



**Original: English**

**No. ICC-02/17 OA OA2 OA3 OA4**

**Date: 24 September 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**

**Decision on victims' requests for extensions of page limits**

**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 L. Satterthwaite

Ms Nancy Hollander  
Mr Mikołaj Pietrzak

**REGISTRY**

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**Registrar**

Mr Peter Lewis

The Appeals Chamber of the International Criminal Court,

In the appeals, filed pursuant to article 82(1)(a) of the Statute, of individual victims and two organisations submitting representations on behalf of victims in the Situation in 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 ‘Prosecution’s notice of joined proceedings, and request for extension of pages’ of 18 September 2019 (ICC-02/17-63),

Having before it the ‘Victims’ response to Prosecution’s notice of joined proceedings, and request for extension of pages’ of 19 September 2019 (ICC-02/17-65),

Having before it the ‘Victims’ response to “Prosecution’s notice of joined proceedings, and request for extension of pages”, of 19 September 2019 (ICC-02/17-66),

*Renders* pursuant to regulation 37 (2) of the Regulations of the Court the following

## DECISION

The page limits for the victims’ appeal briefs in relation to the above-mentioned matter are extended to 75 pages each.

## REASONS

### I. PROCEDURAL HISTORY

1. On 20 November 2017, the Prosecutor requested Pre-Trial Chamber III to authorise the commencement of an investigation into the Situation in the Islamic Republic of Afghanistan (the ‘Afghanistan Situation’) in relation to alleged crimes committed in Afghanistan since 1 May 2003, as well as other alleged crimes that are

sufficiently linked to the Afghanistan Situation and were committed on the territory of other States Parties in the period since 1 July 2002 (the ‘Request for Authorisation’).<sup>1</sup>

2. On 16 March 2018, the Presidency recomposed the Chambers of this Court and assigned the Afghanistan Situation to Pre-Trial Chamber II (the ‘Pre-Trial Chamber’).<sup>2</sup>

3. On 12 April 2019, the Pre-Trial Chamber rejected the Prosecutor’s request under article 15(3) of the Statute for authorisation of an investigation into the Afghanistan Situation, deciding that ‘an investigation into the Situation in Afghanistan at this stage would not serve the interests of justice’ (the ‘Impugned Decision’).<sup>3</sup>

4. On 7 June 2019, the Prosecutor requested leave to appeal the Impugned Decision before the Pre-Trial Chamber.<sup>4</sup>

5. On 10 June 2019, the legal representatives of 82 victims and two organizations (‘LRV 1’), the legal representative of six victims (‘LRV 2’) and the legal representatives of an individual victim (‘LRV 3’) in the Afghanistan Situation filed notices of appeal against the Impugned Decision under article 82(1)(a) of the Statute.<sup>5</sup>

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<sup>1</sup> [‘Request for authorisation of an investigation pursuant to article 15’](#), 20 November 2017, ICC-02/17-7-Red, para. 376.

<sup>2</sup> Presidency, [‘Decision assigning judges to divisions and recomposing Chambers’](#), 16 March 2018, ICC-02/17-30.

<sup>3</sup> [‘Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Islamic Republic of Afghanistan’](#), 12 April 2019, ICC-02/17-33, p. 32.

<sup>4</sup> [‘Request for Leave to Appeal the “Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Islamic Republic of Afghanistan”’](#), 7 June 2019, ICC-02/17-34; [‘Victims’ request for leave to appeal the “Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Islamic Republic of Afghanistan”’](#), 10 June 2019, ICC-02/17-37.

<sup>5</sup> [‘Victims’ Notice of Appeal of the “Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Islamic Republic of Afghanistan”’](#), 10 June 2019, ICC-02/17-36 (OA); [‘Victims’ Notice of Appeal of the “Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Islamic Republic of Afghanistan”’](#), 10 June 2019, ICC-02/17-38 (OA2); [‘Notice of appeal against the “Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Islamic Republic of Afghanistan” \(ICC-02/17-33\)’](#), 10 June 2019, ICC-02/17-40 (OA3); a corrected version was registered on 12 June 2019 (ICC-02/17-40-Corr (OA3)).

LRV 1 requested leave to appeal the Impugned Decision before the Pre-Trial Chamber on the same date.<sup>6</sup>

6. On 24 June 2019, LRV 2 and LRV 3 indicated their intention to file a consolidated appeal brief and requested an extension of the page and time limit for same.<sup>7</sup>

7. On 24 June 2019, LRV 1 filed an appeal brief.<sup>8</sup>

8. On 24 June 2019, the Appeals Chamber extended the time limit for the filing of LRV 2 and LRV 3's joint appeal brief to ten days after the notification of the Pre-Trial Chamber's decision on the requests for leave to appeal the Impugned Decision, extended the page limit for the appeal brief to 35 pages and allowed for an updated version of LRV 1's appeal brief to be filed within the same time frame.<sup>9</sup>

9. On 17 September 2019, the Pre-Trial Chamber partially granted the Prosecutor's request for leave to appeal and dismissed LRV 1's request for leave to appeal *in limine*.<sup>10</sup>

10. On 18 September 2019, the Prosecutor requested an extension of the page limit for her appeal brief to a maximum of 75 pages ('Prosecutor's Request').<sup>11</sup>

11. On 19 September 2019, LRV 1, and LRV 2 and LRV 3 responded to the Prosecutor's Request and requested an equivalent extension for their appeal briefs.<sup>12</sup>

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<sup>6</sup> ['Victims' request for leave to appeal the "Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Islamic Republic of Afghanistan"](#), 10 June 2019, ICC-02/17-37.

<sup>7</sup> ['Victims' request for extensions of time and of page limit](#), 24 June 2019, ICC-02/17-52 (OA2 OA3).

<sup>8</sup> ['Victims' Appeal Brief](#), 24 June 2019, ICC-02/17-53 (OA).

<sup>9</sup> ['Order suspending the time limit for the filing of an appeal brief and on related matters](#), 24 June 2019, ICC-02/17-54 (OA, OA2, OA3).

<sup>10</sup> ['Decision on the Prosecutor and Victims' Requests for Leave to Appeal the "Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Islamic Republic of Afghanistan"](#), ICC-02/17-62.

<sup>11</sup> ['Prosecution's notice of joined proceedings, and request for extension of pages](#), ICC-02/17-63 (OA4).

<sup>12</sup> ['Victims' response to "Prosecution's notice of joined proceedings, and request for extension of pages"](#), ICC-02/17-66 (OA OA2 OA3 OA4) ('LRV 1's Response'); ['Victims' response to Prosecution's notice of joined proceedings, and request for extension of pages](#), ICC-02/17-65 (OA4) ('LRV 2 and LRV 3's Response').

12. On 20 September 2019, the Appeals Chamber granted the Prosecutor's Request and extended the page limit for her appeal brief to 75 pages.<sup>13</sup>


## II. MERITS

13. Pursuant to regulation 37(2) of the Regulations of the Court, a Chamber may grant an extension of the page limit 'in exceptional circumstances'.

14. The Appeals Chamber granted the Prosecutor an extension of the page limit based on the complexity and novelty of the issues that will be raised on appeal. The Appeals Chamber is of the view that the same considerations apply to the subject matter of the victims' appeal briefs. The Appeals Chamber also notes that the Prosecutor does not oppose an equivalent page extension being granted to the victims.<sup>14</sup>

15. Therefore, the Appeals Chamber finds that there are exceptional circumstances that justify an extension of the page limit for the victims' appeal briefs to 75 pages each.

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



**Judge Piotr Hofmański**  
**Presiding**

Dated this 24<sup>th</sup> day of September 2019

At The Hague, The Netherlands

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<sup>13</sup> 'Decision on the Prosecutor's request for an extension of page limit', ICC-02/17-68 (OA OA2 OA3 OA4).

<sup>14</sup> [Prosecutor's Request](#), para. 3.