

3 April 2018

Pre-Trial Chamber II,
Judge Antoine Kesia-Mbe Mindua, Presiding
c/o Victims Participation and Reparations Section
International Criminal Court
Post Office Box 19519
2500 CM The Hague
The Netherlands

Sent via e-mail: VPRS.representations@icc-cpi.int

Re: **Situation in the Islamic Republic of Afghanistan, Case No, ICC-02/17**
Updated information for the Pre-Trial Chamber:
Gina Haspel, Nominee as Director of Central Intelligence Agency

Dear VPRS:

I write to bring to the attention of Pre-Trial Chamber II a recent announcement that has direct bearing on the pending request by the Prosecutor for authorization to open an investigation in the Situation in the Islamic Republic of Afghanistan (Case No. ICC-02/17). On 31 January 2018, I submitted Victim Representation Forms and an accompanying Narrative to the VPRS on behalf of two men, Sharqawi Al Hajj and Guled Hassan Duran, in support of the Prosecutor's Request.

On 13 March 2018, Donald Trump, President of the United States, announced the nomination of his Deputy Director of the Central Intelligence Agency (CIA), Gina Haspel, for the position of Director of the CIA. The Narrative included information on Ms. Haspel's role in the U.S. torture program and its cover-up; this information is widely reported in the media and her nomination is the subject of some debate in Congress.¹ With a President of the U.S. who has threatened to bring back torture as an official policy and a proposed Director of the CIA who oversaw a torture "blacksite," there is a serious risk of repetition, which could be forestalled – or deterred – as a result of an investigation by the International Criminal Court. **Ms. Haspel's nomination as Director of the CIA makes clear the urgency of the Prosecutor's Request, and, respectfully, the necessity of authorizing an investigation into U.S. torture forthwith.**

As set forth in the Narrative and in news reports, Gina Haspel served as Site Director for one of the CIA "blacksites" where individuals were interrogated under methods that constituted

¹ Katrina vanden Heuvel, [Gina Haspel's role in the torture era demands attention](#), Washington Post, 20 March 2018; *c.f.*, Hugh Hewitt, [The country needs Gina Haspel in the CIA's top post. Don't delay her vote](#), Washington Post, 3 April 2018.

torture, including waterboarding. *See* Narrative, p. 13, n. 45; Nick Allen, [Gina Haspel: Donald Trump's new CIA director ran torture site in Thailand](#), The Telegraph, 13 March 2018. Haspel was later implicated in the decision to destroy videotapes containing interrogations that employed torture techniques, i.e., the destruction of evidence. *See* Narrative, p. 15, n. 58. The full extent of Gina Haspel's role in the U.S. detention, rendition and interrogation is not fully known; there are calls to declassify the Senate Select Intelligence Committee Report with regards to Ms. Haspel's role – and an ICC investigation could determine what criminal liability, if any, she has for crimes within the Court's jurisdiction.

In the position of CIA Director, Haspel could be in the position to reinstate policies allowing detention and interrogation techniques that violate international law and that rise to the level of war crimes or crimes against humanity, including acts of torture. Indeed, the appointment of Gina Haspel to the position of CIA Director demonstrates that a return to torture, as suggested by President Trump in his media proclamations, is a real concern. *See* Narrative, p. 18, n. 77. With this nomination, the risk of repetition of torture and further obstacles to accountability for torture are an even greater threat; Gina Haspel's leadership of the CIA essentially guarantees that any attempts at complementarity are precluded, as she cannot be expected to authorize or conduct any investigation of the U.S. torture program in which she herself is implicated. *See* Narrative, p. 54, ¶113(d). Accordingly, the Pre-Trial Chamber is respectfully urged to authorize an investigation into the Situation of Afghanistan and related crimes without delay.

I remain available to provide further information or analysis with regard to the U.S. dimension of the Afghanistan *et al* investigation request; I will be The Hague on 9 and 10 April, should an in-person meeting be of assistance.

Thank you for your continued attention to this pressing matter.

Sincerely,

Katherine Gallagher

Victim Representative for
Sharqawi Al Hajj and
Guled Hassan Duran

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cc: Office of the Prosecutor, via Emeric Rogier