

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

**Original: English**

**No. ICC-02/17 OA OA2 OA3 OA4**

**Date: 1 November 2019**

**THE APPEALS CHAMBER**

**Before:**

**Judge Piotr Hofmański, Presiding  
Judge Howard Morrison  
Judge Luz del Carmen Ibáñez Carranza  
Judge Solomy Balungi Bossa  
Judge Kimberly Prost**

**SITUATION IN THE ISLAMIC REPUBLIC OF AFGHANISTAN**

**Public document**

**Decision on request for leave to file written submissions**

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

**The Office of the Prosecutor**

Ms Fatou Bensouda, Prosecutor  
Ms Helen Brady

**Legal Representatives of Victims**

Mr Fergal Gaynor  
Ms Nada Kiswanson van Hooydonk

Ms Katherine Gallagher  
Ms Margaret Satterthwaite  
Ms Nikki Reisch  
Mr Tim Moloney  
Ms Megan Hirst  
Ms Nancy Hollander  
Mr Mikołaj Pietrzak

Mr Steven Powles  
Mr Conor McCarthy

**The Office of Public Counsel for Victims**

Ms Paolina Massidda

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

Mr Xavier-Jean Keita

***Amici Curiae***

Ms Spojmie Nasiri  
Mr Luke Moffett  
Mr David J. Scheffer  
Ms Jennifer Trahan  
Ms Hannah R. Garry  
Mr Göran Sluiter  
Mr Kai Ambos  
Mr Dimitris Christopoulos  
Ms Lucy Claridge  
Mr Gabor Rona  
Mr Steven Kay  
Mr Paweł Wiliński  
Ms Nina H. B. Jørgensen  
Mr Wayne Jordash  
Mr Jay Alan Sekulow

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**Registrar**

Mr Peter Lewis

The Appeals Chamber of the International Criminal Court,

In the appeals of individual victims and two organisations submitting representations on behalf of victims filed pursuant to article 82(1)(a) of the Statute, and of the Prosecutor filed pursuant to article 82(1)(d) of the Statute, in the Situation in the Islamic Republic of Afghanistan, against the decision of Pre-Trial Chamber II entitled ‘Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Islamic Republic of Afghanistan’ of 12 April 2019 (ICC-02/17-33),

Having before it the ‘Notice of intention to attend oral hearings and request for leave’ of 29 October 2019 (ICC-02/17-102),

*Renders* the following

## DECISION

The request for exceptional leave to submit a written statement is rejected.

## REASONS

1. On 24 October 2019, the Appeals Chamber invited fifteen *amicus curiae* applicants to either file written submissions not exceeding 10 pages by 15 November 2019, or to indicate by 29 October 2019 that they will attend the oral hearing to be held between 4 and 6 December 2019 instead (‘Decision on the Participation of *Amici Curiae*’).<sup>1</sup>

2. On 29 October 2019, the Jerusalem Institute of Justice, the International Legal Forum, My Truth, the Simon Wiesenthal Centre, The Lawfare Project, and UK Lawyers for Israel (‘*Amicus Curiae* Organisations’) indicated that they would be represented at the hearing and requested leave to submit a written statement not exceeding 10 pages by 15 November 2019 (‘Request’).<sup>2</sup>

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<sup>1</sup> [‘Decision on the participation of \*amicus curiae\*, the Office of Public Counsel for the Defence and the cross-border victims’](#), ICC-02/17-97, pp 3-4.

<sup>2</sup> [‘Notice of intention to attend oral hearings and request for leave’](#), ICC-02/17-102.

3. The *Amicus Curiae* Organisations submit that the Request ‘is intended to assist the Appeals Chamber and the parties properly and fairly respond to the issues upon which the *Amicus Curiae* Organisations intend to make observations and to [...] facilitate oral submissions specifically tailored to and focused on replying to issues raised’.<sup>3</sup>

4. The Appeals Chamber recalls that the invitation to *amici curiae* to either file written submissions or appear at the oral hearing was based on ‘the need to ensure that proceedings are conducted expeditiously and that the Prosecutor and LRV1, LRV2 and LRV3 [...] are not overwhelmed by the volume of submissions with which they must engage’.<sup>4</sup> The Request is contrary to the instruction of the Appeals Chamber and the reasoning on which it was based. Accordingly, the Request is rejected.

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



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**Judge Piotr Hofmański**  
**Presiding**

Dated this 1<sup>st</sup> day of November 2019

At The Hague, The Netherlands

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<sup>3</sup> [Request](#), para. 3.

<sup>4</sup> [Decision on the Participation of Amici Curiae](#), para. 34.