

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

No.: ICC-02/17  
Date: 25 May 2021

**PRE-TRIAL CHAMBER II**

**Before:** Judge Rosario Salvatore Aitala, Presiding Judge  
Judge Antoine Kesia-Mbe Mindua  
Judge Tomoko Akane

**SITUATION IN THE ISLAMIC REPUBLIC OF AFGHANISTAN**

**Confidential *EX PARTE***

**Only available to the OTP, Registry and Submitter Ms Nasiri only**

**With Confidential *EX PARTE* Annex A,**

**Only available to the OTP, Registry and Submitter Ms Nasiri only**

**Response to Registry's Request for Further Redactions to Annex D to the  
Transmission of a "Motion Seeking Remedies for Information and Effective  
Outreach" (ICC-02/17-143-Conf-Exp-AnxD) and ICC-02/17-145-Conf-Exp-Anx1**

**Source:** The 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**

Ms Fatou Bensouda, Prosecutor  
Mr James Stewart

**Defence Counsel**

**Legal Representatives of Victims**

**Legal Representatives of Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparation**

**The Office of Public Counsel for  
Victims**

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

**States Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Mr Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Section**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

Ms Spojmie Ahmady Nasiri, Lead  
Counsel for Petitioners

## Introduction

1. On 29 April 2021, the Registry filed with Pre-Trial Chamber II (“the Pre-Trial Chamber”) a Request for Further Redactions to Annex D to the Transmission of a “Motion Seeking Remedies for Information and Effective Outreach” (ICC-02/17-143-Conf-Exp-AnxD) (“the Request”).<sup>1</sup> It proposed to the Pre-Trial Chamber further redactions to Annex D<sup>2</sup> before it is filed as public.<sup>3</sup>
2. On 20 May 2021, the Pre-Trial Chamber ordered the Registry to provide the Prosecution with access to the Request and its respective Annex D and instructed the Prosecution to respond to the Request by Tuesday 25 May 2021 at the latest.<sup>4</sup>

## Classification

3. This response is filed as confidential *ex parte* corresponding to the same classification of the Request.

## Submissions

4. The Prosecution supports the Registry in its Request for further redactions to Annex D, in particular regarding the proposed redactions to individual staff members of the Office of the Prosecutor (“OTP”). In this regard, the Prosecution proposes additional redactions as highlighted in green in the attached version of Annex D.
5. As recently submitted, as a matter of established practice, the Prosecution has proposed redactions to information revealing the identity of its staff in a public filing

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<sup>1</sup> ICC-02/17-145-Conf-Exp.

<sup>2</sup> Marked as ICC-02/17-145-Conf-Exp-Anx1 in the Request. The Registry specified that their submissions were made “based on the understanding that Annex C will remain classified Conf-Exp and annex D is a version of Annex C with redactions as proposed by the Submitter” – see ICC-02/17-145-Conf-Exp. para 2.

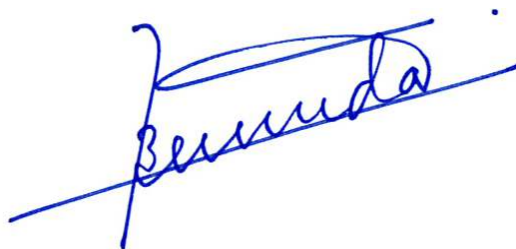
<sup>3</sup> On 28 April 2021, by way of an email to the Registry, the Chamber had instructed the latter to reclassify filing ICC-02/17-143-Conf-Exp and its annexes as public – See ICC-02/17-145-Conf-Exp, para 1.

<sup>4</sup> Email from Pre-Trial Chamber I [*sic*] communications on 20 May 2021 at 09:09hrs.

about a Situation under investigation. It even protects the information related to the identity of its staff when engaging with oversight bodies.<sup>5</sup>

6. In addition, the Prosecution notes that all its meetings with the Petitioners were granted on the condition of confidentiality, including meetings and related exchanges referred to in Annex D. Although the Prosecution recalls the content of those discussions differently, it proposes no further action in this regard.

7. For all of the above, the Prosecutor requests the Pre-Trial Chamber to approve the proposed redactions to Annex D before it is reclassified as public.



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**Fatou Bensouda, Prosecutor**

Dated this 25 May 2021

At The Hague, the Netherlands

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<sup>5</sup> See Prosecution's Response ICC-02/17-151, para 30.