

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

*No.: ICC-02/17
Date: 25 November 2019*

THE APPEALS CHAMBER

Before: Judge Piotr Hofmański, Presiding
Judge Chile Eboe-Osuji
Judge Howard Morrison
Judge Luz del Carmen Ibáñez Carranza
Judge Solomy Balungi Bossa

SITUATION IN THE ISLAMIC REPUBLIC OF AFGHANISTAN

PUBLIC

**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**

Source: The Government of the Islamic Republic of Afghanistan

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
Ms Helen Brady

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
Government of the Islamic Republic of
Afghanistan

Amicus Curiae

REGISTRY

Registrar
Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Application by the Government of the Islamic Republic of Afghanistan to participate in the Appeal proceedings

1. The Government of the Islamic Republic of Afghanistan ('Afghanistan' or 'the Government') hereby applies pursuant to Regulation 35 of the Regulations of the Court to request that the time period is extended to permit the ICC State Party of Afghanistan to participate in the present Appeal proceedings.
2. As the primary interested State Party in the proceedings, being the State Party itself of the Situation, Afghanistan submits that it should be permitted to be heard in the present Appeal before the ICC that directly affects its national, security and vital interests. These are indeed landmark proceedings for Afghanistan. The interests of justice and the proper administration of justice require that Afghanistan should be allowed to participate in these proceedings (despite this notification being received out of time), and it is essential to safeguard the fairness and integrity of the proceedings by ensuring that Afghanistan is present, represented and heard. Afghanistan therefore respectfully submits that the Appeal Chamber should extend the time period to allow it as a key State Party in the proceedings to be heard through written and oral submissions.
3. The Government of Afghanistan specifically requests that it is permitted (i) to file written submissions to set out its position on the issues on appeal by Monday 1 December 2019, and (ii) to make oral submissions during the oral hearing of the appeal that is scheduled for 4-6 December 2019.
4. The Government submits that in the circumstances the deadline as previously set for making submissions should not serve as a barrier.¹ The necessity of

¹ Namely of 15 November 2019, see *Corrigendum of order scheduling a hearing before the Appeals Chamber and other related matters*, 27 September 2019, para. 4.

hearing from Afghanistan in the present Appeal, which is critical for the country's present welfare and its future, far outweighs any other considerations of time. Given the present situation and overriding interests of justice, it is entirely proper for Afghanistan to be able to participate on an equal footing with all other parties who are being heard in the Appeal. Afghanistan submits that the ICC proceedings can only effectively be fair and regarded as fair if Afghanistan is allowed to participate in the Appeal. It will serve to uphold and guarantee the integrity and credibility of these important proceedings.

5. The Appeals Chamber is asked to take into account that the reasons for this request have been out of the control of the Government in that it has faced extraordinarily difficult and complex circumstances due to the recent presidential elections and subsequent resignation of the Foreign Minister. These events have for understandable reasons impeded communications that are required to be able to intervene in the ICC's proceedings. The Government has now been able to address this situation so that it can make the requisite submissions before the ICC, and it submits that it should not in these exceptional and extremely challenging circumstances, be denied the fundamental right and opportunity to be represented and heard in the proceedings.
6. Further, no prejudice will be caused to the parties in the proceedings as they can readily be permitted to respond to the submissions of the Government in writing before and after the oral hearing, as well as at the oral hearing itself where all parties will have an opportunity to make submissions.

7. Accordingly, the Government of the Islamic Republic of Afghanistan respectfully requests that the Appeals Chamber grants its request to file written submissions, as set out above, and to present oral submissions within the schedule for the oral hearing of the Appeal from 4-6 December 2019.

Dr M. Homayoon Azizi
Ambassador of the Islamic Republic of Afghanistan in The Netherlands,
Permanent Representative of the Government of the Islamic Republic of
Afghanistan



Dated this 25th day of November 2019

At The Hague, The Netherlands