

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/17
Date: 24 June 2019

APPEALS CHAMBER

Before: Judge Piotr Hofmański, Presiding Judge
Judge Chile Eboe-Osuji
Judge Howard Morrison
Judge Luz del Carmen Ibáñez Carranza
Judge Solomy Balungi Bossa

SITUATION IN THE ISLAMIC REPUBLIC OF AFGHANISTAN

**URGENT
Public**

Victims' request for extensions of time and of page limit

Source: Legal Representatives of Victims

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

Ms Fatou Bensouda, Prosecutor
Mr James Stewart, Deputy Prosecutor

Counsel for the Defence**Legal Representatives of the Victims**

Katherine Gallagher
Margaret L. Satterthwaite and Nikki Reisch
Tim Moloney QC and Megan Hirst
Fergal Gaynor and Nada Kiswanson van Hooydonk
Nancy Hollander, Mikołaj Pietrzak, and Ahmad Assed
Steven Powles QC

Legal Representatives of the Applicants**Unrepresented Victims****Unrepresented Applicants
(Participation/Reparation)****The Office of Public Counsel for
Victims**

Paolina Massidda

**The Office of Public Counsel for the
Defence****States' Representatives****Amicus Curiae**

Spojmie Nasiri
Dimitris Christopoulos

REGISTRY

Registrar**Counsel Support Section****Victims and Witnesses Unit****Detention Section****Victims Participation and Reparations
Section****Other**

I. INTRODUCTION

1. This filing is submitted jointly by the respective Legal Representatives for Victims (“LRVs”) of victims r/60009/17, r/00751/18, r/00750/18, r/00749/18, r/00635/18, r/00636/18 and r/00638/18 (“Victims”).¹ It is filed pursuant to regulations 35(1) and 37(2) of the Regulations of the Court. It is marked “URGENT” pursuant to regulation 24(3) of the Regulations of the Registry since it seeks a determination on the same day.

II. REQUEST FOR EXTENSION OF TIME

2. On 10 June 2019, two separate Notices of Appeal were filed on behalf of the Victims, against Pre-Trial Chamber II’s “Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Islamic Republic of Afghanistan”². At that time their respective LRVs were acting separately. Since then, the four teams of LRVs representing seven victims have taken steps to coordinate pleadings related to the appeal, in an effort to assist the Chamber with arguments which are non-duplicative, streamlined, coherent and, to the extent possible, reflect the Victims’ common interests. The LRVs are also conscious of the imperative for judicial economy. The LRVs have therefore decided to file a single consolidated appeal brief pursuant to regulation 64(2) of the Regulations of the Court.

¹ The seven Victims are represented by three separate legal teams: r/60009/17 by Nancy Hollander, Mikołaj Pietrzak and Ahmad Assed; r/00751/18 (Sharqawi Al Hajj) and r/00750/18 (Guled Hassan Duran) by Katherine Gallagher of the Center for Constitutional Rights; r/00749/18 (Mohammed Abdullah Saleh al-Asad) by Margaret Satterthwaite and Nikki Reisch of the Global Justice Clinic at New York University (NYU) School of Law*; and r/00635/18, r/00636/18 and r/00638/18 by Tim Moloney QC and Megan Hirst, instructed by Reprieve. [*Communications from clinics at NYU School of Law do not purport to present the school’s institutional views, if any.]

This filing has been agreed jointly by the LRVs, and the LRVs will continue to seek common positions to the extent possible in order to ensure expedition and efficiency in the proceedings. However they emphasize that the representation of these two groups of clients remains separate and does not imply collective representation, and therefore that joint filings cannot be guaranteed in every instance.

² Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Islamic Republic of Afghanistan, 12 April 2019, ICC-02/17-33; Concurring and separate opinion of Judge Antoine Kesia-Mbe Mindua, 31 May 2019, ICC-02/17-33-Anx-Corr, dated and notified on 7 June 2019.

3. The process of drafting a single consolidated document has, however, proven to be a more demanding and time-consuming process than anticipated. The LRVs note that they are four teams of lawyers working across multiple time zones and with several of their number also currently involved in international travel. The LRVs' teams bring a variety of arguments to the brief which involve nuance. The LRVs also note that the matters to be addressed in the appeal brief are novel and complex. This has contributed to the time required to finalize a joint presentation of arguments.

4. The LRVs are deeply conscious of their clients' concern for promptness in these proceedings and from that perspective regret any delay which arises, no matter how short. However, they believe that the benefits of a consolidated brief – in terms of the reduced time necessary for its consideration and the receipt of responses from the Prosecutor and other victims – will significantly outweigh the short extension of time sought herein.

5. Accordingly, the LRVs respectfully request that the Appeals Chamber grant an extension of time for the filing of a consolidated victims' appeal brief, to 4pm on Wednesday, 26 June 2019.

III. REQUEST FOR EXTENSION OF PAGE LIMIT

6. Having agreed to present a consolidated appeal brief to the Appeals Chamber, the LRVs will also endeavour to limit as much as possible the length of legal argumentation contained in that brief. However, it is noted that arguments which would have been presented in two briefs of up to 20 pages will now be merged. This adds a further factor on top of the particular complexity and importance of the issues to be raised, which in itself may already have constituted a reason for an extended page limit.³

³ *Prosecutor v Bahar Idriss Abu Garda*, Decision on extension of page limit for Application for leave to appeal, ICC-02/05-02/09-251, 11 March 2010; *Prosecutor v Omar Hassan Ahmad Al Bashir*, Decision on a request for extension of page limit by the Republic of South Africa, ICC-02/05-01/09-278, 23 February 2017.

7. Accordingly, the LRVs respectfully request an extension of the usual page limit, to permit a consolidated appeal brief of up to 35 pages.

IV. CONCLUSION

8. For the reasons set out above, the LRVs request that the Chamber:

- (i) Grant an extension of time for the Victims to file their appeal brief to 26 June 2019; and
- (ii) Grant an extension of the page limit for the Victims' appeal brief to 35 pages.

Respectfully submitted,



Katherine Gallagher
Legal Representative for r/00751/18 and r/00750/18



Margaret Satterthwaite Nikki Reisch
Legal Representatives for r/00749/18



Tim Moloney QC and Megan Hirst
Legal Representatives for r/00635/18, r/00636/18 and r/00638/18





Nancy Hollander Mikołaj Pietrzak Ahmad Assed
Legal Representatives for r/60009/17

At New York, USA; Dili, East Timor; Albuquerque, USA and Warsaw, Poland

Dated this 24th of June 2019