



Original: English

**No. ICC-02/17 OA5
Date: 15 February 2023**

THE APPEALS CHAMBER

Before: Judge Piotr Hofmański, Presiding
Judge Luz del Carmen Ibáñez Carranza
Judge Marc Perrin de Brichambaut
Judge Solomy Balungi Bossa
Judge Gocha Lordkipanidze

SITUATION IN THE ISLAMIC REPUBLIC OF AFGHANISTAN

Public document

**Order on the filing of submissions in response to the observations of the
participating victims**

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

The Office of the Prosecutor

Mr Karim A. A. Khan, Prosecutor
Ms Nazhat Shameem Khan
Ms Helen Brady

Legal Representatives of Victims

Ms Nada Kiswanson van Hooydonk
Ms Katherine Gallagher
Ms Margaret L. Satterthwaite
Ms Nikki Reisch
Mr Tim Moloney
Ms Megan Hirst
Ms Nancy Hollander
Mr Mikołaj Pietrzak
Mr Steven Powles
Mr Conor McCarthy
Ms Spojmie Ahmady Nasiri
Mr Nema Milaninia
Ms Haydee Dijkstal

The Office of Public Counsel for Victims

Ms Paolina Massidda
Ms Sarah Pellet

States Representatives

Islamic Republic of Afghanistan

REGISTRY

Registrar

Mr Peter Lewis

The Appeals Chamber of the International Criminal Court,

In the appeal of the Prosecutor against the decision of Pre-Trial Chamber II entitled “Decision pursuant to article 18(2) of the Statute authorising the Prosecution to resume investigation” of 31 October 2022 (ICC-02/17-196),

In light of the “Notice of discontinuance of the appeal of the Prosecutor against the ‘Decision pursuant to article 18(2) of the Statute authorising the Prosecution to resume investigation’ (OA5)” of 16 January 2023 (ICC-02/17-207),

Issues the following

ORDER

The Prosecutor may file submissions in response to the observations on his notice of discontinuance of the appeal, not exceeding 10 pages, by 16h00 on 22 February 2023.

REASONS

1. On 16 January 2023, the Prosecutor filed, pursuant to rule 157 of the Rules of Procedure and Evidence, a notice of discontinuance of the appeal against the decision of Pre-Trial Chamber II issued on 31 October 2022 (hereinafter: “Notice of Discontinuance”).¹
2. On 24 January 2023, the Appeals Chamber issued an order, seeking observations from the participating victims and Afghanistan on the Prosecutor’s Notice of Discontinuance.²
3. On 24 January, 1 February 2023 and 3 February 2023, the legal representatives of five victims and cross-border victims, the Office of Public Counsel for Victims, and

¹ *Situation in the Islamic Republic of Afghanistan*, [Notice of discontinuance of the appeal of the Prosecutor against the “Decision pursuant to article 18\(2\) of the Statute authorising the Prosecution to resume investigation” \(OA5\)](#), 16 January 2023, ICC-02/17-207.

² [Order on the filing of observations on the Prosecutor’s notice of discontinuance of the appeal](#), 24 January 2023, ICC-02/17-208.

the legal representative of victims a/00001/21 through a/00007/21 filed their respective observations on the Notice of Discontinuance.³

4. In light of the issues raised in the aforementioned observations, the Appeals Chamber finds it appropriate to allow the Prosecutor to file submissions in response to those observations. The Prosecutor's submissions, not exceeding 10 pages, shall be filed by 16h00 on 22 February 2023.

Done in both English and French, the English version being authoritative.



Judge Piotr Hofmański
Presiding

Dated this 15th day of February 2023

At The Hague, The Netherlands

³ [Response to 'Notice of discontinuance of the appeal of the Prosecutor against the "Decision pursuant to article 18\(2\) of the Statute authorising the Prosecution to resume investigation" \(OA5\)', ICC-02/17-209; Submissions on behalf of victims pursuant to the "Order on filing of observations on the Prosecutor's notice of discontinuance of the appeal" \(No. ICC-02/17-208\), ICC-02/17-210; Submission on behalf of Victims in accordance with the Appeals Chamber's "Order on the filing of observations on the Prosecutor's notice of discontinuance of the appeal" of 24 January 2023, ICC-02/17-211.](#)