Cour
Pénale
Internationale

International
Criminal
Court

Original: English

No. **ICC-02/17**
Date: **5 November 2026**

PRE-TRIAL CHAMBER II

Before: **Judge Rosario Salvatore Aitala, Presiding**
Judge Sergio Gerardo Ugalde Godínez
Judge Haykel Ben Mahfoudh

SITUATION IN THE ISLAMIC REPUBLIC OF AFGHANISTAN

Public

Order to transfer court records to the Situation in Afghanistan II

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

☒ **The Office of the Prosecutor**	☐ **Counsel for the Defence**
☐ **Legal Representatives of the Victims**	☐ **Legal Representatives of the Applicants**
☐ **Unrepresented Victims**	☐ **Unrepresented Applicants (Participation/Reparation)**
☐ **The Office of Public Counsel for Victims**	☐ **The Office of Public Counsel for the Defence**
☐ **States' Representatives**	☐ **Amicus Curiae**

REGISTRY

Registrar Mr Osvaldo Zavala Giler	☐ **Counsel Support Section**
☐ **Victims and Witnesses Unit**	☐ **Detention Section**
☐ **Victims Participation and Reparations Section**	☐ **Other**

PRE-TRIAL CHAMBER II (the 'Chamber') of the International Criminal Court (the 'Court') issues this Order to transfer court records to the Situation in Afghanistan II.

I. PROCEDURAL HISTORY

1. On 28 November 2024, six States Parties submitted a referral, pursuant to articles 13 and 14 of the Rome Statute (the 'Statute'), requesting the Prosecution to consider allegations of 'crimes committed against women and girls after the Taliban takeover in 2021 within its investigation into the Situation in Afghanistan' (the 'Referral').[1]

2. On 23 January 2025 and 6 March 2026, the Prosecution filed the first and only set of applications under article 58 of the Statute in the Situation in Afghanistan,[2] all related to the crime against humanity of persecution on gender and political grounds.

3. On 8 July 2026 and 9 September 2026, the Chamber issued the warrants of arrest for Mr Haibatullah Akhundzada, Mr Abdul Hakim Haqqani, Mr Habibullah Agha and Mr Neda Mohammad Nadim for their alleged responsibility for the crime against humanity of persecution on gender and political grounds, committed by the Taliban as the *de facto* governmental authority in Afghanistan, from at least 15 August 2021 until at least 20 January 2025 (the 'Arrest Warrants').[3]

4. On 15 July 2026, the Chamber issued a decision, directing the Prosecution to comply with regulation 45 of the Regulations of the Court (the 'Regulations') without

[1] Annex 2 to the 'Decision assigning the situation in the Islamic Republic of Afghanistan II to Pre-Trial Chamber II', 20 October 2026, ICC-02/26-1-Anx2.
[2] *See* Prosecution's application under article 58 for a warrant of arrest against Haibatullah AKHUNDZADA, ICC-02/17-224-Conf-Exp (a public redacted version was file on the same day, ICC-02/17-224-Red); Prosecution's application under article 58 for a warrant of arrest against Abdul Hakim HAQQANI, ICC-02/17-225-Conf-Exp (a public redacted version was filed on the same day, ICC-02/17-225-Red); Prosecution's application under article 58 for a warrant of arrest against Habibullah AGHA, ICC-02/17-230-US-Exp (a public redacted version was filed on 12 October 2026, ICC-02/17-230-Red); and, Prosecution's application under article 58 for a warrant of arrest against Neda Mohammad NADIM, ICC-02/17-231-US-Exp (a public redacted version was filed on 12 October 2026, ICC-02/17-231-Red).
[3] *See* Warrant of arrest for Haibatullah Akhundzada, ICC-02/18-232-US-Exp (a public redacted version was issued on 5 October 2026, ICC-02/17-232-Red); Warrant of arrest for Abdul Hakim Haqqani, ICC-02/18-233-US-Exp (a public redacted version was issued on 5 October 2026, ICC-02/17-233-Red); Warrant of arrest for Habibullah Agha, ICC-02/18-234-US-Exp (a public redacted version was issued on 5 October 2026, ICC-02/17-234-Red); and, Warrant of arrest for Neda Mohammad Nadim, ICC-02/18-235-US-Exp (a public redacted version was issued on 5 October 2026, ICC-02/17-235-Red.

delay and to open a new investigation on the basis of the Referral, should it continue to consider that the requirements of article 53(1) of the Statute are met (the 'Decision').[4]

5. On 3 September 2026, following the Prosecution request for clarification and reconsideration of the Decision,[5] the Chamber issued an order dismissing this request and instructing the Prosecution to comply with the Decision by no later than 15 September 2026 (the 'Order').[6]

6. On 15 September 2026, the Prosecution formally notified the Presidency of the Referral in accordance with regulation 45 of the Regulations (the 'Regulation 45 Notification').[7]

7. On 5 October 2026, the Chamber unsealed the Arrest Warrants and issued public redacted versions thereof.[8]

8. On 20 October 2026, the *ad hoc* Presidency, by majority, opened the situation in the Islamic Republic of Afghanistan II (the 'Situation in Afghanistan II') and decided to assign it to the Chamber.[9]

II. DETERMINATION

9. The Chamber notes regulation 46(2) of the Regulations which provides that '[t]he Pre-Trial Chamber shall be responsible for any matter, request or information arising out of the situation assigned to it.'

10. Noting that certain filings currently registered in the record of the Situation in Afghanistan (02/17) pertain to the newly opened Situation in Afghanistan II (02/26), the Chamber considers it necessary to transfer all such relevant filings to the record of

[4] Decision in relation to the investigation in the situation in the Islamic Republic of Afghanistan, ICC-02/17-238.
[5] Request for clarification and/or reconsideration of the "Decision in relation to the investigation in the Situation in the Islamic Republic of Afghanistan", 6 August 2026, ICC-02/17-239-US-Exp (a public redacted version was issued on the 6 October 2026, ICC-02/17-239-Red).
[6] Order to comply with the 'Decision in relation to the investigation in the situation in the Islamic Republic of Afghanistan', ICC-02/17-241.
[7] *See* Annex 1 to the 'Decision assigning the situation in the Islamic Republic of Afghanistan II to Pre-Trial Chamber II', ICC-02/26-1-US-Exp-Anx1.
[8] Decision unsealing four warrants of arrest, ICC-02/17-245-US-Exp (a public redacted version was issued on the same day, ICC-02/17-245-Red). *See also* ICC-02/17-232-Red, ICC-02/17-233-Red, ICC-02/17-234-Red, ICC-02/17-235-Red.
[9] Decision assigning the situation in the Islamic Republic of Afghanistan II to Pre-Trial Chamber II, ICC-02/26-1-US-Exp (a public redacted version was issued on the same day, ICC-02/26-1-Red).

the Situation in Afghanistan II (02/26). Accordingly, the Chamber orders the Registry to transfer filing ICC-02/17-219-US-Exp and all subsequent filings (including the present order) to the situation record 02/26. This includes the Arrest Warrants for Mr Akhundzada, Mr Haqqani, Mr Agha and Mr Nadim[10] in the Situation in Afghanistan (02/17) which were issued on the basis of the Referral and which, consequently, shall remain in effect for the purpose of the proceedings in the Situation in Afghanistan II (02/26) in accordance with article 58(4) of the Statute. Henceforth, any court record relevant to the Situation in Afghanistan II shall be filed in the situation record 02/26.

FOR THESE REASONS, THE CHAMBER HEREBY

ORDERS the Registry to transfer all relevant filings, as indicated in paragraph 10, from the situation record 02/17 to the situation record 02/26; and

INSTRUCTS the Registry to file any court record relevant to the Situation in Afghanistan II in the situation record 02/26.

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

Judge Rosario Salvatore Aitala
Presiding

Judge Sergio Gerardo Ugalde Godínez

Judge Haykel Ben Mahfoudh

Dated this Thursday, 5 of November 2026.

At The Hague, The Netherlands.

[10] *See* ICC-02/17-232-Red, ICC-02/17-233-Red, ICC-02/17-234-Red, ICC-02/17-235-Red.