

 **CHAPTER IV**

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Unless otherwise specified:

“Article”: refers to the Rome Statute
“Rule”: refers to the Rules of Procedure and Evidence
“Regulation”: refers to the Regulations of the Court
“Regulation (RR)”: refers to the Regulations of the Registry
“Regulation (VTF)”: refers to the Regulations of the Trust Fund for Victims

INTRODUCTION

Under the Statute of the ICC, for the first time before an international criminal tribunal, victims have been granted access to the proceedings and the possibility of presenting their views and concerns. The participation of victims in proceedings represents a landmark development in international criminal justice.

“...[T]he victims participation regime established by the drafters of the Statute ensued from a debate that took place in the context of the growing emphasis placed on the role of victims by the international body of human rights law and by international humanitarian law ... **the Statute grants victims an independent voice and role in proceedings before the Court.** It should be possible to exercise this independence, in particular, vis-à-vis the Prosecutor of the International Criminal Court so that victims can present their interests”.

Decision on the applications for participation in the proceedings of VPRS 1 – 6, Pre-Trial Chamber I, 17 January 2006¹

This Chapter outlines the regime for victims’ participation as set out in the instruments governing the ICC and as applied in the first decisions of the Court². However, readers should bear in mind that a number of issues remain to be clarified by the Chambers.

All actors involved in the Court, including victims’ legal representatives have an important role in shaping the system of victim participation and ensuring its success. FIDH continues to work to ensure that the Court fully acknowledges that the participation of victims in no way jeopardizes the functioning of the ICC but on the contrary legitimizes its very existence.

1. Paras. 50-51.

2. The ICC booklet, “*Victims before the International Criminal Court: A Guide for the participation of victims in the proceedings of the Court*” has been very helpful in identifying the main issues in relation to the participation of victims before the ICC and several diagrams included in the booklet have been inserted into this chapter. The booklet is available at: http://www.icc-cpi.int/library/victims/VPRS_Booklet_En.pdf.

I. THE DIFFERENT ROLES OF VICTIMS BEFORE THE ICC

1. Victims as independent participants

The Rome Statute and the Rules of Procedure and Evidence of the ICC grant victims an **independent role** in proceedings. Unlike the International Tribunal for the Former Yugoslavia (ICTY) and the International Tribunal for Rwanda (ICTR)³, where victims have to rely on the Prosecutor, judges, or third parties acting as *amici curiae* to represent their interests, the ICC allows victims to **present their views and concerns** to the Court, at all stages of proceedings, **when their interests are affected**.

Victims participating before the ICC as independent participants are entitled to have a **legal representative**⁵.



It is for the judges to decide whether victims who apply to participate in proceedings are victims of the situation or the case under investigation or prosecution, whether their interests are affected and on the form and the timing of their participation.

Once victims' requests to participate have been granted, they have certain rights under the Rome Statute as independent participants in proceedings. Firstly, the Court is obliged to allow them to present their views and concerns whenever their personal interests are affected. In addition they have the right to be notified of developments in the proceedings, and the right to receive appropriate measures of protection.

It is important to note that the procedure for requesting reparations is an independent procedure. ***Victims do not have to participate in pre-trial or trial proceedings in order to make a claim for reparations.***

Sections II and III of this Chapter set out in detail the procedure for victims to participate independently in ICC proceedings.

There are at least three other ways for victims to participate in proceedings before the ICC:

- Submitting information to the Prosecutor (2)
- Testifying as witnesses (3)
- Submitting *amicus curiae* (4)

2. Submitting information to the Prosecutor

Victims have an important role in submitting information to the Prosecutor on the commission of crimes that they consider to fall within the ICC's jurisdiction⁶. Such information can contribute to the opening of an investigation⁷, as well as to ongoing investigations and prosecutions. NGOs and other members of civil society can also submit information.

There is no particular requirement concerning the form of the document to be used to submit such information.

³. See Chapter I, *The Evolution of Victims' Access to Justice*.

⁴. See below at I(3).

⁵. See Chapter V, *Legal Representation*.

⁶. For an explanation of the crimes which come under the ICC's jurisdiction, see Chapter II, *Introduction to the ICC*.

⁷. For details of the Prosecutor's power to open an investigation on his own initiative, or 'proprio motu', see Chapter II, *Introduction to the ICC*, and below at section III (1.1.1).

Information can be of a general nature: for example, the types of crimes committed, the human rights situation, suspected perpetrators, victims, the national justice system, including its ability and willingness to investigate and prosecute perpetrators etc. Information can also focus on specific crimes and include testimonies of witnesses and victims, photographs, images, recordings etc.

These submissions are referred to as “communications” in the language of the Court. The legal basis for such communications is Article 15 (1).

It is important to highlight that victims can request the Prosecutor to keep all or some of the information confidential. In order to do so, the communication should specify that such information is provided “*on the condition of confidentiality and solely for the purpose of generating new evidence*” as specified in Article 54 (3)(e).

On analysis of the information received, the Prosecutor may seek additional information from a range of sources, including victims and NGOs, and may ask to receive written or oral testimony at the seat of the Court⁸.

3. Testifying as witnesses

Victims can testify before the Court as witnesses, at the request of the prosecution or the defence, or of other victims participating in the proceedings.

As witnesses, victims give evidence to the Court to serve the interests of the party calling them and respond to the questions put to them. As a result, they do not necessarily have the opportunity to present their own views and concerns.

Before the ICTY and ICTR victims of crimes can only participate as witnesses⁹.

Main differences between being a participant and appearing as a witness	
Victim as a participant	Victim as a witness
Participation is voluntary	Called by the defence, the prosecution, other victims participating in the proceedings or the Chamber
Communicating to the Court their own interests and concerns	Serve the interests of the Court and the party that calls them
It is up to the victims to decide what they want to say	Give evidence in testifying and answering related questions
Participation is possible at all stages of proceedings when considered appropriate by the Judges	Called to testify at a specific time
Always entitled to be represented before the ICC by a legal representative	Does not normally have a legal representative
Normally participates via a legal representative, and need not appear in person	Always testify in person

*Victims before the International Criminal Court: A Guide for the participation of victims in the proceedings of the Court, ICC official booklet*¹⁰

8. Article 15(2).

9. See Chapter I, *The Evolution of Victims' Access to Justice*.

10. http://www.icc-cpi.int/library/victims/VPRS_Booklet_En.pdf.

4. Submitting an amicus curiae

An amicus curiae, literally translated as “friend of the court” refers to someone, not a party to a case, who submits information on an aspect of the proceedings in order to assist the court in deciding an issue before it. Such submissions can be made by States, organisations, including NGOs, or individuals, including victims.

Under Rule 103, a Chamber may “invite or grant leave to a State, organization or person to submit in writing or orally any observation on any issue that the Chamber deems appropriate”. The decision whether to admit the information lies with the discretion of the Court.

The ICC has already invited and received several amicus curiae submissions.



EXAMPLES OF AMICI CURIAE BEFORE THE ICC

In relation to the situation in Darfur/ Sudan, on 24 July 2006, Pre-trial Chamber I asked the UN High Commissioner for Human Rights, Louise Arbour, and the former Chairperson of the UN Commission of Inquiry on Darfur, Antonio Cassese, to submit observations on the issues of victim protection and preservation of evidence¹¹.

In the case of *The Prosecutor v. Thomas Lubanga Dyilo* (DRC), Women’s Initiatives for Gender Justice, an international women’s rights NGO, requested leave to file an amicus curiae on the issue of the scope of the charges brought against the defendant, and in particular the absence of charges for gender crimes¹². The Pre-Trial Chamber refused to allow such a submission in the Lubanga case, but invited the organisation to resubmit the request to file an amicus curiae in relation to the situation in the DRC as a whole¹³.

¹¹. *Decision inviting observations in application of Rule 103 of the Rules of Procedure and Evidence*, 24 July 2006, ICC-02/05-10. For the observations submitted, see *Observations on issues concerning the protection of victims and the preservation of evidence in the proceedings on Darfur pending before the ICC*, 25 August 2006, ICC-02/05-14 and *Observations of the United Nations High Commissioner for Human Rights invited in application of Rule 103 of the Rules of Procedure and Evidence*, 10 October 2006, ICC-02/05-19.

¹². *Request submitted pursuant to Rule 103 (1) of the Rules of Procedure and Evidence for Leave to Participate as Amicus Curiae in the Article 61 Confirmation Proceedings (with Confidential Annex 2)*, 7 September 2006, ICC-01/04-01/06-403.

¹³. *Decision on Request pursuant to Rule 103 (1) of the Statute*, 26 September 2006, ICC-01/04-01/06-480.

II. VICTIMS AS INDEPENDENT PARTICIPANTS: THE APPLICATION PROCEDURE

The central provision of the Rome Statute on victims' participation is **Article 68(3)**, which provides:

“Where the personal interests of the victims are affected, the Court shall permit their views and concerns to be presented and considered at stages of the proceedings determined to be appropriate by the Court and in a manner which is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial”.

Victims are required to submit applications for participation to the Court (section 1).

The judges decide whether the criteria for participation are fulfilled and, if so, the appropriate timing and manner of participation (section 2).

1. Making the application

1.1. Form and contents of the application

Rule 89 (1) requires victims to submit **written applications** to the Registry.

The completed application should be sent to the Victims Participation and Reparation Section (VPRS).



VICTIMS PARTICIPATION AND REPARATION SECTION

ICC - International Criminal Court – Victims Participation and Reparation Section
P.O. Box 19519, 2500 CM The Hague – The Netherlands
Tel: + 31 (0)70 515 85 15
Fax: +31 (0)70 515 85 55
Email: vprs@icc-cpi.int



The application must contain, “to the extent possible”, the following information¹⁴:

- The identity and address of the victim, or the address to which the victim requests all communications to be sent;
- A description of the harm suffered resulting from the commission of any crime within the jurisdiction of the Court. If the victim is an organization or an institution, a description of any direct harm¹⁵;
- A description of the incident, including its location and date and, to the extent possible, the identity of the person or persons the victim believes to be responsible for the harm;
- Any relevant supporting documentation, including names and addresses of witnesses;
- Information as to why the personal interests of the victim are affected;
- Information on the stage of the proceedings in which the victim wishes to participate;
- If applicable, the relief sought;
- Names and addresses of legal representatives, if any.

Victims can also request assistance in finding a legal representative and, where necessary, assistance to finance legal representation¹⁶.

¹⁴. Regulation 86(2).

¹⁵. As described in Rule 85(b).

¹⁶. See further Chapter V, *Legal Representation*.

The VPRS has produced two **standard application forms** for participation¹⁷, one for individuals (or in the language of the Court, '*natural persons*') and one for organizations¹⁸ (since both can be recognised as victims under Rule 85)¹⁹. The VPRS has also produced a booklet with guidance to victims on filling out the forms²⁰.

However, it should be noted that **it is not compulsory to use the standard form**: according to Regulation 86 (1), the standard forms are to be used "to the extent possible" by victims. In addition, where a person is unable to make an application in written form, due to disability or illiteracy, that person can make such an application "in audio, video or other electronic form"²¹.



The possibility of using other forms for participation was confirmed by Pre-Trial Chamber I in its decision of 17 January 2006²². The six victims, all of whose applications to participate were accepted by the Chamber, used a form designed by FIDH. Applying Regulation 86 (1), the Chamber concluded that, "the use of [standard] forms is not compulsory and that the Applicants are entitled to use FIDH forms. It should further be noted that the applications for participation submitted by FIDH contain the information required by regulation 86, sub-regulation 2"²³.

In all cases, if the information provided is incomplete, the Registry can ask victims or their legal representatives to supply the missing information²⁴.

Victims who are concerned about the consequences of revealing information for their own or others' security or well-being can request that the information given on the form is not revealed to the Prosecutor, defence and/or is not included in the public records of proceedings.

1.2. Making application forms available to victims

The Registrar is required to make the application forms available as widely as possible to victims, groups of victims, intergovernmental and non-governmental organisations and others that may be able to assist in their dissemination²⁵. To this end, the Registry should increase and strengthen the presence of the VPRS in the field in order to identify and maintain contact with these 'intermediaries'.

1.3. Assistance in making an application

The form is difficult to complete, and it is advisable for victims to obtain assistance. In this preliminary contact with the Court many victims will not be equipped to seek legal representation. Victims can request assistance from the VPRS in filling out the application. The VPRS can also assist victims in choosing a legal representative²⁶. ICC field offices can also provide advice on completing forms and obtaining assistance.

¹⁷. In accordance with Regulation 86.

¹⁸. Copies of the standard application forms are provided in the additional documents section of this Chapter. These can also be found at: <http://www.icc-cpi.int/victimissues/victimsparticipation/victimsparticipationForm.html>.

¹⁹. See Chapter I, *The Evolution of Victims' Access to Justice*.

²⁰. The booklet is available at: http://www.icc-cpi.int/library/victims/VPRS_Booklet_En.pdf.

²¹. Rule 102.

²². *Decision on the applications for participation in the proceedings of VPRS 1–6*, 17 January 2006, ICC-01/04-101.

²³. *Ibid.*, para 102. For the information required under Regulation 86 (2), see text box above.

²⁴. Regulation 86(4) and Regulation (RR) 107 (3)-(4).

²⁵. Regulation 86(1).

²⁶. See further Chapter V, *Legal Representation*.

1.4. Submitting the application

Applications can be submitted directly by victims. In order to facilitate the participation of victims without access to the Court, applications can also be submitted by 'a person acting with the consent of the victim' or 'a person acting on behalf of the victim'²⁷.

The term 'persons' under Rule 89 (3) has been interpreted by the Court to include non-governmental organisations.



In its decision on the applications for participation of VPRS 1-6, Pre-Trial Chamber I rejected the argument made by defence counsel that FIDH did not have standing to submit the victims' applications since 'it is not a natural person within the meaning of Rule 89 (3)²⁸. The Chamber pointed out that Rule 89 uses the term 'person' and does not specify 'natural person' and concluded that this provision should therefore be interpreted to include both natural and legal persons²⁹.

In such cases the application must indicate the identity and address of the person or organisation (or the address to which all communications should be sent)³⁰.

Persons acting with the consent of victims

This term includes victims' legal representatives. In addition to the information listed above, the application must show that the victim has consented to be represented by another person or organisation. Victims' legal representatives are required to submit a power of attorney to show such consent "at the earliest opportunity"³¹.

Persons acting on behalf of victims

It is expressly provided that persons or organizations can submit applications on behalf of a victim who is a child or, when necessary, a victim who is disabled. In such a case evidence on the situation of the victim must be presented with the application for participation, either in writing or "in audio, video or other electronic form"³².

1.5. Timing of the application

When should the application be submitted? Regulation 86 (3) provides that victims must "to the extent possible" submit their applications for participation to the Registry before the start of the stage of the proceedings (preliminary examination stage, pre-trial stage, trial stage, appeal stage) in which they want to participate.

²⁷. Rule 89(3).

²⁸. *Decision on the applications for participation in the proceedings of VPRS 1 – 6*, 17 January 2006, ICC-01/04-101, para 104.

²⁹. *Ibid.*

³⁰. Regulation 86.

³¹. Rules 22(1) and 90 (6) and see further Chapter V, *Legal Representation*.

³². See Regulation 86(2) and Rule 102.



FROM WHAT STAGE IN THE PROCEEDINGS CAN VICTIMS PARTICIPATE?

Article 68 (3) simply states that victims' views and concerns can be "presented and considered at stages of the proceedings *determined to be appropriate* by the Court"³³.

The standard form for participation contains a list which the victim and/or the legal representative needs to complete to indicate at which stage of proceedings the applicant wishes to participate. The options are³⁴:

- Preliminary examination stage
- Pre-trial stage
- Trial stage
- Appeal stage

However, the general regime for participation at the preliminary examination and pre-trial stage remains controversial. The Office of the Prosecutor has consistently opposed the wider participation of victims at this stage. Although the Pre-Trial Chamber in its decision of 17 January 2006 accepted the victims' requests to participate at the stage of the investigation and provided guidance on the regime for participation, the Prosecutor submitted an extraordinary appeal against this decision. This appeal was dismissed by the Appeals Chamber on 13 July 2006³⁵.

2. The Court's decision whether to allow participation

2.1. Procedure for analysing the application

On receipt of the application, the VPRS conducts a preliminary analysis. This analysis is submitted together with the application to the relevant Chamber³⁶.

The Chamber conducts its own analysis of the application and may request further information³⁷.



In order to evaluate the applications of VPRS 1 to 6, Pre-Trial Chamber I held a hearing on 12 July 2005 with the legal representatives of the victims and representatives of FIDH (which had submitted the applications), to receive further information on the requests for participation and measures of protection³⁸.

Before deciding whether to authorise participation, copies of applications for participation are provided to the Prosecutor and the defence³⁹.

In accordance with its general obligation to consider the issue of protection of victims and witnesses, the Chamber is required to make necessary provisions for the protection of the applicants, including where necessary and consistent with the rights of the accused, concealing the victims' identities and locations⁴⁰.

³³. Emphasis added.

³⁴. Standard Application Form to Participate in Proceedings Before the International Criminal Court for Individual Victims and Persons Acting on Their Behalf, Part C. See additional documents section of this Chapter.

³⁵. Judgement on the Prosecutor's Application for Extraordinary Review of PTCI's 31 March 2006 Decision Denying Leave to Appeal, 13 July 2006, ICC-01/04-168.

³⁶. Rule 89(i), Regulation 86 (5) and Regulation (RR) 109.

³⁷. Regulation 86(7).

³⁸. See Press Release, 14 July 2005, http://www.icc-cpi.int/cases/RDC/so104/so104_pr20050714&l=en.html. The hearing was held in closed session and the full transcript of the hearing was redacted in order to protect the victims' identities.

³⁹. Rule 89(i).

⁴⁰. Articles 57(3) (c), 64(2) and (6) (e), 68(i). In the *Decision on protective measures requested by applicants 01/04-1/dp to 01/04-6/dp*, of 21 July 2005, the Pre-Trial Chamber I made specific orders for protection in respect of applicants VPRS 1 to 6. See further Chapter VI, *Protection, support and assistance*.

The Prosecutor and the defence can submit their views on the applications, within a time limit set by the Chamber. Victims have a further opportunity to reply to these views. The Chamber then issues a decision, accepting or rejecting the application. If the application is accepted the Chamber also defines the scope and manner of participation⁴¹. In all cases the Chamber must ensure that the rights of the accused and a fair and impartial trial are not prejudiced⁴².

Where there are a number of applications, in order to ensure the effectiveness of the proceedings, the Chamber can consider them together and issue one decision⁴³.

It should be emphasised that “a victim whose application has been rejected may file a new application later in the proceedings”⁴⁴.

2.2. Core criteria for analysing the application

Under Article 68 (3), the Chamber must evaluate:

- Whether the applicant is a “victim” in the proceedings before the Court; and
- Whether the personal interests of the victims are affected⁴⁵.

2.2.1. Whether the applicant is a ‘victim’ in the proceedings before the Court

Victims are defined in Rule 85 of the Rules of Procedure and Evidence.



THE DEFINITION OF VICTIM (RULE 85)

For the purposes of the Statute and the Rules of Procedure and Evidence:

- (a) “Victims” means **natural persons** who have **suffered harm as a result of the commission of any crime within the jurisdiction of the Court**;
- (b) Victims may include **organizations or institutions** that have sustained **direct harm** to any of their **property** which is dedicated to religion, education, art or science or charitable purposes, and to their historic monuments, hospitals and other places and objects for humanitarian purposes.

• Natural persons/ organisations or institutions

See Chapter I, *The Evolution of Victims’ Access to Justice*, for an explanation of the two categories of victims⁴⁶.

• The definition of “harm”

There is no provision specifying the types of harm that individuals must have suffered to be considered victims under Rule 85. However, in the context of the other provisions of the Rome Statute and the Rules of Procedure and Evidence, as mentioned in the records of the negotiations of these instruments⁴⁷, and in accordance with international human rights law⁴⁸, harm

41. Rule 89(1).

42. Article 68(1) and (3).

43. Rule 89(4).

44. Rule 89(2).

45. Article 68(3) and Rule 89.

46. Section V (4.2).

47. During negotiations, explicit reference was made to the *United Nations Declaration on Basic Principles of Justice for Victims of Crime and Abuse of Power* (UN Declaration on Justice for Victims), adopted by the General Assembly, 29 November 1985, Resolution 40/34; and to the *Basic Principles and Guidelines on the Right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of humanitarian law* (Van Boven/ Bassiouni Principles), adopted by the General Assembly, 16 December 2005, Resolution 60/147. See further, Chapter I, *The Evolution of victims’ Access to Justice*, section V (4.2).

48. Article 21 (3) of the Rome Statute, entitled *Applicable law*, requires the application and interpretation of law in proceedings before the ICC “must be consistent with internationally recognized human rights”.

must be understood to include **physical, psychological and material harm**. This interpretation was confirmed in the decision of Pre-Trial Chamber I of 17 January 2006⁴⁹.

• **“As a result of the commission of a crime within the jurisdiction of the Court”: the causal link between the crime and the harm suffered**

The term “as a result of” indicates that there is no requirement that the crime directly targeted the victim. Nevertheless a causal link between the crime and the harm suffered is necessary. In accordance with the developments in international human rights and humanitarian law, the definition should include the family or dependants of the direct victim and “persons who have suffered harm in intervening to assist victims in distress or to prevent victimization”⁵⁰. This was confirmed by Pre-Trial Chamber I in its decision of 29 June 2006⁵¹.

2.2.2. Whether the ‘personal interests’ of the victim are affected

Article 68 (3) limits the category of victims eligible to participate in proceedings before the ICC by requiring that their ‘personal interests’ are affected.

Whether victims’ personal interests are affected will depend, amongst other factors, on the stage the proceedings have reached. The Court will therefore keep this criterion under constant review.

2.3. Stage of the proceedings

The judges’ decision as to whether victims can participate will take into consideration the stage that proceedings have reached.

In analysing the applications for decisions on victims’ participation in connection with the investigation in DRC, Pre-Trial Chamber I distinguished between ‘victims of a situation’ (ie. proceedings before an arrest warrant or a summons to appear has been issued) and ‘victims of a case’ (ie. proceedings against particular defendant(s)).

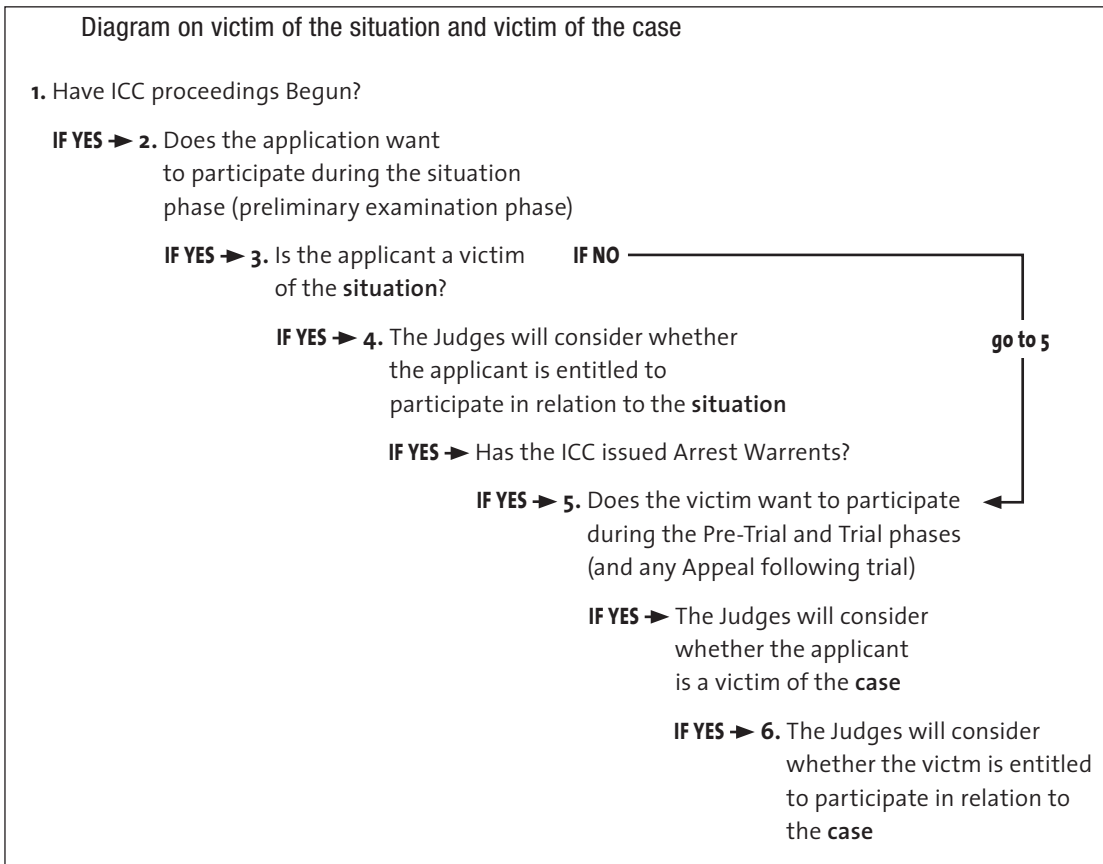
The **situation stage** includes the period when the Court is deciding whether to open an investigation and the period when the Court is carrying out an investigation.

The **case stage** refers to proceedings against a specific individual or individuals, which may include a pre-trial stage in which the charges are confirmed, trial and appeal proceedings.

⁴⁹. Decision on the applications for participation in the proceedings of VPRS 1 – 6, 17 January 2006, ICC-01/04-101, para 81.

⁵⁰. See for example, UN Declaration on Justice for Victims, para 2, and Van Boven/ Bassiouni Principles, Principle 8, op. cit.

⁵¹. *Decision on Applications for Participation in the Proceedings submitted by VPRS 1 to VPRS 6 in the Case of the Prosecutor v. Thomas Lubanga Dyilo*, 29 June 2006, ICC/01/04-01/06, p. 7, n. 24. See further below at section II (2.3.2), *Authorisation to participate as a ‘victim of a case’*.



Victims before the International Criminal Court: A Guide for the participation of victims in the proceedings of the Court, ICC official booklet⁵².



- On 17 January 2006, the Court accepted the first applications of victims for participation in proceedings before the ICC⁵³. These victims of crimes in DRC were assisted by FIDH in making their applications to the Court.

In this landmark case, the Pre-Trial Chamber seized of the situation in the DRC accepted that the victims, referred to as VPRS 1 to 6, could participate in the proceedings at the stage of the investigation, the “situation stage”, before any prosecutions had been initiated.

- On 28 July 2006 the Pre Trial Chamber granted victims a/001, a/002 and a/003 the right to participate in the case of *Prosecutor v. Thomas Lubanga Dyilo* (the Lubanga case)⁵⁴.

- In July 2006 and August 2006, a total of 84 victims submitted applications to participate in the Lubanga case. Only one of these victims, referred to as a/0105/06, was granted the right to participate⁵⁵.

⁵². http://www.icc-cpi.int/library/victims/VPRS_Booklet_En.pdf.

⁵³. *Decision on the Applications for Participation in the Proceedings of VPRS 1 – 6*, 17 January 2006, ICC-01/04-101.

⁵⁴. *Decision on the Applications for Participation in the Proceedings of a /0001/06, a/0002/06 and a/0003/06 in the case of the Prosecutor v. Thomas Lubanga Dyilo and of the investigations in the Democratic Republic of the Congo*, 28 July 2006, ICC-01/04-01/06.

⁵⁵. *Decision sur les demandes de participation à la procédure a/0004/06 à a/0009/06, a/0016/06 à a/0063/06, a/0071/06 à a/0080/06 et a/0105/06 dans le cadre de l'affaire le Procureur c. Thomas Lubanga Dyilo*, 20 October 2006, ICC-01/04-01/06-601 (available only in French).

2.3.1. Authorisation to participate as a 'victim of a situation'

In its decision on the applications for participation of victims VPRS 1 to 6, 17 January 2006, Pre-Trial Chamber I stated that at the 'situation' stage **victims must show that there are "grounds to believe" that they have suffered harm as a result of crimes within the jurisdiction of the Court** in the context of the situation under investigation⁵⁶.

The Pre-Trial Chamber also stated that at the situation stage it is not necessary to "make a definitive determination of the harm suffered by the victims" and that it is sufficient to demonstrate "a single instance of harm suffered"⁵⁷. Furthermore, it is not necessary at this stage to determine the identity of the person(s) responsible for the crimes⁵⁸.

In assessing whether the core criteria for participation were fulfilled by the applicants, Pre-Trial Chamber I referred to a variety of sources, in particular United Nations reports, in order to establish whether the victims' accounts of events were consistent with these reports.

In its decision of 17 January 2006, the Pre-Trial Chamber emphasised that the issue of whether the core criteria are fulfilled will be automatically reviewed at relevant later stages of the proceedings and that its assessment at this stage was not definitive⁵⁹.

The Pre-Trial Chamber also stated that if victims applying to participate at the situation stage also specify that they wish to participate in any subsequent case, "the Chamber automatically takes this second request into account as soon as such a case exists, so that it is unnecessary to file a second application"⁶⁰.

2.3.2. Authorisation to participate as a 'victim of a case'

In its decision of 29 June 2006, concerning the first applications to participate in the Lubanga case, Pre-Trial Chamber I stated that in order to participate in a particular case, **victims must show that a "sufficient causal link exists between the harm they have suffered and the crimes for which there are reasonable grounds to believe that [the defendant] is responsible and for which the Chamber has issued an arrest warrant"**⁶¹.

According to this interpretation, participation in a case is limited to victims of the particular crimes prosecuted before the ICC. It is not enough to show that they were victims of crimes committed by the accused.

However, it is important to emphasise that victims do not have to show that they were 'direct' victims of the crimes for which the defendant is prosecuted. In its decision of 29 June 2006, Pre-Trial Chamber I referred to the definition of victims under the *UN Declaration of Basic Principles of Justice for Victims of Crimes and Abuse of Power and the Van Boven/ Bassiouni Principles*, according to which "victims" are defined to include not only direct victims but also where appropriate, "the immediate family or dependents of the direct victim" and "persons who have suffered harm in intervening to assist victims in distress or to prevent victimisation"⁶².

⁵⁶ *Decision on the Applications for Participation in the Proceedings of VPRS 1 – 6*, 17 January 2006, op. cit. para 99.

⁵⁷ *Ibid*, para 82.

⁵⁸ *Ibid*, para 94.

⁵⁹ *Ibid*, para 100.

⁶⁰ *Ibid*, para 67.

⁶¹ *Decision on Applications for Participation in the Proceedings submitted by VPRS 1 to VPRS 6 in the Case of the Prosecutor v. Thomas Lubanga Dyilo*, ICC/01/04-01/06, 29 June 2006, p. 6.

⁶² *Ibid*, p. 7, n. 24.

Therefore in order to participate in a case a victim must show one of the following causal links between the crime prosecuted and the harm suffered:

- he/she suffered harm directly linked to the crimes contained in the arrest warrant;
- he/she suffered harm in intervening to assist direct victims in the case; or
- he/she suffered harm in preventing victimisation as a result of the commission of the crimes contained in the arrest warrant.



VICTIMS AUTHORISED TO PARTICIPATE IN THE LUBANGA CASE

On 28 July 2006, the Pre-Trial Chamber accepted the applications of three victims to participate in the *Lubanga* case⁶³. The three victims had established a sufficient causal link between the harm they suffered and the crimes contained in the arrest warrant against Thomas Lubanga. In a decision of the Pre-Trial Chamber of 20 October 2006, a fourth victim was recognised and authorised to participate in the *Lubanga* case⁶⁴.

III. VICTIMS AS INDEPENDANT PARTICIPANTS: TYPES OF PARTICIPATION

At each stage of the proceedings, the Chambers decide upon the appropriate forms of participation to ensure that participation is consistent with the rights of the accused and a fair and impartial trial⁶⁵.



SPECIFIC OPPORTUNITIES FOR PARTICIPATION FROM THE PRELIMINARY STAGE

(See below, section 1)

Several provisions of the Statute and the Rules of Procedure and Evidence expressly provide for victims to make representations or submit observations at particular stages of proceedings, for example:

- When the Prosecutor seeks the authorisation of the Pre-Trial Chamber to begin an investigation under his *proprio motu* power (Article 15 (3)) (1.1.1);
- When the Pre-Trial Chamber reviews a decision of the Prosecutor not to investigate or prosecute (Article 53) (1.1.2);
- Proceedings concerning the jurisdiction of the Court or the admissibility of the case (Article 19 (3)) (1.2);
- Proceedings to confirm charges against an accused (Article 61) (1.3).

⁶³. *Decision on the Applications for Participation in the Proceedings of a /0001/06, a/0002/06 and a/0003/06 in the case of the Prosecutor v. Thomas Lubanga Dyilo and of the investigations in the Democratic Republic of the Congo*, 28 July 2006, ICC-01/04-01/06.

⁶⁴. *Decision sur les demandes de participation à la procédure a/0004/06 à a/0009/06, a/0016/06 à a/0063/06, a/0071/06 à a/0080/06 et a/0105/06 dans le cadre de l'affaire le Procureur c. Thomas Lubanga Dyilo*, 20 October 2006, ICC-01/04-01/06-601 (available only in French).

⁶⁵. Article 68(3).

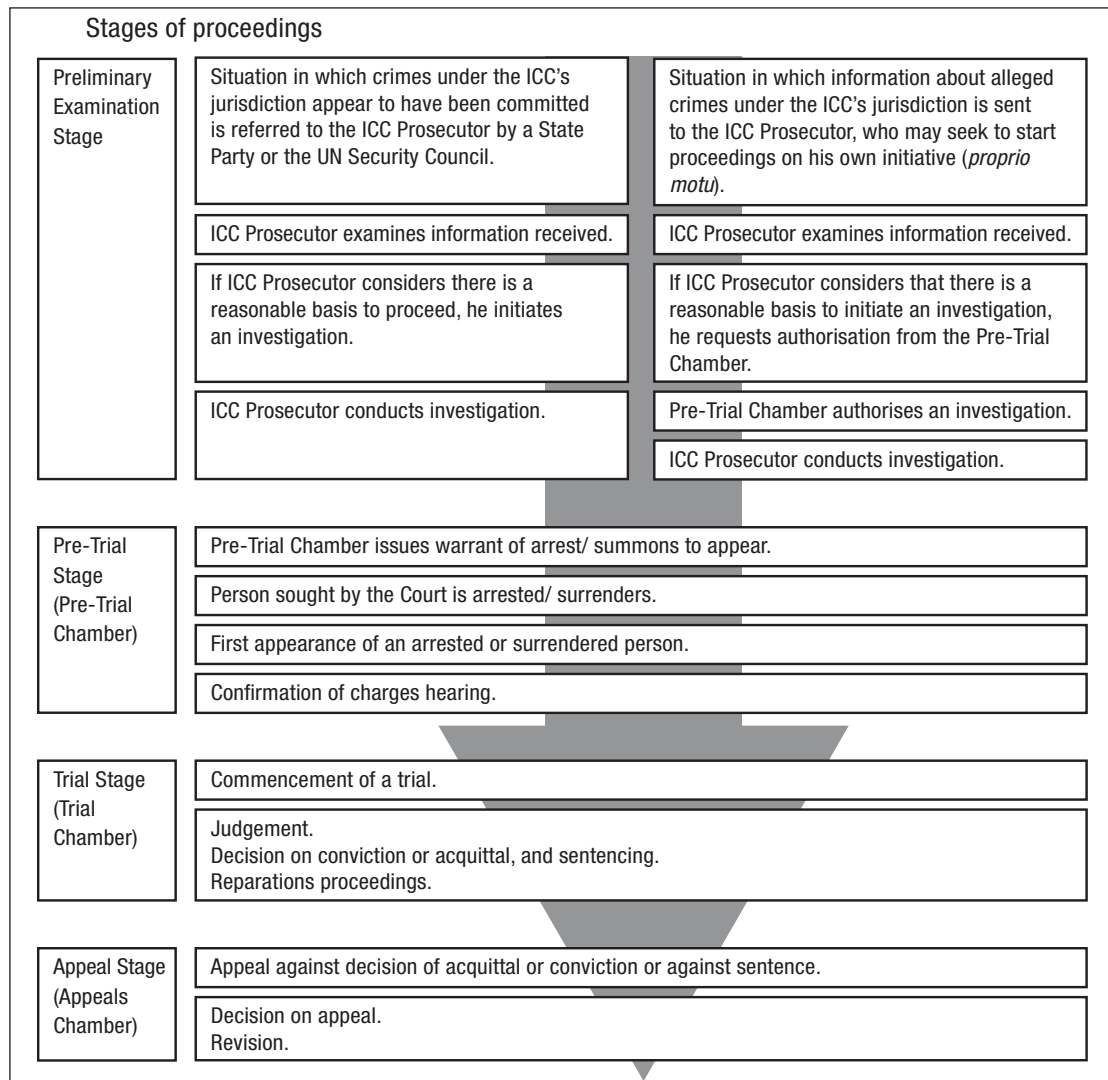


SPECIFIC OPPORTUNITIES FOR PARTICIPATION FROM THE PRELIMINARY STAGE

(See below, section 2)

Some types of participation are common to all stages of proceedings. Examples of ways in which victims and/ or their legal representatives can participate include:

- Attending hearings;
- Making written observations;
- Making oral observations;
- Making statements at the beginning and end of a stage of proceedings;
- Consulting the record of proceedings;
- Asking questions to a witness, expert or the accused who is giving evidence before the Court;
- Receiving notification of the progress of proceedings.



Victims before the International Criminal Court: A Guide for the participation of victims in the proceedings of the Court, ICC official booklet⁶⁶

66. http://www.icc-cpi.int/library/victims/VPRS_Booklet_En.pdf.

1. Specific opportunities for participation from the preliminary stage

1.1. Participation in the decision whether to investigate or prosecute

1.1.1. Victims can make representations when the Prosecutor asks to open an investigation (*proprio motu* investigations)

Article 15 authorises the Prosecutor to open investigations on his own initiative, or in the language of the Rome Statute '*proprio motu*', on the basis of information he has received.

Article 15 (1):

The Prosecutor may initiate investigations *proprio motu* on the basis of information on crimes within the jurisdiction of the Court.

When the Prosecutor receives information on crimes within the jurisdiction of the Court, he must analyse the seriousness of the information and decide whether there is "a reasonable basis to proceed with an investigation"⁶⁷. If he decides to open an investigation, he is required to ask the Pre-Trial Chamber for authorisation⁶⁸.

Victims can participate in such proceedings before the Pre-Trial Chamber to give their views on whether an investigation should be opened.

Article 15 (3):

If the Prosecutor concludes that there is a reasonable basis to proceed with an investigation, he or she shall submit to the Pre-trial Chamber a request for authorisation for an investigation, together with any supporting material collected. **Victims may make representations to the Pre-Trial Chamber** in accordance with the Rules of Procedure and Evidence.

Notification of victims is key to their participation at this stage. Under Rule 50 (1), victims must be notified when the Prosecutor intends to seek authorisation from the Pre-Trial Chamber to initiate an investigation. The obligation to notify extends to "victims, known to [the Prosecutor] or to the Victims and Witnesses Unit, or their legal representatives". The Prosecutor "may also give notice by general means in order to reach groups of victims". In doing so, the Prosecutor may seek the assistance of the Victims and Witnesses Unit (VWU). Such notification must not jeopardise the safety of victims⁶⁹.

Victims may submit **written representations** to the Pre-Trial Chamber⁷⁰. Such representations may include, for example, supporting the Prosecutor's request to open an investigation, or providing information on other crimes that should be investigated.

⁶⁷. Article 15(2) - (3). The factors which the Prosecutor must consider are set out in Article 53(1). See also Rule 48.

⁶⁸. Article 15(3).

⁶⁹. See also Regulation 87(1) and Regulations (RR) 102 and 103.

⁷⁰. Rule 50(3).



PROCEDURE FOR MAKING REPRESENTATIONS

The time limit for submitting representations is **30 days** following the receipt of notification⁷¹.

The Pre-Trial Chamber can request additional information from victims and has the option of deciding to hold a hearing⁷².

The Pre-Trial Chamber must notify its final decision, with reasons, to victims who have made representations⁷³.

It should be highlighted that a negative decision of the Pre-Trial Chamber does not prevent the Prosecutor submitting another request in respect of the same situation at a later date, based on new evidence⁷⁴. If a new request is submitted, the same procedure on the participation and notification of victims applies.



THE IMPORTANCE OF THE PROSECUTOR'S *PROPRIO MOTU* POWER

The *proprio motu* power of the ICC Prosecutor is essential to ensure the independence of his Office. It also represents a unique tool for victims of war crimes, crimes against humanity and genocide to seek a judicial remedy.

However, at the time of writing the Prosecutor had not opened any investigations under his *proprio motu* power, despite having received a large number of communications.

In respect of the information submitted to the Prosecutor by victims and others, the report of the Office of the Prosecutor on its activities since 2003 indicates: "Through to the end of June 2006, the Office received **1918** communications from individuals or groups in at least 107 different countries. (...) Of the **approximately 20%** of communications warranting further analysis, 10 situations have been subjected to intensive analysis. Of these, three proceeded to investigation (the DRC, Northern Uganda, and Darfur), two were dismissed (Venezuela and Iraq), and five analyses are on-going".

Indeed, it is clear that the current policy of the Prosecutor is to prioritise referrals from States Parties (DRC, Uganda) and the Security Council (Darfur/ Sudan). The report of the Office of the Prosecutor on its activities since 2003 states: "while the *proprio motu* power is a critical aspect of the Office's independence, the Prosecutor adopted the policy of inviting and welcoming voluntary referrals by territorial states as a first step in triggering the jurisdiction of the Court".

At the time of negotiating the Rome Statute in 1998, it was not anticipated that states would make referrals to the ICC concerning crimes committed on their *own* territories. The experiences of regional courts, such as the European Court for Human Rights, demonstrate that it is very rare for states to refer human rights abuses committed by *other* states.

Yet it is clear that the Rome Statute does not establish a hierarchy amongst the three mechanisms that can trigger an investigation (state referrals, Security Council referrals and *proprio motu* investigations). On the contrary, during negotiations of the Statute it was agreed that it was essential, in view of the universal and permanent nature of the ICC, and the importance of the independence of the Prosecutor, that he should have the power to open investigations on his own initiative.

71. Regulation 50(1).

72. Rule 50(4).

73. Rule 50(5).

74. Article 15(5).

Lack of information on the progress of analysis

There is a general lack of information on the progress of analysis of communications by the Office of the Prosecutor. Indeed, those who have submitted communications are not even systematically notified that the information has been received. Furthermore, they are not informed whether it is being analysed, the results of such analysis or of the need for further information.

In the absence of information and decisions by the Office of the Prosecutor, those who have submitted communications are in a difficult position to challenge the Prosecutor's analysis and the lack of investigation. As a consequence the rights of victims could be potentially undermined.

1.1.2. Victims can participate in a review of the Prosecutor's decision not to investigate or prosecute

In certain circumstances a Chamber can review a decision of the Prosecutor not to investigate or prosecute. **Victims can participate in such proceedings before the Pre-Trial Chamber to give their views on whether an investigation or prosecution should be opened**⁷⁵.

**FACTORS RELEVANT TO THE PROSECUTOR'S DECISION WHETHER TO OPEN AN INVESTIGATION OR PROSECUTION****Investigations**

The Prosecutor must consider whether:

- The information available to the Prosecutor provides a reasonable basis to believe that a crime within the jurisdiction of the Court has been or is being committed;
- The case is or would be admissible
- Taking into account the gravity of the crime and the interests of victims, there are nonetheless substantial reasons to believe that an investigation would not serve the interests of justice⁷⁶.

Prosecutions

The Prosecutor must consider whether:

- There is a sufficient legal and factual basis to seek a warrant or summons;
- The case is admissible;
- A prosecution is not in the interests of justice, taking into account all the circumstances, including the gravity of the crime, the interests of victims and the age or infirmity of the alleged perpetrator, and his or her role in the alleged crime⁷⁷.

A request for review of the Prosecutor's decision can be made by the state that made the referral to the ICC, or the Security Council if it made the referral⁷⁸. Following such a review, the Pre-Trial Chamber can request the Prosecutor to reconsider the decision⁷⁹. The Prosecutor is then obliged to review the decision "as soon as possible" and to communicate a final decision, with reasons, to the Pre-Trial Chamber⁸⁰.

If the decision of the Prosecutor not to investigate or prosecute is based solely on the grounds that it is not in "the interests of justice", the Pre-Trial Chamber can decide to review the prosecutor's decision on its own initiative⁸¹. In such cases, the decision of the Prosecutor not to investigate or prosecute will

⁷⁵. Rule 92(2).

⁷⁶. See Article 53(1).

⁷⁷. See Article 53(2).

⁷⁸. Article 53(3)(a) and Rule 107(1).

⁷⁹. Article 53(3)(a) and Rule 108(1).

⁸⁰. Rule 108(2) and (3).

⁸¹. Article 53(3)(b). Such a decision by the Pre-Trial Chamber must be taken within 180 days following notification of the Prosecutor's decision (Rule 109(1)).

only be effective if it is confirmed by the Pre-Trial Chamber⁸². If the Chamber does not confirm the decision, the Prosecutor *must* proceed with the investigation or prosecution⁸³. Victims may wish to make representations in such reviews on the Prosecutor's interpretation of the "interests of justice" and the "interests of victims".

Again, **notification** of victims is essential for them to be able to participate. Rule 92 (2) therefore requires the Court to notify "victims or their legal representatives who have already participated in proceedings" or, as far as possible, "those who have communicated with the Court with respect of the situation or case in question" of the Prosecutor's decision. The Pre-Trial Chamber can also decide that wider notification should be provided and can order the Registrar to take necessary measures to give adequate publicity to such proceedings⁸⁴.

The decision of the Pre-Trial Chamber must be communicated to all those who participated in the review⁸⁵.



NOTIFYING VICTIMS OF A DECISION NOT TO OPEN AN INVESTIGATION UNDER THE PROSECUTOR'S *PROPRIO MOTU* POWER

If, having carried out a preliminary examination in accordance with article 15, the Prosecutor concludes, that "the information provided does not constitute a reasonable basis for an investigation"⁸⁶, the Prosecutor is required to inform the person or persons who provided the information⁸⁷. Such notice must be given "promptly" and must contain the reasons for the decision⁸⁸, whilst ensuring that neither those who provided information, nor the "integrity of the proceedings" are endangered. The notice must also explain to victims that further information can be submitted regarding the same situation in the light of new facts and evidence, to trigger a re-examination by the Prosecutor.

1.2. Participation in proceedings concerning the jurisdiction of the Court or the admissibility of a case

In each case brought before the Court, the judges are required to establish that the Court has jurisdiction and the case is admissible⁸⁹. The accused person and states with jurisdiction in the case can challenge the jurisdiction of the Court or the admissibility of the case⁹⁰. The Prosecutor can also ask the Court to rule on questions of jurisdiction or admissibility⁹¹. In such proceedings **victims can submit observations** to the Court⁹².

Challenges to jurisdiction or admissibility must take place **before or at the start of the trial**, except in exceptional circumstances and with the authorisation of the judges⁹³.

⁸². Article 53(3)(b) and Rule 110.

⁸³. Rule 110(2).

⁸⁴. Rule 92(2) and (8). In doing so, the Registrar can seek, the cooperation of relevant States Parties, and the assistance of intergovernmental organizations. See also Regulation 87(2) and Regulation (RR) 103(2).

⁸⁵. Rules 108(1) and 110(1).

⁸⁶. According to the factors set out in Article 53(1), (see Rule 48).

⁸⁷. Article 15(6).

⁸⁸. Rule 49.

⁸⁹. Article 19(1) and Articles 11-13, 17-18. For an explanation of jurisdiction and admissibility, see Chapter II, *Introduction to the ICC*.

⁹⁰. Article 19(2).

⁹¹. Article 19(3).

⁹². Article 19(3).

⁹³. Article 19(4).

In order to enable them to participate, such proceedings must be notified to “victims who have already communicated with the Court or their legal representatives”⁹⁴. The Registrar is responsible for notification and is required to provide victims with a summary of the grounds on which the jurisdiction of the Court or the admissibility of the case has been challenged⁹⁵. Such notification must take into account the need for confidentiality and protection of victims.

Victims can **make representations in writing** within a time limit fixed by the Chamber⁹⁶.

Victims and their legal representatives could have a central role in such proceedings. For example, if states bring challenges to the admissibility of a case, victims may have important information on the willingness or capacity of the state to undertake an investigation or prosecution, based on their experiences of the national justice system⁹⁷.

Decisions of the Trial Chamber on the admissibility of a case and the jurisdiction of the Court must be pronounced in public and, wherever possible, in the **presence** of the victims or the legal representatives of the victims participating in the proceedings, in addition to the accused, the Prosecutor, and the representatives of the States which have participated in the proceedings⁹⁸.

1.3 Participation in proceedings to confirm charges against an accused

Once an accused has been arrested or has voluntarily surrendered to the Court, the Pre-Trial Chamber is required to hold a hearing to confirm the charges brought by the Prosecutor against him or her (*confirmation of charges hearing*)⁹⁹. The Pre-Trial Chamber has to determine whether there is sufficient evidence to provide “substantial grounds to believe” that the accused committed each of the crime(s) with which he or she is charged¹⁰⁰. **Victims can participate in such hearings.**

The Prosecutor is not required to call witnesses at the hearing, and can rely on documentary or summary evidence¹⁰¹.

The Court must **notify** “victims or their legal representatives who have already participated in the proceedings or, as far as possible, those who have communicated with the Court in respect of the case in question”, of the decision to hold a confirmation of charges hearing¹⁰².

In order to participate in such hearings, victims must submit a written application and receive authorisation from the relevant Chamber¹⁰³.

94. Rule 59(1).

95. Rule 59(2).

96. Rule 59 (3). Under Rule 101, “[i]n making any order setting time limits regarding the conduct of any proceedings, the Court shall have regard to the need to facilitate fair and expeditious proceedings, bearing in mind in particular the rights of the defence and the victims”.

97. See Redress, *Ensuring the effective participation of victims before the International Criminal Court, Comments and recommendations regarding legal representation for victims*, May 2005, p. 6.

98. Rule 144(1).

99. Article 61.

100. Article 61(7).

101. Article 61(5).

102. Rule 92(3).

103. See above section II (2.3.2); *Decision on the Applications for Participation in the Proceedings of a /0001/06, a/0002/06 and a/0003/06 in the case of the Prosecutor v. Thomas Lubanga Dyilo and of the investigations in the Democratic Republic of the Congo*, ICC-01/04-01/06, 28 July 2006; *Décision sur les demandes de participation à la procédure a/0004/06 à a/0009/06, a/0016/06 à a/0063/06, a/0071/06 à a/0080/06 et a/0105/06 dans le cadre de l'affaire le Procureur c. Thomas Lubanga Dyilo*, ICC-01/04-01/06-601, 20 October 2006 (available only in French).

2. General participation at the situation and case stages: some examples

“With regard to article 68 (3), the Chamber considers that it imposes an obligation on the Court vis-à-vis victims...[T]he victims’ guaranteed right of access to the Court entails a positive obligation for the Court to enable them to exercise that right concretely and effectively. It follows that the Chamber has a dual obligation: on the one hand, to allow victims to present their views and concerns, and, on the other, to examine them”.

Decision on the applications for participation in the proceedings of VPRS 1 – 6, Pre-Trial Chamber I, 17 January 2006¹⁰⁴

The first decisions of the Court provide some guidance on the ways that victims can participate in proceedings. However, it should be stressed that many issues relating victims’ participation await clarification by future decisions of the Court. This section sets out some examples, among others, of ways in which victims can participate.

Presenting views and concerns

Victims’ legal representatives are entitled to attend and participate in hearings¹⁰⁵.

They can make both **oral representations and written observations and submissions** in proceedings before the Chamber, unless the judges decide, in the specific circumstances of the case, to limit participation to written observations and submissions¹⁰⁶.

Victims’ legal representatives can be authorised to make statements at the beginning and the end of proceedings (opening and closing statements)¹⁰⁷.

Consulting the record and access to non-public documents

Victims or their legal representatives participating in proceedings can have access to the record of proceedings before the Court¹⁰⁸. This can include access to non-public documents¹⁰⁹.

Questioning witnesses, experts and the accused

Victims’ legal representatives can be authorised to question witnesses, experts, or the accused¹¹⁰. The legal representative must make an application for authorisation to the relevant Chamber. The judges may require the legal representative to provide a written list of questions he or she wishes to ask, and transmit them to the Prosecutor and the defence so that they can make observations, within a time limit set by the Chamber¹¹¹.

The Chamber’s decision whether to allow questioning is based on the particular circumstances of the case, as well as on the need to protect the rights of the accused, the interests of witnesses, the need for a fair, impartial and expeditious trial and the extent to which it is necessary in order to enable the views and concerns of the victim to be heard¹¹².

The Chamber can also give instructions on the way questions should be asked or, if appropriate, the questions can be asked by the judge in place of the victim’s representative¹¹³.

¹⁰⁴. Para 71.

¹⁰⁵. Rule 91(2).

¹⁰⁶. Ibid.

¹⁰⁷. Rule 89(1).

¹⁰⁸. Rule 131(2).

¹⁰⁹. Decision on the Applications for Participation in the Proceedings of VPRS 1 – 6, 17 January 2006, ICC-01/04-101, para 76.

¹¹⁰. Rule 91(3) (a).

¹¹¹. Ibid.

¹¹². Rule 91(3) (b).

¹¹³. Ibid.

It should be noted that these potential restrictions do not apply in reparations hearings¹¹⁴.

Receiving notification

Victims who have been authorised to participate in proceedings are entitled to be notified of:

- Proceedings before the Court, including the date of hearings and any postponements thereof, and the date of delivery of the decision;
- Requests, submissions, motions and other documents relating to such requests, submissions or motions¹¹⁵.

Victims who have participated in a particular stage of the proceedings must be notified of the decisions of the Court in those proceedings as soon as possible¹¹⁶.



EXAMPLES OF VICTIMS' PARTICIPATION IN THE INVESTIGATION OF THE SITUATION IN DRC

In its decision of 17 January 2006, Pre-Trial Chamber I gave examples of ways in which victims (VPRS 1 to 6) could participate: “in exercising their procedural rights pursuant to article 68 (3) of the Statute, [the victims] may, before the Pre-Trial Chamber and in connection with the current investigation:

- (a) Present their views and concerns;
- (b) File documents;
- (c) Request the Pre-Trial Chamber to order specific measures¹¹⁷.

Presenting views and concerns: Victims can present their views and concerns to the Pre-Trial Chamber on matters concerning the investigation¹¹⁸. Oral and written submissions could concern, for example, issues such as decisions not to investigate or prosecute, the scope of the investigation, the ways in which investigations are conducted, the personal situation of the victims including issues related to protection, the scope of the charges and the level of responsibility of the accused.

Filing documents: Victims can submit documents to the Pre-Trial Chamber¹¹⁹. These could concern the investigation itself, or support their submissions and observations.

Requesting orders for specific measures: Victims can request a range of specific measures in the context of the investigation, for example, measures for the protection of victims, or measures to preserve evidence¹²⁰.

Consulting the record and access to non-public documents: With the authorisation of the relevant Chamber, victims participating in the situation stage can have access to non-public documents where their personal interests are concerned¹²¹.

Access to closed hearings: The Pre-Trial Chamber stated that in the case of confidential or closed hearings initiated by the Prosecutor or the Defence, “victims will not be entitled to participate unless the Chamber decides otherwise in the light of the impact of such proceedings on their personal interests”¹²².

¹¹⁴. Under Rule 91(4), in such a case “the legal representative may, with the permission of the Chamber concerned, question witnesses, experts and the person concerned” (see further Chapter VII, Reparations and the Trust Fund for Victims).

¹¹⁵. Rule 92 (5). Rule 132 (1) further provides: “The Trial Chamber shall notify the trial date to all those participating in the proceedings”.

¹¹⁶. Rule 92(6).

¹¹⁷. *Decision on the Applications for Participation in the Proceedings of VPRS 1 – 6*, 17 January 2006, ICC-01/04-101, conclusions, p.42.

¹¹⁸. See paras 71 -72.

¹¹⁹. *Ibid.*

¹²⁰. *Ibid.*, para 75.

¹²¹. *Ibid.*, para 76.

¹²². *Ibid.*, para 74.



EXAMPLES OF VICTIMS' PARTICIPATION IN THE CONFIRMATION HEARING IN THE CASE OF *THOMAS LUBANGA DYILO*

Prior to the hearing to confirm the charges brought by the Prosecutor against Thomas Lubanga the Pre-Trial Chamber held a series of hearings to determine the ways in which victims could participate in that hearing¹²³.

The Chamber decided that:

“[S]ubject to their intervention being restricted to the scope determined by the charges brought against Thomas Lubanga Dyilo, the victims may participate in the confirmation hearing by presenting their views and concerns in order to help contribute to the prosecution of the crimes from which they allegedly have suffered and to, where relevant, subsequently be able to obtain reparations for the harm suffered”¹²⁴.

It should be noted that in this case, for reasons of security and at the request of the victims, the Pre-Trial Chamber decided that the victims did not have to reveal their identities to the defence¹²⁵. As a result the Chamber restricted the scope of their participation in the hearing.

Making oral and written statements: Victims' legal representatives were allowed to submit written statements. They were also allowed to make oral opening and closing statements at the hearing. Due to the fact that the identities of these victims were concealed from the defence, the Chamber decided that further oral interventions would require authorisation by the Chamber and requests would be dealt with on a case-by-case basis¹²⁶.

During the confirmation hearing, on 9 November 2006, the Chamber granted the request of legal representative for victims *a/0001/06*, *a/0002/06* and *a/0003/06* to intervene on the issue of the jurisdiction of the Court¹²⁷.

Consulting the record and access to non-public documents: On the basis that their identities were concealed, the Chamber decided that victims could only have access to public documents in the case, but reserved the possibility to make an exception in “exceptional circumstances”¹²⁸.

On 10 November 2006, the victims' legal representatives requested access to all non-confidential documents in the record of evidence in the case (many of which are not available on the website of the Court)¹²⁹. On 13 November 2006, the Pre-trial Chamber granted this request and ordered the Prosecutor and the defence to transmit *all* non-confidential documents to the victims' legal representatives without delay¹³⁰.

¹²³. See *Decision on the Arrangements for Participation of Victims a/0001/06, a/0002/06 and a/0003/06 at the Confirmation Hearing*, 22 September 2006, ICC-01/04-01/06-462; *Decision on the schedule and conduct of the confirmation hearing*, 7 November 2006, ICC-01/04-01/06-67.

¹²⁴. *Decision on the Arrangements for Participation of Victims a/0001/06, a/0002/06 and a/0003/06 at the Confirmation Hearing*, 22 September 2006, op. cit., p. 5.

¹²⁵. *Ibid*, p. 6. The Chamber noted that, “the recent deterioration in the security situation in certain regions of the [DRC] has had repercussions on the range of protective measures currently available and which might be implemented to protect victims *a/0001/06* to *a/0003/06* who are particularly vulnerable and live in risk in areas of DRC...[I]n this context and following a meticulous examination of each case, non-disclosure of these victims' identities to the Defence for the purpose of the confirmation hearing, remains at present the only protective measure available and which might be implemented to duly protect them”.

¹²⁶. *Decision on the Arrangements for Participation of Victims a/0001/06, a/0002/06 and a/0003/06 at the Confirmation Hearing*, 22 September 2006, op. cit.

¹²⁷. See *Avocats Sans Frontières, La participation des victimes dans l'affaire contre Thomas Lubanga Dyilo : Analyse des modalités de participation lors de l'audience de confirmation des charges*, January 2007.

¹²⁸. See *Decision on the Arrangements for Participation of Victims a/0001/06, a/0002/06 and a/0003/06 at the Confirmation Hearing*, 22 September 2006, op. cit.

¹²⁹. *Demande conjointe des représentants légaux des victimes aux fins de recevoir les documents publics contenus dans les listes de preuves*, 10 November 2006, ICC-01/04-01/06 (available only in French).

¹³⁰. See *Avocats Sans Frontières, La participation des victimes dans l'affaire contre Thomas Lubanga*, op.cit.

Questioning witnesses, experts and the accused and presenting evidence: The Pre-Trial Chamber decided that on the basis of the prohibition on anonymous accusations, the victims' legal representatives could not question the accused or witnesses. On the same basis, the Pre-Trial Chamber decided that victims' legal representatives could not present any factual evidence at the hearing¹³¹.

However, on 24 November 2006, the Chamber granted a request by the legal representative for victims *a/0001/06*, *a/0002/06* and *a/0003/06* to put a question to one of the witnesses for the prosecution¹³².

Access to closed hearings: The Chamber decided that the victims' representatives could not have access to closed (non-public) hearings, but reserved the possibility to make an exception in "exceptional circumstances"¹³³.

However, on 24 November 2006, the Chamber allowed victims' representatives to attend part of a closed hearing¹³⁴.

3. Seeking the views of victims

As we have seen the regime for participation under article 68 (3), as clarified by Pre-Trial Chamber I, envisages direct initiatives from victims for participation.

It should be noted that initiative for victims' participation on particular issues can also come from the Court itself. Under Rule 93, entitled *views of victims and their representatives*, the Court is authorised to "seek the views of victims or their legal representatives [participating in proceedings] on any issue". Rule 93 provides a non-exhaustive list of issues on which it may be appropriate to seek the views of victims:

- Re-examination of a decision not to investigate or prosecute¹³⁵
- Decision to hold a hearing on the confirmation of charges in the absence of the accused¹³⁶;
- Decision whether to authorise the amendment of charges¹³⁷;
- Decisions concerning whether co-accused should be tried together or separately (*joinder or separation*)¹³⁸;
- Decision whether to require a more complete presentation of the facts of the case where the accused admits guilt¹³⁹;
- Decision to provide an assurance to a witness or expert that he or she will not be prosecuted, detained or subjected to any restriction of personal freedom by the Court in respect of acts or omissions committed before leaving the requested state¹⁴⁰.

Rule 93 also authorises the Court to seek the views of "other victims" (ie. victims who are not participating in proceedings), "as appropriate".

¹³¹. See *Decision on the Arrangements for Participation of Victims a/0001/06, a/0002/06 and a/0003/06 at the Confirmation Hearing*, 22 September 2006, op. cit., p. 7.

¹³². See *Avocats Sans Frontières, La participation des victimes dans l'affaire contre Thomas Lubanga*, op.cit.

¹³³. See *Decision on the Arrangements for Participation of Victims a/0001/06, a/0002/06 and a/0003/06 at the Confirmation Hearing*, 22 September 2006, op. cit, p. 6.

¹³⁴. See *Avocats Sans Frontières, La participation des victimes dans l'affaire contre Thomas Lubanga Dyilio*, op. cit.

¹³⁵. Article 53. See also Rules 107 and 109.

¹³⁶. Rule 125.

¹³⁷. Rule 128.

¹³⁸. Rule 136.

¹³⁹. Article 65(4) and Rule 139.

¹⁴⁰. Article 93(2) and Rule 191.



CHAPTER IV

RELEVANT PROVISIONS

GENERAL: THE DIFFERENT ROLES OF VICTIMS	29
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“Article”: refers to the Rome Statute

“Rule”: refers to the Rules of Procedure and Evidence

“Regulation”: refers to the Regulations of the Court

“Regulation (RR)”: refers to the Regulations of the Registry

“Regulation (VTF)”: refers to the Regulations of the Trust Fund for Victims

RELEVANT PROVISIONS

GENERAL: THE DIFFERENT ROLES OF VICTIMS

Article 68 (3)

Protection of the victims and witnesses and their participation in the proceedings

Where the personal interests of the victims are affected, the Court shall permit their views and concerns to be presented and considered at stages of the proceedings determined to be appropriate by the Court and in a manner which is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial. Such views and concerns may be presented by the legal representatives of the victims where the Court considers it appropriate, in accordance with the Rules of Procedure and Evidence.

Rule 85

Definition of victims

For the purposes of the Statute and the Rules of Procedure and Evidence:

- (a) "Victims" means natural persons who have suffered harm as a result of the commission of any crime within the jurisdiction of the Court;
- (b) Victims may include organizations or institutions that have sustained direct harm to any of their property which is dedicated to religion, education, art or science or charitable purposes, and to their historic monuments, hospitals and other places and objects for humanitarian purposes.

Article 15 (1) – (2)

The Prosecutor

1. The Prosecutor may initiate investigations *proprio motu* on the basis of information on crimes within the jurisdiction of the Court.
2. The Prosecutor shall analyse the seriousness of the information received. For this purpose, he or she may seek additional information from States, organs of the United Nations, intergovernmental or non-governmental organizations, or other reliable sources that he or she deems appropriate, and may receive written or oral testimony at the seat of the Court.

Article 54 (3) (e)

3. The Prosecutor may:

- (e) Agree not to disclose, at any stage of the proceedings, documents or information that the Prosecutor obtains on the condition of confidentiality and solely for the purpose of generating new evidence, unless the provider of the information consents; and

Rule 103

Amicus curiae and other forms of submission

1. At any stage of the proceedings, a Chamber may, if it considers it desirable for the proper determination of the case, invite or grant leave to a State, organization or person to submit, in writing or orally, any observation on any issue that the Chamber deems appropriate.
2. The Prosecutor and the defence shall have the opportunity to respond to the observations submitted under sub-rule 1.
3. A written observation submitted under sub-rule 1 shall be filed with the Registrar, who shall provide copies to the Prosecutor and the defence. The Chamber shall determine what time limits shall apply to the filing of such observations.

VICTIMS AS INDEPENDENT PARTICIPANTS: THE APPLICATION PROCEDURE

Rule 89

Application for participation of victims in the proceedings

1. In order to present their views and concerns, victims shall make written application to the Registrar, who shall transmit the application to the relevant Chamber. Subject to the provisions of the Statute, in particular article 68, paragraph 1, the Registrar shall provide a copy of the application to the Prosecutor and the defence, who shall be entitled to reply within a time limit to be set by the Chamber. Subject to the provisions of sub-rule 2, the Chamber shall then specify the proceedings and manner in which participation is considered appropriate, which may include making opening and closing statements.
2. The Chamber, on its own initiative or on the application of the Prosecutor or the defence, may reject the application if it considers that the person is not a victim or that the criteria set forth in article 68, paragraph 3, are not otherwise fulfilled. A victim whose application has been rejected may file a new application later in the proceedings.
3. An application referred to in this rule may also be made by a person acting with the consent of the victim, or a person acting on behalf of a victim, in the case of a victim who is a child or, when necessary, a victim who is disabled.
4. Where there are a number of applications, the Chamber may consider the applications in such a manner as to ensure the effectiveness of the proceedings and may issue one decision.

Regulation 86

Participation of victims in the proceedings under rule 89

1. For the purposes of rule 89 and subject to rule 102 a victim shall make a written application to the Registrar who shall develop standard forms for that purpose which shall be approved in accordance with regulation 23, sub-regulation 2. These standard forms shall, to the extent possible, be made available to victims, groups of victims, or intergovernmental and non-governmental organizations, which may assist in their dissemination, as widely as possible. These standard forms shall, to the extent possible, be used by victims.
2. The standard forms or other applications described in sub-regulation 1 shall contain, to the extent possible, the following information:
 - (a) The identity and address of the victim, or the address to which the victim requests all communications to be sent; in case the application is presented by someone other than the victim in accordance with rule 89, sub-rule 3, the identity and address of that person, or the address to which that person requests all communications to be sent;
 - (b) If the application is presented in accordance with rule 89, sub-rule 3, evidence of the consent of the victim or evidence on the situation of the victim, being a child or a disabled person, shall be presented together with the application, either in writing or in accordance with rule 102;
 - (c) A description of the harm suffered resulting from the commission of any crime within the jurisdiction of the Court, or, in case of a victim being an organization or institution, a description of any direct harm as described in rule 85 (b);
 - (d) A description of the incident, including its location and date and, to the extent possible, the identity of the person or persons the victim believes to be responsible for the harm as described in rule 85;
 - (e) Any relevant supporting documentation, including names and addresses of witnesses;
 - (f) Information as to why the personal interests of the victim are affected;
 - (g) Information on the stage of the proceedings in which the victim wishes to participate, and, if applicable, on the relief sought;
 - (h) Information on the extent of legal representation, if any, which is envisaged by the victim, including the names and addresses of potential legal representatives, and information on the victim's or victims' financial means to pay for a legal representative.

3. Victims applying for participation in the trial and/or appeal proceedings shall, to the extent possible, make their application to the Registrar before the start of the stage of the proceedings in which they want to participate.
4. The Registrar may request further information from victims or those presenting an application in accordance with rule 89, sub-rule 3, in order to ensure that such application contains, to the extent possible, the information referred to in sub-regulation 2, before transmission to a Chamber. The Registrar may also seek additional information from States, the Prosecutor and intergovernmental or non-governmental organizations.
5. The Registrar shall present all applications described in this regulation to the Chamber together with a report thereon. The Registrar shall endeavour to present one report for a group of victims, taking into consideration the distinct interests of the victims.
6. Subject to any order of the Chamber, the Registrar may also submit one report on a number of applications received in accordance with sub-regulation 1 to the Chamber seized of the case or situation in order to assist that Chamber in issuing only one decision on a number of applications in accordance with rule 89, sub-rule 4. Reports covering all applications received in a certain time period may be presented on a periodic basis.
7. Before deciding on an application, the Chamber may request, if necessary with the assistance of the Registrar, additional information from, inter alia, States, the Prosecutor, the victims or those acting on their behalf or with their consent. If information is received from States or the Prosecutor, the Chamber shall provide the relevant victim or victims with an opportunity to respond.
8. A decision taken by a Chamber under rule 89 shall apply throughout the proceedings in the same case, subject to the powers of the relevant Chamber in accordance with rule 91, sub-rule 1.
9. There shall be a specialised unit dealing with victims' participation and reparations under the authority of the Registrar. This unit shall be responsible for assisting victims and groups of victims.

Regulation (RR) 104

Standard application forms

1. The standard application forms provided for in regulations 86 and 88 of the Regulations of the Court, and the explanatory material shall, to the extent possible, be made available in the language(s) spoken by the victims. The Registry shall endeavour to prepare the standard application forms in a format that is accessible, that can be used by the Court, and that is compatible with the electronic database referred to in regulation 98, sub-regulation 2.
2. The Registry may propose amendments to the standard application forms on the basis of, inter alia, experience in using the forms and the context of specific situations. The proposed amendments shall be submitted to the Presidency for approval in accordance with regulation 23, sub-regulation 2, of the Regulations of the Court.

Regulation (RR) 105

Dissemination and completion of standard application forms

1. In order to ensure that standard application forms, as referred to in regulation 86, sub-regulation 1, of the Regulations of the Court, are completed as efficiently as possible, the Registry may establish contact and maintain regular relations with the groups mentioned in regulation 86, sub-regulation 1, of the Regulations of the Court, and may, inter alia, prepare guidance booklets and other materials, or provide education and training, in order to guide those assisting victims in completing the standard application forms.
2. The Registry shall, as far as possible, encourage the use of the standard application forms by victims in making applications.

Regulation (RR) 106

Receipt of applications

1. Applications for participation or reparations may be submitted either to the seat of the Court or to a field office of the Court.
2. The Registry shall take measures to encourage victims to complete their applications and to provide further information and communications in a working language of the Court. Such steps may include, inter alia, seeking the assistance of groups mentioned in regulation 86, sub-regulation 1, of the Regulations of the Court.
3. Documents and material relating to an application and submitted after the initial application shall be dealt with in accordance with regulation 107.

Regulation (RR) 107

Review of applications

1. Where an application is received in hard copy, the Registry shall convert it into image file format, ensuring that the application is not altered in any way.
2. The Registry shall take measures to encourage victims to complete their application using the standard form referred to in regulation 86, sub-regulation 1, of the Regulations of the Court.
3. In seeking further information in accordance with regulation 86, sub-regulation 4, or regulation 88, sub-regulation 2, of the Regulations of the Court, the Registry shall consider the interests of the victim and shall take into account, inter alia, whether the victim is represented, the security of the victim, and any time limits for the filing of documents with the Court. When contacting victims or their legal representatives to request further information, the Registry shall inform them that their request may be granted or rejected by the Chamber on the basis, inter alia, of information provided by them and that they may submit a new application later in the proceedings if their application is rejected by the Chamber.
4. The Registry shall endeavour wherever possible to obtain further information in writing, but where the victim has expressed a preference for contact by telephone, and taking security considerations into account, it may receive such information by telephone. In so doing, the Registry shall, to the extent possible, verify the identity of the person and record the conversation.

Regulation (RR) 108

Access to applications

1. Applications and related documents and material shall be available to the Chambers and the participants through electronic means, in accordance with their level of confidentiality.
2. Consultation of the original form of the applications and related documents and material shall be requested using the approved standard form.
3. Regulation 16 shall apply mutatis mutandis.

Regulation (RR) 109

Report to the Chamber regarding participation in the proceedings

1. In order to facilitate the decision of the Chamber and to comply with regulation 86, sub-regulations 5 and 6, of the Regulations of the Court, the Registry shall provide the Chamber with access to the record of applications or to the secure room where the originals are stored.
2. Unless otherwise requested by the Chamber, the report to be provided in accordance with regulation 86, sub-regulations 5 and 6, of the Regulations of the Court, may include information relating to, inter alia, victims' legal representatives, legal assistance paid by the Court, requests relating to confidentiality and disclosure or security concerns, and any other relevant information received from other sources and from victims or their legal representatives.
3. For the purpose of preparing the report, the Registry may seek additional information in accordance with regulation 86, sub-regulation 4, of the Regulations of the Court, and may consult with the legal representatives, if any.

VICTIMS AS INDEPENDENT PARTICIPANTS: TYPES OF PARTICIPATION

Participation in the decision whether to investigate or prosecute

Article 15

The Prosecutor

1. The Prosecutor may initiate investigations proprio motu on the basis of information on crimes within the jurisdiction of the Court.
2. The Prosecutor shall analyse the seriousness of the information received. For this purpose, he or she may seek additional information from States, organs of the United Nations, intergovernmental or non-governmental organizations, or other reliable sources that he or she deems appropriate, and may receive written or oral testimony at the seat of the Court.
3. If the Prosecutor concludes that there is a reasonable basis to proceed with an investigation, he or she shall submit to the Pre-Trial Chamber a request for authorization of an investigation, together with any supporting material collected. Victims may make representations to the Pre-Trial Chamber, in accordance with the Rules of Procedure and Evidence.
4. If the Pre-Trial Chamber, upon examination of the request and the supporting material, considers that there is a reasonable basis to proceed with an investigation, and that the case appears to fall within the jurisdiction of the Court, it shall authorize the commencement of the investigation, without prejudice to subsequent determinations by the Court with regard to the jurisdiction and admissibility of a case.
5. The refusal of the Pre-Trial Chamber to authorize the investigation shall not preclude the presentation of a subsequent request by the Prosecutor based on new facts or evidence regarding the same situation.
6. If, after the preliminary examination referred to in paragraphs 1 and 2, the Prosecutor concludes that the information provided does not constitute a reasonable basis for an investigation, he or she shall inform those who provided the information. This shall not preclude the Prosecutor from considering further information submitted to him or her regarding the same situation in the light of new facts or evidence.

Article 53

Initiation of an investigation

1. The Prosecutor shall, having evaluated the information made available to him or her, initiate an investigation unless he or she determines that there is no reasonable basis to proceed under this Statute. In deciding whether to initiate an investigation, the Prosecutor shall consider whether:
 - (a) The information available to the Prosecutor provides a reasonable basis to believe that a crime within the jurisdiction of the Court has been or is being committed;
 - (b) The case is or would be admissible under article 17; and
 - (c) Taking into account the gravity of the crime and the interests of victims, there are nonetheless substantial reasons to believe that an investigation would not serve the interests of justice.
 If the Prosecutor determines that there is no reasonable basis to proceed and his or her determination is based solely on subparagraph (c) above, he or she shall inform the Pre-Trial Chamber.
2. If, upon investigation, the Prosecutor concludes that there is not a sufficient basis for a prosecution because:
 - (a) There is not a sufficient legal or factual basis to seek a warrant or summons under article 58;
 - (b) The case is inadmissible under article 17; or
 - (c) A prosecution is not in the interests of justice, taking into account all the circumstances, including the gravity of the crime, the interests of victims and the age or infirmity of the alleged perpetrator, and his or her role in the alleged crime;
 the Prosecutor shall inform the Pre-Trial Chamber and the State making a referral under article 14 or the Security Council in a case under article 13, paragraph (b), of his or her conclusion and the reasons for the conclusion.

3. (a) At the request of the State making a referral under article 14 or the Security Council under article 13, paragraph (b), the Pre-Trial Chamber may review a decision of the Prosecutor under paragraph 1 or 2 not to proceed and may request the Prosecutor to reconsider that decision.
 (b) In addition, the Pre-Trial Chamber may, on its own initiative, review a decision of the Prosecutor not to proceed if it is based solely on paragraph 1 (c) or 2 (c). In such a case, the decision of the Prosecutor shall be effective only if confirmed by the Pre-Trial Chamber.
4. The Prosecutor may, at any time, reconsider a decision whether to initiate an investigation or prosecution based on new facts or information.

Rule 48

Determination of reasonable basis to proceed with an investigation under article 15, paragraph 3

In determining whether there is a reasonable basis to proceed with an investigation under article 15, paragraph 3, the Prosecutor shall consider the factors set out in article 53, paragraph 1 (a) to (c).

Rule 49

Decision and notice under article 15, paragraph 6

1. Where a decision under article 15, paragraph 6, is taken, the Prosecutor shall promptly ensure that notice is provided, including reasons for his or her decision, in a manner that prevents any danger to the safety, well-being and privacy of those who provided information to him or her under article 15, paragraphs 1 and 2, or the integrity of investigations or proceedings.
2. The notice shall also advise of the possibility of submitting further information regarding the same situation in the light of new facts and evidence.

Rule 50

Procedure for authorization by the Pre-Trial Chamber of the commencement of the investigation

1. When the Prosecutor intends to seek authorization from the Pre-Trial Chamber to initiate an investigation pursuant to article 15, paragraph 3, the Prosecutor shall inform victims, known to him or her or to the Victims and Witnesses Unit, or their legal representatives, unless the Prosecutor decides that doing so would pose a danger to the integrity of the investigation or the life or well-being of victims and witnesses. The Prosecutor may also give notice by general means in order to reach groups of victims if he or she determines in the particular circumstances of the case that such notice could not pose a danger to the integrity and effective conduct of the investigation or to the security and well-being of victims and witnesses. In performing these functions, the Prosecutor may seek the assistance of the Victims and Witnesses Unit as appropriate.
2. A request for authorization by the Prosecutor shall be in writing.
3. Following information given in accordance with sub-rule 1, victims may make representations in writing to the Pre-Trial Chamber within such time limit as set forth in the Regulations.
4. The Pre-Trial Chamber, in deciding on the procedure to be followed, may request additional information from the Prosecutor and from any of the victims who have made representations, and, if it considers it appropriate, may hold a hearing.
5. The Pre-Trial Chamber shall issue its decision, including its reasons, as to whether to authorize the commencement of the investigation in accordance with article 15, paragraph 4, with respect to all or any part of the request by the Prosecutor. The Chamber shall give notice of the decision to victims who have made representations.
6. The above procedure shall also apply to a new request to the Pre-Trial Chamber pursuant to article 15, paragraph 5.

Rule 92 (2)

In order to allow victims to apply for participation in the proceedings in accordance with rule 89, the Court shall notify victims concerning the decision of the Prosecutor not to initiate an investigation or

not to prosecute pursuant to article 53. Such a notification shall be given to victims or their legal representatives who have already participated in the proceedings or, as far as possible, to those who have communicated with the Court in respect of the situation or case in question. The Chamber may order the measures outlined in sub-rule 8 if it considers it appropriate in the particular circumstances.

Rule 104

Evaluation of information by the Prosecutor

1. In acting pursuant to article 53, paragraph 1, the Prosecutor shall, in evaluating the information made available to him or her, analyse the seriousness of the information received.
2. For the purposes of sub-rule 1, the Prosecutor may seek additional information from States, organs of the United Nations, intergovernmental and non-governmental organizations, or other reliable sources that he or she deems appropriate, and may receive written or oral testimony at the seat of the Court. The procedure set out in rule 47 shall apply to the receiving of such testimony.

Rule 105

Notification of a decision by the Prosecutor not to initiate an investigation

1. When the Prosecutor decides not to initiate an investigation under article 53, paragraph 1, he or she shall promptly inform in writing the State or States that referred a situation under article 14, or the Security Council in respect of a situation covered by article 13, paragraph (b).
2. When the Prosecutor decides not to submit to the Pre-Trial Chamber a request for authorization of an investigation, rule 49 shall apply.
3. The notification referred to in sub-rule 1 shall contain the conclusion of the Prosecutor and, having regard to article 68, paragraph 1, the reasons for the conclusion.
4. In case the Prosecutor decides not to investigate solely on the basis of article 53, paragraph 1 (c), he or she shall inform in writing the Pre-Trial Chamber promptly after making that decision.
5. The notification shall contain the conclusion of the Prosecutor and the reasons for the conclusion.

Rule 106

Notification of a decision by the Prosecutor not to prosecute

1. When the Prosecutor decides that there is not a sufficient basis for prosecution under article 53, paragraph 2, he or she shall promptly inform in writing the Pre-Trial Chamber, together with the State or States that referred a situation under article 14, or the Security Council in respect of a situation covered by article 13, paragraph (b).
2. The notifications referred to in sub-rule 1 shall contain the conclusion of the Prosecutor and, having regard to article 68, paragraph 1, the reasons for the conclusion.

Rule 107

Request for review under article 53, paragraph 3 (a)

1. A request under article 53, paragraph 3, for a review of a decision by the Prosecutor not to initiate an investigation or not to prosecute shall be made in writing, and be supported with reasons, within 90 days following the notification given under rule 105 or 106.
2. The Pre-Trial Chamber may request the Prosecutor to transmit the information or documents in his or her possession, or summaries thereof, that the Chamber considers necessary for the conduct of the review.
3. The Pre-Trial Chamber shall take such measures as are necessary under articles 54, 72 and 93 to protect the information and documents referred to in sub-rule 2 and, under article 68, paragraph 5, to protect the safety of witnesses and victims and members of their families.
4. When a State or the Security Council makes a request referred to in sub-rule 1, the Pre-Trial Chamber may seek further observations from them.
5. Where an issue of jurisdiction or admissibility of the case is raised, rule 59 shall apply.

Rule 108

Decision of the Pre-Trial Chamber under article 53, paragraph 3 (a)

1. A decision of the Pre-Trial Chamber under article 53, paragraph 3 (a), must be concurred in by a majority of its judges and shall contain reasons. It shall be communicated to all those who participated in the review.
2. Where the Pre-Trial Chamber requests the Prosecutor to review, in whole or in part, his or her decision not to initiate an investigation or not to prosecute, the Prosecutor shall reconsider that decision as soon as possible.
3. Once the Prosecutor has taken a final decision, he or she shall notify the Pre-Trial Chamber in writing. This notification shall contain the conclusion of the Prosecutor and the reasons for the conclusion. It shall be communicated to all those who participated in the review.

Rule 109

Review by the Pre-Trial Chamber under article 53, paragraph 3 (b)

1. Within 180 days following a notification given under rule 105 or 106, the Pre-Trial Chamber may on its own initiative decide to review a decision of the Prosecutor taken solely under article 53, paragraph 1 (c) or 2 (c). The Pre-Trial Chamber shall inform the Prosecutor of its intention to review his or her decision and shall establish a time limit within which the Prosecutor may submit observations and other material.
2. In cases where a request has been submitted to the Pre-Trial Chamber by a State or by the Security Council, they shall also be informed and may submit observations in accordance with rule 107.

Rule 110

Decision by the Pre-Trial Chamber under article 53, paragraph 3 (b)

1. A decision by the Pre-Trial Chamber to confirm or not to confirm a decision taken by the Prosecutor solely under article 53, paragraph 1 (c) or 2 (c), must be concurred in by a majority of its judges and shall contain reasons. It shall be communicated to all those who participated in the review.
2. When the Pre-Trial Chamber does not confirm the decision by the Prosecutor referred to in sub-rule 1, he or she shall proceed with the investigation or prosecution.

Regulation 38 (2) (a)

Specific page limits

Unless otherwise ordered by the Chamber, the page limit shall not exceed 50 pages for the following documents and responses thereto, if any:

- (a) Representations made by victims to the Pre-Trial Chamber under article 15, paragraph 3, and rule 50, sub-rule 3:

Regulation 50 (1)

Specific time limits

The time limit for victims to make representations under article 15, paragraph 3, and rule 50, sub-rule 3, shall be 30 days following information given in accordance with rule 50, sub-rule 1.

Regulation 87

Information to victims

1. The Prosecutor shall notify the Pre-Trial Chamber as to information provided pursuant to rule 50, sub-rule 1, including the date the information was provided.
2. The Prosecutor shall inform the Registry of his or her decision not to initiate an investigation or not to prosecute pursuant to article 53, paragraphs 1 and 2, respectively, and shall provide all relevant information for notification by the Registry to victims in accordance with rule 92, sub-rule 2.

Regulation (RR) 102

Assistance in providing information under article 15

1. Where the Prosecutor intends to seek authorisation from the Pre-Trial Chamber to initiate an investigation pursuant to article 15, paragraph 3, the Registry may assist in providing information to victims when so requested.
2. Where the Prosecutor has a duty to inform victims who have provided information to him under article 15, paragraph 6, the Registry may, when so requested, assist in providing information to victims.

Regulation (RR) 103 (2)

2. Where the Prosecutor decides to give notice by general means in accordance with rule 50, sub-rule 1, the Registry may assist in informing victims, where requested to do so, and shall consequently inform the Prosecutor for the purpose of regulation 87, sub-regulation 1, of the Regulations of the Court.

Participation in proceedings concerning the jurisdiction of the Court or the admissibility of a case**Article 19*****Challenges to the jurisdiction of the Court or the admissibility of a case***

1. The Court shall satisfy itself that it has jurisdiction in any case brought before it. The Court may, on its own motion, determine the admissibility of a case in accordance with article 17.
2. Challenges to the admissibility of a case on the grounds referred to in article 17 or challenges to the jurisdiction of the Court may be made by:
 - (a) An accused or a person for whom a warrant of arrest or a summons to appear has been issued under article 58;
 - (b) A State which has jurisdiction over a case, on the ground that it is investigating or prosecuting the case or has investigated or prosecuted; or
 - (c) A State from which acceptance of jurisdiction is required under article 12.
3. The Prosecutor may seek a ruling from the Court regarding a question of jurisdiction or admissibility. In proceedings with respect to jurisdiction or admissibility, those who have referred the situation under article 13, as well as victims, may also submit observations to the Court.
4. The admissibility of a case or the jurisdiction of the Court may be challenged only once by any person or State referred to in paragraph 2. The challenge shall take place prior to or at the commencement of the trial. In exceptional circumstances, the Court may grant leave for a challenge to be brought more than once or at a time later than the commencement of the trial. Challenges to the admissibility of a case, at the commencement of a trial, or subsequently with the leave of the Court, may be based only on article 17, paragraph 1 (c).
5. A State referred to in paragraph 2 (b) and (c) shall make a challenge at the earliest opportunity.
6. Prior to the confirmation of the charges, challenges to the admissibility of a case or challenges to the jurisdiction of the Court shall be referred to the Pre-Trial Chamber. After confirmation of the charges, they shall be referred to the Trial Chamber. Decisions with respect to jurisdiction or admissibility may be appealed to the Appeals Chamber in accordance with article 82.
7. If a challenge is made by a State referred to in paragraph 2 (b) or (c), the Prosecutor shall suspend the investigation until such time as the Court makes a determination in accordance with article 17.
8. Pending a ruling by the Court, the Prosecutor may seek authority from the Court:
 - (a) To pursue necessary investigative steps of the kind referred to in article 18, paragraph 6;
 - (b) To take a statement or testimony from a witness or complete the collection and examination of evidence which had begun prior to the making of the challenge; and
 - (c) In cooperation with the relevant States, to prevent the absconding of persons in respect of whom the Prosecutor has already requested a warrant of arrest under article 58.
9. The making of a challenge shall not affect the validity of any act performed by the Prosecutor or any order or warrant issued by the Court prior to the making of the challenge.
10. If the Court has decided that a case is inadmissible under article 17, the Prosecutor may submit a

request for a review of the decision when he or she is fully satisfied that new facts have arisen which negate the basis on which the case had previously been found inadmissible under article 17.

11. If the Prosecutor, having regard to the matters referred to in article 17, defers an investigation, the Prosecutor may request that the relevant State make available to the Prosecutor information on the proceedings. That information shall, at the request of the State concerned, be confidential. If the Prosecutor thereafter decides to proceed with an investigation, he or she shall notify the State to which deferral of the proceedings has taken place.

Rule 58

Proceedings under article 19

1. A request or application made under article 19 shall be in writing and contain the basis for it.
2. When a Chamber receives a request or application raising a challenge or question concerning its jurisdiction or the admissibility of a case in accordance with article 19, paragraph 2 or 3, or is acting on its own motion as provided for in article 19, paragraph 1, it shall decide on the procedure to be followed and may take appropriate measures for the proper conduct of the proceedings. It may hold a hearing. It may join the challenge or question to a confirmation or a trial proceeding as long as this does not cause undue delay, and in this circumstance shall hear and decide on the challenge or question first.
3. The Court shall transmit a request or application received under sub-rule 2 to the Prosecutor and to the person referred to in article 19, paragraph 2, who has been surrendered to the Court or who has appeared voluntarily or pursuant to a summons, and shall allow them to submit written observations to the request or application within a period of time determined by the Chamber.
4. The Court shall rule on any challenge or question of jurisdiction first and then on any challenge or question of admissibility.

Rule 59

Participation in proceedings under article 19, paragraph 3

1. For the purpose of article 19, paragraph 3, the Registrar shall inform the following of any question or challenge of jurisdiction or admissibility which has arisen pursuant to article 19, paragraphs 1, 2 and 3:
 - (a) Those who have referred a situation pursuant to article 13;
 - (b) The victims who have already communicated with the Court in relation to that case or their legal representatives.
2. The Registrar shall provide those referred to in sub-rule 1, in a manner consistent with the duty of the Court regarding the confidentiality of information, the protection of any person and the preservation of evidence, with a summary of the grounds on which the jurisdiction of the Court or the admissibility of the case has been challenged.
3. Those receiving the information, as provided for in sub-rule 1, may make representation in writing to the competent Chamber within such time limit as it considers appropriate.

Rule 92 (3) and (8)

3. In order to allow victims to apply for participation in the proceedings in accordance with rule 89, the Court shall notify victims regarding its decision to hold a hearing to confirm charges pursuant to article 61. Such a notification shall be given to victims or their legal representatives who have already participated in the proceedings or, as far as possible, to those who have communicated with the Court in respect of the case in question.
8. For notification as referred to in sub-rule 3 and otherwise at the request of a Chamber, the Registrar shall take necessary measures to give adequate publicity to the proceedings. In doing so, the Registrar may seek, in accordance with Part 9, the cooperation of relevant States Parties, and seek the assistance of intergovernmental organizations.

Regulation (RR) 103 (1)***Publicity and notice by general means***

In determining what measures are necessary to give adequate publicity to the proceedings, as referred to in rule 92, sub-rule 8, and in rule 96, sub-rule 1, the Registry shall ascertain and take into account factors relating to the specific context such as languages or dialects spoken, local customs and traditions, literacy rates and access to the media. In giving such publicity, the Registry shall seek to ensure that victims make their applications before the start of the stage of the proceedings in which they want to participate, in accordance with regulation 86, sub-regulation 3, of the Regulations of the Court.

Participation in proceedings to confirm charges against an accused**Article 61*****Confirmation of the charges before trial***

1. Subject to the provisions of paragraph 2, within a reasonable time after the person's surrender or voluntary appearance before the Court, the Pre-Trial Chamber shall hold a hearing to confirm the charges on which the Prosecutor intends to seek trial. The hearing shall be held in the presence of the Prosecutor and the person charged, as well as his or her counsel.

2. The Pre-Trial Chamber may, upon request of the Prosecutor or on its own motion, hold a hearing in the absence of the person charged to confirm the charges on which the Prosecutor intends to seek trial when the person has:

- (a) Waived his or her right to be present; or
- (b) Fled or cannot be found and all reasonable steps have been taken to secure his or her appearance before the Court and to inform the person of the charges and that a hearing to confirm those charges will be held.

In that case, the person shall be represented by counsel where the Pre-Trial Chamber determines that it is in the interests of justice.

3. Within a reasonable time before the hearing, the person shall:

- (a) Be provided with a copy of the document containing the charges on which the Prosecutor intends to bring the person to trial; and
- (b) Be informed of the evidence on which the Prosecutor intends to rely at the hearing.

The Pre-Trial Chamber may issue orders regarding the disclosure of information for the purposes of the hearing.

4. Before the hearing, the Prosecutor may continue the investigation and may amend or withdraw any charges. The person shall be given reasonable notice before the hearing of any amendment to or withdrawal of charges. In case of a withdrawal of charges, the Prosecutor shall notify the Pre-Trial Chamber of the reasons for the withdrawal.

5. At the hearing, the Prosecutor shall support each charge with sufficient evidence to establish substantial grounds to believe that the person committed the crime charged. The Prosecutor may rely on documentary or summary evidence and need not call the witnesses expected to testify at the trial.

6. At the hearing, the person may:

- (a) Object to the charges;
- (b) Challenge the evidence presented by the Prosecutor; and
- (c) Present evidence.

7. The Pre-Trial Chamber shall, on the basis of the hearing, determine whether there is sufficient evidence to establish substantial grounds to believe that the person committed each of the crimes charged. Based on its determination, the Pre-Trial Chamber shall:

- (a) Confirm those charges in relation to which it has determined that there is sufficient evidence, and commit the person to a Trial Chamber for trial on the charges as confirmed;
- (b) Decline to confirm those charges in relation to which it has determined that there is insufficient evidence;
- (c) Adjourn the hearing and request the Prosecutor to consider:

(i) Providing further evidence or conducting further investigation with respect to a particular charge; or

(ii) Amending a charge because the evidence submitted appears to establish a different crime within the jurisdiction of the Court.

8. Where the Pre-Trial Chamber declines to confirm a charge, the Prosecutor shall not be precluded from subsequently requesting its confirmation if the request is supported by additional evidence.

9. After the charges are confirmed and before the trial has begun, the Prosecutor may, with the permission of the Pre-Trial Chamber and after notice to the accused, amend the charges. If the Prosecutor seeks to add additional charges or to substitute more serious charges, a hearing under this article to confirm those charges must be held. After commencement of the trial, the Prosecutor may, with the permission of the Trial Chamber, withdraw the charges.

10. Any warrant previously issued shall cease to have effect with respect to any charges which have not been confirmed by the Pre-Trial Chamber or which have been withdrawn by the Prosecutor.

11. Once the charges have been confirmed in accordance with this article, the Presidency shall constitute a Trial Chamber which, subject to paragraph 9 and to article 64, paragraph 4, shall be responsible for the conduct of subsequent proceedings and may exercise any function of the Pre-Trial Chamber that is relevant and capable of application in those proceedings.

General participation at the situation and case stages

Rule 91

Participation of legal representatives in the proceedings

1. A Chamber may modify a previous ruling under rule 89.

2. A legal representative of a victim shall be entitled to attend and participate in the proceedings in accordance with the terms of the ruling of the Chamber and any modification thereof given under rules 89 and 90. This shall include participation in hearings unless, in the circumstances of the case, the Chamber concerned is of the view that the representative's intervention should be confined to written observations or submissions. The Prosecutor and the defence shall be allowed to reply to any oral or written observation by the legal representative for victims.

3. (a) When a legal representative attends and participates in accordance with this rule, and wishes to question a witness, including questioning under rules 67 and 68, an expert or the accused, the legal representative must make application to the Chamber. The Chamber may require the legal representative to provide a written note of the questions and in that case the questions shall be communicated to the Prosecutor and, if appropriate, the defence, who shall be allowed to make observations within a time limit set by the Chamber.

(b) The Chamber shall then issue a ruling on the request, taking into account the stage of the proceedings, the rights of the accused, the interests of witnesses, the need for a fair, impartial and expeditious trial and in order to give effect to article 68, paragraph 3. The ruling may include directions on the manner and order of the questions and the production of documents in accordance with the powers of the Chamber under article 64. The Chamber may, if it considers it appropriate, put the question to the witness, expert or accused on behalf of the victim's legal representative.

4. For a hearing limited to reparations under article 75, the restrictions on questioning by the legal representative set forth in sub-rule 2 shall not apply. In that case, the legal representative may, with the permission of the Chamber concerned, question witnesses, experts and the person concerned.

Rule 92

Notification to victims and their legal representatives

1. This rule on notification to victims and their legal representatives shall apply to all proceedings before the Court, except in proceedings provided for in Part 2.

2. In order to allow victims to apply for participation in the proceedings in accordance with rule 89, the

Court shall notify victims concerning the decision of the Prosecutor not to initiate an investigation or not to prosecute pursuant to article 53. Such a notification shall be given to victims or their legal representatives who have already participated in the proceedings or, as far as possible, to those who have communicated with the Court in respect of the situation or case in question. The Chamber may order the measures outlined in sub-rule 8 if it considers it appropriate in the particular circumstances.

3. In order to allow victims to apply for participation in the proceedings in accordance with rule 89, the Court shall notify victims regarding its decision to hold a hearing to confirm charges pursuant to article 61. Such a notification shall be given to victims or their legal representatives who have already participated in the proceedings or, as far as possible, to those who have communicated with the Court in respect of the case in question.

4. When a notification for participation as provided for in sub-rules 2 and 3 has been given, any subsequent notification as referred to in sub-rules 5 and 6 shall only be provided to victims or their legal representatives who may participate in the proceedings in accordance with a ruling of the Chamber pursuant to rule 89 and any modification thereof.

5. In a manner consistent with the ruling made under rules 89 to 91, victims or their legal representatives participating in proceedings shall, in respect of those proceedings, be notified by the Registrar in a timely manner of:

(a) Proceedings before the Court, including the date of hearings and any postponements thereof, and the date of delivery of the decision;

(b) Requests, submissions, motions and other documents relating to such requests, submissions or motions.

6. Where victims or their legal representatives have participated in a certain stage of the proceedings, the Registrar shall notify them as soon as possible of the decisions of the Court in those proceedings.

7. Notifications as referred to in sub-rules 5 and 6 shall be in writing or, where written notification is not possible, in any other form as appropriate. The Registry shall keep a record of all notifications. Where necessary, the Registrar may seek the cooperation of States Parties in accordance with article 93, paragraph 1 (d) and (l).

8. For notification as referred to in sub-rule 3 and otherwise at the request of a Chamber, the Registrar shall take necessary measures to give adequate publicity to the proceedings. In doing so, the Registrar may seek, in accordance with Part 9, the cooperation of relevant States Parties, and seek the assistance of intergovernmental organizations.

Article 65 (4)

Where the Trial Chamber is of the opinion that a more complete presentation of the facts of the case is required in the interests of justice, in particular the interests of the victims, the Trial Chamber may:

(a) Request the Prosecutor to present additional evidence, including the testimony of witnesses; or

(b) Order that the trial be continued under the ordinary trial procedures provided by this Statute, in which case it shall consider the admission of guilt as not having been made and may remit the case to another Trial Chamber.

Rule 119 (3)

Conditional release

Before imposing or amending any conditions restricting liberty, the Pre-Trial Chamber shall seek the views of the Prosecutor, the person concerned, any relevant State and victims that have communicated with the Court in that case and whom the Chamber considers could be at risk as a result of a release or conditions imposed.

Rule 131

Record of the proceedings transmitted by the Pre-Trial Chamber

1. The Registrar shall maintain the record of the proceedings transmitted by the Pre-Trial Chamber, pursuant to rule 121, sub-rule 10.

2. Subject to any restrictions concerning confidentiality and the protection of national security information, the record may be consulted by the Prosecutor, the defence, the representatives of States when they participate in the proceedings, and the victims or their legal representatives participating in the proceedings pursuant to rules 89 to 91.

Rule 132

Status conferences

1. Promptly after it is constituted, the Trial Chamber shall hold a status conference in order to set the date of the trial. The Trial Chamber, on its own motion, or at the request of the Prosecutor or the defence, may postpone the date of the trial. The Trial Chamber shall notify the trial date to all those participating in the proceedings. The Trial Chamber shall ensure that this date and any postponements are made public.
2. In order to facilitate the fair and expeditious conduct of the proceedings, the Trial Chamber may confer with the parties by holding status conferences as necessary.

Rule 143

Additional hearings on matters related to sentence or reparations

Pursuant to article 76, paragraphs 2 and 3, for the purpose of holding a further hearing on matters related to sentence and, if applicable, reparations, the Presiding Judge shall set the date of the further hearing. This hearing can be postponed, in exceptional circumstances, by the Trial Chamber, on its own motion or at the request of the Prosecutor, the defence or the legal representatives of the victims participating in the proceedings pursuant to rules 89 to 91 and, in respect of reparations hearings, those victims who have made a request under rule 94.

Rule 144

Delivery of the decisions of the Trial Chamber

1. Decisions of the Trial Chamber concerning admissibility of a case, the jurisdiction of the Court, criminal responsibility of the accused, sentence and reparations shall be pronounced in public and, wherever possible, in the presence of the accused, the Prosecutor, the victims or the legal representatives of the victims participating in the proceedings pursuant to rules 89 to 91, and the representatives of the States which have participated in the proceedings.
2. Copies of all the above-mentioned decisions shall be provided as soon as possible to:
 - (a) All those who participated in the proceedings, in a working language of the Court;
 - (b) The accused, in a language he or she fully understands or speaks, if necessary to meet the requirements of fairness under article 67, paragraph 1 (f).

Rule 151

Procedure for the appeal

1. Upon the filing of an appeal under rule 150, the Registrar shall transmit the trial record to the Appeals Chamber.
2. The Registrar shall notify all parties who participated in the proceedings before the Trial Chamber that an appeal has been filed.

Rule 156

Procedure for the appeal

1. As soon as an appeal has been filed under rule 154 or as soon as leave to appeal has been granted under rule 155, the Registrar shall transmit to the Appeals Chamber the record of the proceedings of the Chamber that made the decision that is the subject of the appeal.
2. The Registrar shall give notice of the appeal to all parties who participated in the proceedings before

the Chamber that gave the decision that is the subject of the appeal, unless they have already been notified by the Chamber under rule 155, sub-rule 2.

3. The appeal proceedings shall be in writing unless the Appeals Chamber decides to convene a hearing.
4. The appeal shall be heard as expeditiously as possible.
5. When filing the appeal, the party appealing may request that the appeal have suspensive effect in accordance with article 82, paragraph 3.

Rule 223

Criteria for review concerning reduction of sentence

In reviewing the question of reduction of sentence pursuant to article 110, paragraphs 3 and 5, the three judges of the Appeals Chamber shall take into account the criteria listed in article 110, paragraph 4 (a) and (b), and the following criteria:

- (a) The conduct of the sentenced person while in detention, which shows a genuine dissociation from his or her crime;
- (b) The prospect of the resocialization and successful resettlement of the sentenced person;
- (c) Whether the early release of the sentenced person would give rise to significant social instability;
- (d) Any significant action taken by the sentenced person for the benefit of the victims as well as any impact on the victims and their families as a result of the early release;
- (e) Individual circumstances of the sentenced person, including a worsening state of physical or mental health or advanced age.

Rule 224

1. For the application of article 110, paragraph 3, three judges of the Appeals Chamber appointed by that Chamber shall conduct a hearing, unless they decide otherwise in a particular case, for exceptional reasons. The hearing shall be conducted with the sentenced person, who may be assisted by his or her counsel, with interpretation, as may be required. Those three judges shall invite the Prosecutor, the State of enforcement of any penalty under article 77 or any reparation order pursuant to article 75 and, to the extent possible, the victims or their legal representatives who participated in the proceedings, to participate in the hearing or to submit written observations. Under exceptional circumstances, this hearing may be conducted by way of a videoconference or in the State of enforcement by a judge delegated by the Appeals Chamber.
2. The same three judges shall communicate the decision and the reasons for it to all those who participated in the review proceedings as soon as possible.
3. For the application of article 110, paragraph 5, three judges of the Appeals Chamber appointed by that Chamber shall review the question of reduction of sentence every three years, unless it establishes a shorter interval in its decision taken pursuant to article 110, paragraph 3. In case of a significant change in circumstances, those three judges may permit the sentenced person to apply for a review within the three-year period or such shorter period as may have been set by the three judges.
4. For any review under article 110, paragraph 5, three judges of the Appeals Chamber appointed by that Chamber shall invite written representations from the sentenced person or his or her counsel, the Prosecutor, the State of enforcement of any penalty under article 77 and any reparation order pursuant to article 75 and, to the extent possible, the victims or their legal representatives who participated in the proceedings. The three judges may also decide to hold a hearing.
5. The decision and the reasons for it shall be communicated to all those who participated in the review proceedings as soon as possible."

Regulation 39

Language requirements

1. All documents and materials filed with the Registry shall be in English or French, unless otherwise provided in the Statute, Rules, these Regulations or authorised by the Chamber or the Presidency. If

the original document or material is not in one of these languages, a participant shall attach a translation thereof.

2. Sub-regulation 1 shall not apply to victims who are not represented and do not have a sufficient knowledge of a working language of the Court or any other language authorised by the Chamber or the Presidency.

3. When a Chamber, in accordance with article 50, paragraph 3, and following consultation with the Registrar, authorises use by a participant of a language other than English or French, the expenses for interpretation and translation shall be borne by the Court.

Regulation 54

Status conferences before the Trial Chamber

At a status conference, the Trial Chamber may, in accordance with the Statute and the Rules, issue any order in the interests of justice for the purposes of the proceedings on, inter alia, the following issues:

- (o) The conditions under which victims shall participate in the proceedings;

Regulation (RR) 16

Access to the record and to the original form of evidence and audiovisual recordings of the proceedings

1. In general, the record shall be accessible through the electronic system provided for in regulation 10, sub-regulation 1.

2. The original form of evidence and of audiovisual recordings of proceedings shall be stored in the Registry vault.

3. Chambers and participants may consult the original form of evidence or of audiovisual recordings of proceedings, depending on the level of confidentiality of the evidence or recording. Experts or other specified persons may consult the original form of evidence or of audiovisual recordings of proceedings, subject to an order of the Chamber.

4. Consultation of the original form of evidence or of audiovisual recordings of proceedings shall be requested using the approved standard form and shall be recorded by the Registry.

Such consultation shall occur in the area designated within the Registry and under the supervision of a representative of the Registry in order to prevent any alteration from being made.

5. In exceptional circumstances, Chambers, participants, experts and other specified persons may request to consult the original form of evidence or of audiovisual recordings of proceedings outside the area designated within the Registry for a period not to exceed 24 hours. Reasons for such a request shall be indicated on the standard form. The same procedure shall apply where consultation is requested outside the designated area within the Registry for a period exceeding 24 hours.

Regulation (RR) 17

Copies of audio and video recordings of proceedings

1. Copies of the audio and video recordings of proceedings may be provided upon request, with or without payment of a fee, and subject to the authorisation of the Registrar.

2. Participants shall be provided with copies of the audio and video recordings of proceedings, upon request and without payment of a fee, unless the Registrar decides otherwise for reasons relating to the availability of resources.

Regulation (RR) 103 (1)

Publicity and notice by general means

In determining what measures are necessary to give adequate publicity to the proceedings, as referred to in rule 92, sub-rule 8, and in rule 96, sub-rule 1, the Registry shall ascertain and take into account factors relating to the specific context such as languages or dialects spoken, local customs and traditions, literacy rates and access to the media. In giving such publicity, the Registry shall seek to ensure that

victims make their applications before the start of the stage of the proceedings in which they want to participate, in accordance with regulation 86, sub-regulation 3, of the Regulations of the Court.

Seeking the views of victims

Rule 93

Views of victims or their legal representatives

A Chamber may seek the views of victims or their legal representatives participating pursuant to rules 89 to 91 on any issue, inter alia, in relation to issues referred to in rules 107, 109, 125, 128, 136, 139 and 191. In addition, a Chamber may seek the views of other victims, as appropriate.



ADDITIONAL DOCUMENTS

Standard Application Form to Participate in Proceeding before the International Criminal Court for Individual Victims and Persons Acting on their Behalf

Standard Application Form to Participate in Proceeding before the International Criminal Court for Victims which are Organizations or Institutions



**STANDARD APPLICATION FORM TO PARTICIPATE IN PROCEEDINGS
BEFORE THE INTERNATIONAL CRIMINAL COURT
FOR INDIVIDUAL VICTIMS AND PERSONS ACTING ON THEIR BEHALF**

FORM PARTICIPATION-1

Please complete this Application Form if you believe you have suffered harm as a result of a crime under the jurisdiction of the International Criminal Court (ICC) and wish to participate in the proceedings before the ICC by putting forward your observations, views or concerns, or if you are acting on behalf of such a person.

The purpose of this Application Form is to collect information to help a Chamber of Judges in the ICC decide whether you are entitled to participate in proceedings before the Court. Your completion of this Application Form will not automatically lead to your participation in the proceedings before the ICC.

The information provided in the Application Form will be forwarded to a Chamber of Judges in the ICC which will

consider your application. Please be advised that criminal proceedings take time and it may be some time before the Court makes decisions on your application.


Please review the accompanying Booklet before completing the Application Form as it will help you fill it in correctly. The Booklet contains explanations regarding:

- What the International Criminal Court is
- The purpose of this Application Form and what will happen to it
- Instructions on how to complete each section of the Application Form. Please note that each Part of this Application Form corresponds to the same Part of the Booklet.

Who should use this Application Form?

A victim who is seeking to participate in proceedings before the ICC

For the purposes of the ICC, a victim is a person who has suffered harm as a result of the commission of a crime within the jurisdiction of the Court.

 Victims that are organizations or institutions should use FORM PARTICIPATION-2.

A person acting on behalf of a victim

Where a victim is a child, or has a disability that prevents the victim from acting on her or his own behalf, someone else may make an application on their behalf. Where a victim is deceased, someone else may

also make the application. In addition, a person may make the application with the consent of a victim. In any of above circumstances, the person making the application should complete Part B.

A person assisting a victim

Where a victim or a person acting on behalf of a victim is filling in this Application Form, they may be assisted in filling in the Application Form by another person. This would be the case, for example, if either the victim or the person acting on behalf of the victim is unable to read or to write. Where a person assists in filling in this Application Form, she or he should complete Part I.

Please note that one Application Form should be filled in per applicant.

NOTE

This Application Form and the process of applying are free of charge. The ICC, as a matter of practice, does not charge any fee at any stage of the application process.

Instructions:

Please take into account the following instructions when completing this Application Form:

- Please fill in this Application Form to the extent possible.
- Please type or write your answers clearly.
- Please attach answers to the questions on a separate sheet of paper if you need more space.
- You must sign your Application Form, or add your thumbprint or other mark where indicated at the end of Part J.
- Please also put initials of the applicant in the box located at the bottom of each page of this Application Form as well as any other documents accompanying it. This will help prevent pages of the Application Form from being lost.
- Please provide photocopies of documents requested to the extent possible. If you do not have the documentation requested your application will still be considered. If possible, please staple all the pages of the Application Form and the accompanying documents. Do not send original documents at this time, but please take good care of original documents, which the Court may request at a later stage.

If you seek help in filling in this Application Form, you may contact the ICC or an ICC Field Office which will put you in touch with someone near you to help you fill in this Application Form.

Note regarding disclosure of information:

The information contained in your Application Form may be forwarded to the Defence and the Prosecutor. In addition, part or all of the information may be made available to the general public in the course of proceedings. If you do not wish for part or all of the information in the form to be disclosed or made public for reasons related to your security or well-being, you should tick the relevant boxes in Part H of the Application Form and provide the information requested. The Chamber of Judges will decide on the request, and their decision will be communicated to you.

The Application Form should be sent directly to one of the following addresses:

ICC HEADQUARTERS**International Criminal Court**

Victims Participation and Reparations Section (VPRS)
P.O. Box 19519, 2500 CM The Hague
The Netherlands
Fax: + 31 70 515 9100
Email: vprsapplications@icc-cpi.int

ICC FIELD OFFICES**ICC Field Office in Kampala**

Victims Participation and Reparations Section (VPRS)
P.O. Box 72735 - Kampala
Telephone: + 256 77 2 706062

ICC Field Office in Kinshasa

Victims Participation and Reparations Section (VPRS)
Telephone: + 243 998011426, + 243 998011403

PERSONAL INFORMATION ABOUT THE VICTIM. See Part A of the Booklet.

Have you already submitted an application for participation or reparations to the ICC?

Yes No

If yes, when?

Day Month Year

If you have a registration number, please indicate it:

VPRS- / - /

1. **Surname(s):** _____

2. **Other name(s):** _____

3. **Please provide the following information as far as relevant:**

Father's name: _____

Mother's name: _____

Name of next of kin or, if you are under 18 years old, guardian: _____

4. **Sex:** Female Male

5. **Age** or, if not known, approximate age:

or **date of birth**, or if not known, approximate date of birth:

Day Month Year

6. **Place of birth:** _____

7. **Nationality (ies):** _____

8. **What is your tribe/ethnic group?**

Initials of applicant

NOTE: This Application Form and the process of applying are free of charge.

9. What is your occupation?

- Agriculture (crops, livestock)
 - Seller (self-employed, trade)
 - State employee
 - Teacher
 - Medical worker
 - Artisan/skilled labor/ casual worker
 - Work for NGO or UN
 - Unemployed
 - Other - Specify:
-

10. What is your marital status?

- Single
 - Married
 - Divorced
 - Widow/widower
 - Other (such as abandoned spouse, co-habitee)
-

11. How many dependants do you have? Please write number.

12. If you have a disability or disabilities, please specify.

Initials of applicant

13. Which of the following proof of identity do you have? Please indicate the number or other reference and attach a photocopy if possible. Please note that one of the following is sufficient. If you have no documentation your application will still be considered.

Type of proof of identity	Number or other reference
<input type="checkbox"/> Passport	_____
<input type="checkbox"/> Driver's licence	_____
<input type="checkbox"/> Identity card (such as students, employees)	_____
<input type="checkbox"/> Letter from Local Authority	_____
<input type="checkbox"/> Camp registration card	_____
<input type="checkbox"/> Card from humanitarian agency (such as UNHCR, WFP)	_____
<input type="checkbox"/> Tax document	_____
<input type="checkbox"/> Voting card	_____
<input type="checkbox"/> Other. Please specify and provide number or other reference:	_____
<input type="checkbox"/> None	_____

14. Where do you currently live? Please complete all that apply to you.

Street: _____ Number/Plot: _____

Camp/Zone/Sector/Cell: _____

Village/Parish/Subcounty/Town: _____

County/District: _____

P.O. Box: _____ Postal Code: _____

Country: _____

If you have been displaced from your home, please indicate your place of origin:

Village/Parish/Subcounty/Town: _____

County/District: _____

Country: _____

Initials of applicant

15. Where would you like to be contacted? *Please tick as appropriate.*

- Please use the address mentioned in question 14.
- Please contact me through a person acting on my behalf.
If you tick this box, please fill in Part B of this Application Form as appropriate.
- Please use the following address. *Please complete all that apply to you:*

C/O: _____

Street: _____

Number/Plot: _____

Camp/Zone/Sector/Cell: _____

Village/Parish/Subcounty/Town: _____

County/District: _____

P.O. Box: _____

Postal Code: _____

Country: _____

- Please use the following telephone number (*please give area code*):

- Please use the following mobile phone number:

- Please use the following fax number (*please give area code*):

- Please use the following e-mail address:

16. Which languages do you speak?

17. In which of the following languages are you able to understand written correspondence?

English

French

Other language. *Please specify:* _____

Cannot read

Initials of applicant

INFORMATION ABOUT A PERSON ACTING ON BEHALF OF THE VICTIM. See Part B of the Booklet.

If this Application Form is being completed by a person acting on behalf of the victim (as outlined on page 1 of the Application Form), that person should provide her or his details below.

1. **Surname(s):** _____

2. **Other name(s):** _____

3. **Sex:** Female Male

4. **Age** or, if not known, approximate age: _____

or **date of birth**, or if not known, approximate date of birth:

Day Month Year

5. **Which of the following proof of identity do you have?** Please indicate the number or other reference and attach a photocopy if possible. Please note that one of the following is sufficient. If you have no documentation your application will still be considered.

Type of proof of identity	Number or other reference
<input type="checkbox"/> Passport	_____
<input type="checkbox"/> Driver's licence	_____
<input type="checkbox"/> Identity card (such as students, employees)	_____
<input type="checkbox"/> Letter from Local Authority	_____
<input type="checkbox"/> Camp registration card	_____
<input type="checkbox"/> Card from humanitarian agency (such as UNHCR, WFP)	_____
<input type="checkbox"/> Tax document	_____
<input type="checkbox"/> Voting card	_____
<input type="checkbox"/> Other. Please specify and provide number or other reference:	_____
<input type="checkbox"/> None	_____

Initials of applicant

6. Contact details. Please complete all that apply to you.

Street: _____ Number/Plot: _____

Camp/Zone/Sector/Cell: _____

Village/Parish/Subcounty/Town: _____

County/District: _____

P.O. Box: _____ Postal Code: _____

Country: _____

Telephone number. Please give area code: _____

Mobile phone number: _____

Fax number. Please give area code: _____

E-mail address: _____

7. Which languages do you speak?

8. In which of the following languages are you able to understand written correspondence?

English

French

Other language. Please specify: _____

Cannot read

9. In what capacity are you making this application? Please tick as appropriate.

I am making this application because:

Ⓐ <input type="checkbox"/>	The victim is a child	
Ⓑ <input type="checkbox"/>	The victim is a person with a disability	Nature of disability: _____
Ⓒ <input type="checkbox"/>	The victim is deceased	Date of death: Day <input type="text"/> Month <input type="text"/> Year <input type="text"/> Is there a death certificate, court document granting entitlement or the equivalent? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>If yes, please provide a photocopy.</i>
Ⓓ <input type="checkbox"/>	The victim gave her/his consent	<i>The victim must indicate her or his consent by signing in Part J of this Application Form.</i>

Initials of applicant

10. What is your relationship to the victim? _____

Do you have proof of the relationship (such as marriage certificate, birth certificate, family registration booklet, will or testament or court document)?

Yes No

If yes, please provide a photocopy.

PART C

STAGE OF PARTICIPATION. See Part C of the Booklet.

1. During which of the following stages of the proceedings do you wish to participate?

Preliminary Examination Stage

Pre-Trial Stage

Trial Stage

Appeal Stage

PART D

INFORMATION ABOUT THE ALLEGED CRIME(S). See Part D of the Booklet.

Please attach answers to this section on a separate sheet of paper if necessary.

1. Please give a detailed description of the alleged crime(s) which form the basis of this application (please explain in detail what happened to you).

When did the event or events occur? If possible, please specify day(s), month(s) and year(s).

Initials of applicant

Where did the event or events take place? If necessary you may attach a drawing or a map of the location.

2. Who do you believe is responsible for the event or events and why do you believe this?
Please answer to the extent possible.

3. Were there any other victims of the event or events?

Yes No

If yes (and if you can), please give their names and addresses, unless you know that they wish to remain anonymous, or it would put the applicant or anyone else at risk.

4. Were there any witnesses?

Yes No

If yes (and if you can), please give their names and addresses, unless you know that they wish to remain anonymous or it would put the applicant or anyone else at risk.

5. Do you have any relationship with these witnesses (are they family members, neighbours, friends, etc.)?

Yes No

If yes, please indicate:

Initials of applicant

INFORMATION ABOUT THE INJURY, LOSS OR HARM SUFFERED. *See Part E of the Booklet.*

1. Please describe the injury, loss or harm you have suffered, and give brief descriptions (such as physical injuries, mental pain and anguish, loss of or damage to property).

2. Were you examined by a doctor after the event or events occurred?

Yes No

3. Did you receive any medical or psychological treatment?

Yes No

4. If yes, do you have (or have access to) any records regarding any medical or psychological treatment? *If yes, please tick as appropriate and provide a photocopy, if available.*

- Medical report from doctor, hospital or health center
- X-rays
- Prescriptions/Invoices for medicines
- Other. *Please specify:*

None

5. Does your condition persist today?

Yes No

If yes, please give details:

PART F

NOT APPLICABLE. *See Part F of the Booklet.*

Initials of applicant

LEGAL REPRESENTATION. See Part G of the Booklet.

A victim may be represented before the ICC by a legal representative. A victim is free to choose her or his legal representative before the ICC, who must be a person with 10 years' relevant experience as a criminal lawyer, judge or prosecutor, and be fluent in one of the Court's working languages (English or French).

1. Do you have a legal representative?

Yes No

If yes, please provide her/his name, and contact details:

Name: _____

Address:

Street: _____ Number/Plot: _____

Camp/Zone/Sector/Cell: _____

Village/Parish/Subcounty/Town: _____

County/District: _____

P.O. Box: _____

Country: _____

Telephone number. *Please give area code:* _____

Mobile phone number: _____

Fax number. *Please give area code:* _____

Email address: _____

2. If no, would you like assistance from the Court to obtain legal representation?

Yes No

Note regarding victims' legal representation:

The ICC can help victims find a legal representative by providing a list of qualified counsel.

Although the Court's resources for legal aid are limited, the Court may be able to provide some financial assistance. If you believe you will not be able to afford legal representation, a separate form for requesting legal assistance paid by the Court is available at the ICC Field Offices and the website at www.icc-cpi.int

Where there are many victims, a Chamber of Judges may ask victims to choose a common legal representative, in order to make the proceedings more efficient. If for any reason the victims are unable to choose one, the Chamber of Judges may ask the Registrar to do so. If the victims are not happy with the Registrar's choice, they may ask a Chamber of Judges to review it.

Please note that the Office of Public Counsel for Victims within the Court may also be appointed to represent victim(s) or a group of victims free of charge. Such Office provides support and assistance to victims and legal representatives of victims, including legal advice and representation before a Chamber.

Initials of applicant

REQUEST FOR NON-DISCLOSURE OF INFORMATION. *See Part H of the Booklet.*

Completing this section does not automatically mean that your request for non-disclosure will be accepted. Please note that a Chamber of Judges will decide on this request.

1. Please tick one or more boxes if you wish to request that your identity be kept from:

- The Prosecutor The Defence The general public State or other participant

2. Please tick one or more boxes if you wish to request that any information provided in this Application Form other than your identity be kept from:

- The Prosecutor The Defence The general public State or other participant

If yes, which information?

If you have ticked either box, please give reasons:

3. Have you or your family been in contact with any person or organization to discuss your concerns regarding security as a result of filling in this Application Form?

- Yes No

If yes, please give details:

PART I

INFORMATION ABOUT A PERSON ASSISTING IN FILLING IN THIS APPLICATION FORM.

See Part I of the Booklet.

If you are assisting the victim or assisting a person acting on behalf of the victim, please fill in this part.

1. Surname(s): _____

2. Other name(s): _____

Initials of applicant

3. Address. *Please complete all that apply to you.*

Street: _____ Number/Plot: _____
Camp/Zone/Sector/Cell: _____
Village/Parish/Subcounty/Town: _____
County/District: _____
P.O. Box: _____ Postal Code: _____
Country: _____
Telephone number. *Please give area code:* _____
Mobile phone number: _____
Fax number. *Please give area code:* _____
E-mail address: _____

4. Occupation, place of employment and job title: _____

5. Which languages do you speak? _____

6. Which language did you use in communicating with the victim? _____

7. Was an interpreter present?

Yes No

If yes, please provide his/her name:

Initials of applicant

SIGNATURES. See Part J of the Booklet.

SIGNATURE OF THE VICTIM

You should sign or add your thumbprint or other mark and date this Application Form, whether or not someone is acting on your behalf or assisting you in filling in this Application Form.

I hereby declare that, to the best of my knowledge and belief, the information I have given in the present Application Form is correct.

Signature, thumbprint or other mark of the victim

Day Month Year

Location: _____

Witnessed by:


Name: _____

Signature: _____


Initials of applicant

SIGNATURE OF THE PERSON ACTING ON BEHALF OF THE VICTIM AND CONSENT OF THE VICTIM

If you ticked box (d) on page 8 (Question 9, Part B — if the victim has consented to you making this application on her or his behalf):

 The victim must sign the consent below, or add her or his thumbprint or other mark, and the person acting on the victim's behalf should also sign where indicated.

If you ticked box (a), (b) or (c) on page 8 (Question 9, Part B — if the victim is a child, disabled or deceased):

 The person acting on behalf of the victim must sign below.

Consent of the victim:

I, _____
 Print name of the victim

consent to

Print name of the person acting on behalf of the victim

to act on my behalf in making this application.

Signature, thumbprint or other mark of the victim

Signature, thumbprint or other mark of a person acting on behalf of the victim

Day Month Year

Location: _____

Witnessed by:

Name: _____

Signature: _____

Initials of applicant

NOTE: This Application Form and the process of applying are free of charge.

REMINDER

Before submitting this Application Form, please review it and tick the following as appropriate:

I have attached the following documents in support of this Application Form:

- 1. _____
- 2. _____
- 3. _____

I have initialed every page of this Application Form as well as any other documents accompanying it.

Please indicate total number of pages of this Application Form including additional pages and photocopies of documentation: _____

If you are the victim:	If you are a person acting on behalf of the victim:
<p><input type="checkbox"/> I have provided a photocopy of proof of identity in response to Question 13 of Part A.</p> <p><input type="checkbox"/> I have provided contact information in response to Question 15 of Part A.</p> <p><input type="checkbox"/> I have signed or made my mark in the first box in Part J.</p>	<p><input type="checkbox"/> I have provided a photocopy of proof of identity in response to Question 5 of Part B.</p> <p><input type="checkbox"/> I have provided contact information in response to Question 6 of Part B.</p> <p><input type="checkbox"/> I have provided a death certificate, court document granting entitlement or the equivalent if the victim is deceased.</p> <p><input type="checkbox"/> I have provided a photocopy of proof of relationship to the victim as requested in Question 10 of Part B.</p> <p><input type="checkbox"/> I have signed or made my mark in the second box in Part J.</p>

What will happen to your application?

Once the ICC receives your Application Form, you will receive an acknowledgement. This acknowledgement will provide you with a registration number that you should use when communicating with the Court. If you send additional information to the Court, please use this registration number to ensure your application is properly updated. Please note that criminal proceedings take time and it may be a while before a Chamber of Judges make a decision on your application.

Initials of applicant



**STANDARD APPLICATION FORM TO PARTICIPATE IN PROCEEDINGS
BEFORE THE INTERNATIONAL CRIMINAL COURT
FOR VICTIMS WHICH ARE ORGANIZATIONS OR INSTITUTIONS**

FORM PARTICIPATION-2

Please complete this Application Form if you are the duly authorized representative of an organization or institution which believes itself to have sustained direct harm to any of its property which is dedicated to religion, education, art or science or charitable purposes, or to its historic monuments, hospitals and other places and objects for humanitarian purposes, and you wish to participate in proceedings before the ICC by putting forward your observations, views or concerns.


The purpose of this Application Form is to collect information to help a Chamber of Judges in the ICC decide whether you are entitled to participate in the proceedings before the Court. Completion of this Application Form will not automatically lead to your participation in the proceedings before the ICC.

The Information provided in the Application Form will be forwarded to a Chamber of Judges in the ICC which will consider your application. Please be advised that criminal proceedings take time and it may be some time before the Court makes decisions on your application.

Please review the accompanying Booklet before completing the Application Form as it will help you fill it in correctly. The Booklet contains explanations regarding:

- What the International Criminal Court is
- The purpose of this Application Form and what will happen to it
- Instructions on how to complete each section of the Application Form. Please note that each Part of this Application Form corresponds to the same Part of the Booklet.

Please note that one Application Form should be filled in per organization/institution.

 Victims that are individuals (natural persons) should use FORM PARTICIPATION-1.

NOTE

This Application Form and the process of applying are free of charge. The ICC, as a matter of practice, does not charge any fee at any stage of the application process.

Instructions:

Please take into account the following instructions when completing this Application Form:

- Please fill in this Application Form to the extent possible.
- Please type or write your answers clearly.
- Please attach answers to the questions on a separate sheet of paper if you need more space.
- You must sign your Application Form, or add your thumbprint or other mark where indicated at the end of Part J.
- Please also put initials of the applicant in the box located at the bottom of each page of this Application Form as well as of any other documents accompanying it. This will help prevent pages of the Application Form from being lost.
- Please provide photocopies of documents requested to the extent possible. If you do not have the documentation requested your application will still be considered. If possible, please staple all the pages of the Application Form and the accompanying documents. Do not send original documents at this time, but please take good care of original documents, which the Court may request at a later stage.

If you seek help in filling in this Application Form, you may contact the ICC or an ICC Field Office which will put you in touch with someone near you to help you fill in this Application Form.

Note regarding disclosure of information:

The information contained in your Application Form may be forwarded to the Defence and the Prosecutor. In addition, part or all of the information may be made available to the general public in the course of proceedings. If you do not wish for part or all of the information in the form to be disclosed or made public for reasons related to your security or well-being, you should tick the relevant boxes in Part H of the Application Form and provide the information requested. The Chamber of Judges will decide on the request, and their decision will be communicated to you.

The Application Form should be sent directly to one of the following addresses:

ICC HEADQUARTERS**International Criminal Court**

Victims Participation and Reparations Section (VPRS)
P.O. Box 19519, 2500 CM The Hague
The Netherlands
Fax: + 31 70 515 9100
Email: vprsapplications@icc-cpi.int

ICC FIELD OFFICES**ICC Field Office in Kampala**

Victims Participation and Reparations Section (VPRS)
P.O. Box 72735 - Kampala
Telephone: + 256 77 2 706062

ICC Field Office in Kinshasa

Victims Participation and Reparations Section (VPRS)
Telephone: + 243 998011426, + 243 998011403

INFORMATION ABOUT THE ORGANIZATION OR INSTITUTION. See Part A of the Booklet.

Have you already submitted an application for participation or reparations to the ICC?

Yes No

If yes, when?

Day Month Year

If you have a registration number, please indicate it:

VPRS- / - /

1. Name of the organization/institution: _____

2. Address:

Street: _____ Number/Plot: _____

Village/Parish/Subcounty/Town: _____

County/District: _____

P.O. Box: _____ Postal Code: _____

Country: _____

3. Contact details of the organization/institution. Please tick as appropriate.

Please use the address mentioned in Question 2.

Please use the following address. Please complete as far as relevant:

C/O: _____

Street: _____ Number/Plot _____

Camp/Zone/Sector/Cell: _____

Village/Parish/Subcounty/Town: _____

County/District: _____

P.O. Box: _____ Postal Code: _____

Country: _____

(Continues on the next page)

Initials of applicant

NOTE: This Application Form and the process of applying are free of charge.

Please use the following telephone number (*please give area code*):

Please use the following mobile phone number:

Please use the following fax number (*please give area code*):

Please use the following e-mail address:

4. The property that was harmed is dedicated to (*Please tick one or more boxes as appropriate*):

Religion

Education

Art

Science

Charitable purposes

Historic monument

Hospital

Humanitarian purposes

Other. - Specify: _____

5. What was the legal status of the organization/institution on the date that the alleged harm occurred?

Please provide evidence of the incorporation, establishment or registration of the organization or institution, if appropriate, at the date the alleged harm occurred (such as certificate of incorporation or registration), if possible, certified or authenticated copies.

Non-governmental organization (organization established to provide voluntary services, including religious, educational, artistic, scientific, social or charitable services to the community or any part of it)

Charitable or non-profit organization

Statutory body (such as governmental organization, public school, hospital)

Education (private) body (such as primary school, secondary school, training college)

Company (limited, unlimited or limited by guarantee)

Communication body (such as electronic media, the press)

Institution for the benefit of members of a community (such as cooperative society, building society or micro-finance institution)

Partnership

Other. - Specify: _____

Initials of applicant

6. Date and place of incorporation, establishment or registration, if appropriate, of the organization/ institution. Please complete all that apply.

Village/Parish/Subcounty/Town: _____

Country/District: _____

P.O. Box: _____ Postal Code: _____

Country: _____

PART B

INFORMATION ABOUT THE PERSON SUBMITTING THIS APPLICATION FORM. See Part B of the Booklet.

1. Surname(s): _____

2. Other name(s): _____

3. Nationality(ies): _____

4. Contact details. Please complete all that apply to you.

If you expect to move elsewhere please provide name and address of a person who knows how to get in touch with you.

Address:

C/O: _____

Street: _____ Number/Plot: _____

Camp/Zone/Sector/Cell: _____

Village/Parish/Subcounty/Town: _____

County/District: _____

P.O. Box: _____ Postal Code: _____

Country: _____

Telephone number (please give area code):

Mobile phone number :

Fax number (please give area code):

E-mail address:

Initials of applicant

5. Occupation and job title:

6. In what capacity are you acting for the organization or institution? Please provide a photocopy of proof of your capacity.

Authorized representative of the organization or institution (such as company director, president)

Legal representative

Other. *Please specify:* _____

7. In which of the following languages are you able to understand written correspondence?

English

French

Other language. *Please specify:* _____

Cannot read

PART C**STAGE OF PARTICIPATION.** *See Part C of the Booklet.***1. During which of the following stages of the proceedings do you wish to participate?**

Preliminary Examination Stage

Pre-Trial Stage

Trial Stage

Appeal Stage

Initials of applicant

INFORMATION ABOUT THE ALLEGED CRIME(S). See part D of the Booklet.

Please attach answers to this section on a separate sheet of paper if necessary.

- 1. Please give a detailed description of the alleged crime(s) which form the basis of this application (please explain in detail what happened to the property of the organization/institution).**

When did the event or events occur? If possible, please specify day(s), month(s) and year(s).

Where did the event or events take place? If necessary you may attach a drawing or a map of the location.

- 2. Who do you believe is responsible for the event or events and why do you believe this?** *Please answer to the extent possible.*

- 3. Were there any other victims of the event or events?**

Yes No

If yes (and if you can), please give their names and addresses, unless you know that they wish to remain anonymous, or it would put the applicant or anyone else at risk.

Initials of applicant

4. Were there any witnesses?

Yes No

If yes (and if you can), please give their names and addresses, unless you know that they wish to remain anonymous, or it would put the applicant or anyone else at risk.

5. Do these witnesses have any relationship to the organization/institution?

Yes No

If yes, please indicate:

PART E

INFORMATION ABOUT THE HARM SUFFERED. See Part E of the Booklet.

Please attach answers to this section on a separate sheet of paper if necessary.

1. What direct harm to the property resulted from the alleged crime(s)?

PART F

NOT APPLICABLE. See Part F of the Booklet.

Initials of applicant

LEGAL REPRESENTATION. See Part G of the Booklet.

A victim may be represented before the ICC by a legal representative. A victim is free to choose her or his legal representative before the ICC, who must be a person with 10 years' relevant experience as a criminal lawyer, judge or prosecutor, and be fluent in one of the Court's working languages (English or French).

1. Are you serving as the legal representative for the organization/institution which is the subject of this application?

Yes No

2. If no, does the organization/institution have a legal representative?

Yes No

If yes, please provide her/his name, and contact details:

Name: _____

Address:

Street: _____ Number/Plot: _____

Camp/Zone/Sector/Cell: _____

Village/Parish/Subcounty/Town: _____

County/District: _____

P.O. Box: _____ Postal code: _____

Country: _____

Telephone number. *Please give area code:* _____

Mobile phone number: _____

Fax number. *Please give area code:* _____

E-mail address: _____

3. Would the organization/institution like assistance from the Court to obtain legal representation?

Yes No

Note regarding victims' legal representation:

The ICC can help victims find a legal representative by providing a list of qualified counsel.

Although the Court's resources for legal aid are limited, the Court may be able to provide some financial assistance. If you believe you will not be able to afford legal representation, a separate form for requesting legal assistance paid by the Court is available at the ICC Field Offices and the website at www.icc-cpi.int

Where there are many victims, a Chamber of Judges may ask victims to choose a common legal representative, in order to make the proceedings more efficient. If for any reason the victims are unable to choose one, the Chamber of Judges may ask the Registrar to do so. If the victims are not happy with the Registrar's choice, they may ask a Chamber of Judges to review it.

Please note that the Office of Public Counsel for Victims within the Court may also be appointed to represent victim(s) or a group of victims free of charge. Such Office provides support and assistance to victims and legal representatives of victims, including legal advice and representation before a Chamber.

Initials of applicant

REQUEST FOR NON-DISCLOSURE OF INFORMATION. *See Part H of the Booklet.*

Completing this section does not automatically mean that your request for non-disclosure will be accepted. Please note that a Chamber of Judges will decide on this request.

1. Please tick one or more boxes if you wish to request that any information provided in this Application Form be kept from:

- The Prosecutor The Defence The general public State or other participant

If yes, which information?

Please give reasons:

2. Have you been in contact with any person or organization to discuss your concerns regarding security as a result of filling in this Application Form?

- Yes No

If yes, please give details:

PART I

INFORMATION ABOUT A PERSON ASSISTING IN FILLING IN THIS APPLICATION FORM.

See Part I of the Booklet.

If you are assisting the person submitting this Application Form please fill in this part.

1. Surname(s): _____

2. Other name(s): _____

Initials of applicant

3. Address. *Please complete all that apply to you.*

Street: _____ Number/Plot: _____

Camp/Zone/Sector/Cell: _____

Village/Parish/Subcounty/Town: _____

County/District: _____

P.O. Box: _____ Postal Code: _____

Country: _____

Telephone number. *Please give area code:* _____

Mobile phone number: _____

Fax number. *Please give area code:* _____

E-mail address: _____

4. Occupation, place of employment and job title: _____

5. Which languages do you speak? _____

6. Which language did you use in communicating with the person submitting this Application Form?

7. Was an interpreter present?

Yes No

If yes, please provide her/his name:

Initials of applicant

SIGNATURE OF THE PERSON SUBMITTING THIS APPLICATION FORM. See Part J of the Booklet.

You (the duly authorized representative of the organization or institution) should sign or add your thumbprint or other mark and date this Application Form.

I hereby declare that, to the best of my knowledge and belief, the information I have given in the present Application Form is correct.

Signature, thumbprint or other mark of the applicant

Day Month Year

Location: _____

Witnessed by:

Name: _____

Signature: _____

Initials of applicant

NOTE: This Application Form and the process of applying are free of charge.

REMINDER

Before submitting this Application Form, please review it and tick the following as appropriate:

I have attached the following documents in support of this Application Form:

1. _____

2. _____

3. _____

I have initialed every page of this Application Form as well as any other documents accompanying it.

I have provided a photocopy of proof of my capacity in response to Question 6 of Part B.

I have signed or made my mark in the box in Part J.

Please indicate total number of pages of this Application Form including additional pages and photocopies of documentation: _____

What will happen to your application?

Once the ICC receives your Application Form, you will receive an acknowledgement. This acknowledgement will provide you with a registration number that you should use when communicating with the Court. If you send additional information to the Court, please use this registration number to ensure your application is properly updated. Please note that criminal proceedings take time and it may be a while before a Chamber of Judges make a decision on your application.

Initials of applicant