



**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

**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

**States Representatives**

Competent authorities of the Islamic Republic of Afghanistan

**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

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

Mr Xavier-Jean Keita

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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 ‘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.<sup>1</sup> 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.<sup>2</sup>

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

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


<sup>2</sup> [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 2019<sup>3</sup> (‘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.<sup>4</sup> 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.<sup>5</sup>

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 Hofmański**  
**Presiding**

Dated this 26<sup>th</sup> day of November 2019

At The Hague, The Netherlands

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<sup>3</sup> ‘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.

<sup>4</sup> Request, para. 5.

<sup>5</sup> Request, para. 6.