karim A.A. Khan QC, concludes first official visit to Nigeria, 22 April 2022.

10. In these circumstances, the majority considers that although it is not clear when the Prosecution will request authorisation to open an investigation in Nigeria, with the Prosecution working on complementarity matters with Nigeria, the Chamber does not have the power, at present, to make a finding on the Prosecution's obligation under article 15(3) of the Statute, as requested by Amnesty International.

11. As the requests seeks actions that are beyond the Chamber's reach, the majority considers that, irrespective of whether the applicants actually have *locus standi* to submit any request in relation to a matter for which no authorisation to investigate has been requested, the Request must be dismissed.

12. Accordingly, the Request for Leave to Reply is also rejected.

**FOR THESE REASONS, THE CHAMBER, BY MAJORITY, HEREBY**

**DISMISSES** the Request;

**REJECTS** the Request for Leave to Reply; and

**INSTRUCTS** the Registry to transmit this decision to Amnesty International.

Judge María del Socorro Flores Liera appends a dissenting opinion.

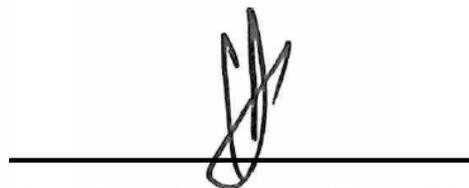
Done in English. A French translation will follow. The English version remains authoritative.



**Judge Iulia Antoanella Motoc, Presiding**



**Judge Reine Adélaïde Sophie Alapini-  
Gansou**



**Judge María del Socorro Flores Liera**

Dated this Monday, 16 June 2025

At The Hague, The Netherlands