

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No. ICC-02/17 OA OA2 OA3 OA4

Date: 26 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 extension of time

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

States Representatives
Competent authorities of the Islamic Republic of Afghanistan

Legal Representatives of Victims
Mr Fergal Gaynor
Ms Nada Kiswanson van Hooydonk

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

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

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 ‘Application by the Government of the Islamic Republic of Afghanistan to Extend the Time Limit for Filing Submissions in the Appeal proceedings and to Make Oral Submissions at the Hearing of the Appeal’ of 25 November 2019 (ICC-02/17-120),

Renders the following

DECISION

1. The Islamic Republic of Afghanistan may file written observations by 16h00 on Monday, 2 December 2019, and it may also participate in the hearing scheduled for 4-6 December 2019.
2. A revised decision on the conduct of the hearing will be issued in due course.

REASONS

1. On 27 September 2019, the Appeals Chamber issued an order in which a hearing was scheduled from 4 to 6 December 2019 to hear arguments on the issues arising in all the appeals.¹ To this end, the Appeals Chamber invited interested States to submit written observations by 15 November 2019 and to indicate whether they would attend the hearing.²

2. On 25 November 2019, the Islamic Republic of Afghanistan (hereinafter: ‘Afghanistan’) requested the Appeals Chamber to extend the time limit to permit its

¹ [‘Corrigendum of order scheduling a hearing before the Appeals Chamber and other related matters’](#), ICC-02/17-72-Corr (‘Scheduling Order’).

² [Scheduling Order](#), pp. 3, 8, para. 20.

government to file written observations by ‘Monday 1 [sic] December 2019’ and to make oral submissions during the hearing scheduled from 4 to 6 December 2019³ (‘Request’). In support of its Request, Afghanistan submitted that the present appeals affect its national security and vital interests, and that ‘extraordinarily difficult and complex circumstances due to the recent presidential elections and subsequent resignation of the Foreign Minister’ impeded its timely communication of its interest to make written and oral submissions in these appeals.⁴ It further submitted that no prejudice would be caused to the participants in these appeals as they could respond to its submissions in writing or during the hearing.⁵

3. Pursuant to regulation 35(2) of the Regulations of the Court, a chamber may extend or reduce a time limit if good cause is shown, and when the time limit has lapsed, the extension may be granted only if the participant seeking the extension was unable to file the application in time for reasons outside his or her control. The Appeals Chamber accepts the Request and finds that for reasons beyond Afghanistan’s control it was unable to communicate its intention to participate in the proceedings as directed by the Appeals Chamber in its Scheduling Order.

4. For the foregoing reasons, the Appeals Chamber extends the time limit for Afghanistan to file written observations, not exceeding 35 pages in length, by 16h00 on Monday, 2 December 2019. The Appeals Chamber also considers it appropriate to allow Afghanistan to make oral submissions at the hearing scheduled from 4 to 6 December 2019. A revised decision on the conduct of the hearing will be issued in due course, which will also address the possibility to respond orally to Afghanistan’s observations.

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



Judge Piotr Hofmanski
Presiding

Dated this 26th day of November 2019

At The Hague, The Netherlands

³ ‘Application by the Government of the Islamic Republic of Afghanistan to Extend the Time Limit for Filing Submissions in the Appeal proceedings and to Make Oral Submissions at the Hearing of the Appeal’, ICC-02/17-120, paras 1-3, 7.

⁴ Request, para. 5.

⁵ Request, para. 6.