

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

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No.: **ICC-01/17**

Date: **3 November 2017**

**PRE-TRIAL CHAMBER III**

**Before:** Judge Antoine Kesia-Mbe Mindua  
Judge Chang-ho Chung  
Judge Raul C. Pangalangan

**SITUATION IN THE ISLAMIC REPUBLIC OF AFGHANISTAN**

**Public**

**Request for extension of the page limit for a request for authorisation of an investigation pursuant to article 15 of the Rome Statute**

**Source:** Office of the Prosecutor

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

**The Office of the Prosecutor**

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**Legal Representatives of the Victims**

**Legal Representatives of the Applicants**

**Unrepresented Victims**

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(Participation/Reparation)**

**The Office of Public Counsel for  
Victims**

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**Victims Participation and Reparations  
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## I. Introduction

1. The Prosecution intends to seek authorisation of Pre-Trial Chamber III (“Chamber”) to proceed with an investigation of the situation in the Islamic Republic of Afghanistan in the period since 1 July 2002, pursuant to article 15(3) of the Rome Statute and rule 50(2) of the Rules of Procedure and Evidence (“Request”). The Prosecution seeks an extension of the page limit for its Request, pursuant to regulation 37(2) of the Regulations of the Court (“Regulations”), by an additional 135 pages.<sup>1</sup>

## II. Submissions

2. The complexity of the factual and legal issues contained in the Request<sup>2</sup> as well as the number of issues that the Request will cover,<sup>3</sup> constitute exceptional circumstances that warrant an extension of the page limit. The Request will present the findings of a complex and thorough preliminary examination carried out by the Office of the Prosecutor since 2006.
3. The extension of the page limit will permit the Prosecution to set forth in sufficient detail the factual and legal issues relevant to its request for authorisation from the Chamber to proceed with an investigation of the situation in Afghanistan in the period since 1 July 2002.<sup>4</sup>

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<sup>1</sup> According to regulation 38(2)(e) of the Regulations of the Court, a request for authorisation of an investigation pursuant to article 15(3) and rule 50(2) “shall not exceed 60 pages”, unless otherwise ordered by the Chamber.

<sup>2</sup> *Prosecutor v. Lubanga*, Decision on the “Prosecutor’s Motion for Extensions of the Time and Page Limits”, ICC-01/04-01/06-177 OA3, 3 July 2006, para. 6; *Prosecutor v. Lubanga*, Judgment on the appeals against the decision giving notice to the parties and participants that the legal characterisation of the facts may be subject to change, ICC-01/04-01/06-2205 OA15 OA16, 8 December 2009, para. 21; *Prosecutor v. Katanga*, Decision on Urgent Defence Application for Extension of the Page Limit, ICC-01/04-01/07-3334 OA13, 8 January 2013, para. 7.

<sup>3</sup> *Prosecutor v. Lubanga*, Decision on the Prosecutor’s application for an extension of page limit for his document in support of appeal, ICC-01/04-01/06-2532 OA18, 22 July 2010, para. 6; ICC-01/15-3, para. 4.

<sup>4</sup> *Situation in Georgia*, Decision on the Prosecutor’s “Request for extension of page limit for a request pursuant to article 15(3) and rule 50(2)”, ICC-01/15-3, 9 October 2015, para 4.

4. In particular, the significant extension of the page limit requested is warranted due to the volume and myriad of alleged crimes committed in the context of the situation, spanning a period of well over a decade, the multiplicity of armed groups and forces involved, and the diverse sources of information available. This will permit the Prosecution to set forth in sufficient detail the structure and operations of the armed groups and forces concerned and the alleged criminal conduct committed, sufficient to demonstrate that there is a reasonable basis to believe that multiple crimes against humanity and war crimes have been committed. It is noted that in the Situation in Georgia, the Prosecution was granted leave to file a 160-page<sup>5</sup> article 15(3) request covering a potential crime period of just less than three and a half months.<sup>6</sup> Here, the period within which the Prosecution submits that there is a reasonable basis to believe that multiple crimes against humanity and war crimes have been committed is over 10 years. In these circumstances an extension of the page limit for the Request by an additional 135 pages (amounting to a total of 195 pages) is reasonable and proportionate.
5. Further, the Prosecution also intends to make submissions on factual and legal issues related to the scope of the situation, which includes alleged crimes committed both on the territory of Afghanistan in the period since 1 May 2003, as well as other alleged crimes that have a nexus to the armed conflict in Afghanistan and are sufficiently linked to the situation that were committed on the territory of other States Parties in the period since 1 July 2002.
6. An extension of the page limit is also necessary to enable a sufficiently detailed assessment of the admissibility of the potential cases that may arise from an investigation into the situation and their gravity. Finally, the

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<sup>5</sup> *Situation in Georgia*, Decision on the Prosecutor's "Request for extension of page limit for a request pursuant to article 15(3) and rule 50(2)", ICC-01/15-3, 10 October 2015, para. 2.

<sup>6</sup> *Situation in Georgia*, Request for extension of page limit for a request pursuant to article 15(3) and rule 50(2), ICC-01/15-2, 9 October 2015, para. 3.

Prosecution will demonstrate that, based on the available information, there are no substantial reasons to believe that the opening of an investigation into the situation of Afghanistan would not serve the interests of justice.

### III. Relief sought

7. The Prosecution requests the Chamber to grant an extension of the page limit for the Request by an additional 135 pages (amounting to a total of 195 pages), pursuant to regulation 37(2) of the Regulations.



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**Fatou Bensouda, Prosecutor**

Dated this 3<sup>rd</sup> day of November 2017

At The Hague, The Netherlands