

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

No.: ICC-01/17

Date: 7 November 2017

PRE-TRIAL CHAMBER III

Before: Judge Chang-ho Chung, Presiding Judge
Judge Antoine Kesia-Mbe Mindua
Judge Raul C. Pangalangan

SITUATION IN THE ISLAMIC REPUBLIC OF AFGHANISTAN

Public

With Confidential Annexes I and II

**Public redacted version of "Registry's Request for Extension of Notice Period
and Submissions on Aspects Related to the Article 15(3) Process",
7 November 2017, ICC-01/17-3-Conf**

Source: Registry

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, Deputy Prosecutor

Mr Benjamin Gumpert

Counsel for the Defence

Legal Representatives of Victims

Victims' Representatives

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Mr Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

Other

I. Introduction

1. Following the instruction given by Pre-Trial Chamber III ("Chamber") on 7 November 2017,¹ and in accordance with regulation 35(1) of the Regulations of the Court ("RoC"), the Registry requests an extension of time for victims to make representations under article 15(3) of the Rome Statute ("Statute") and rule 50(3) of the Rules of Procedure and Evidence ("Rules").
2. The Registry further submits, for the Chamber's approval, a draft victim representation form and draft guidelines on how to fill in the form.²

II. Procedural History

3. On 30 October 2017, the Prosecutor informed the President of her decision to request judicial authorisation to commence an investigation into the Situation in the Islamic Republic of Afghanistan ("Situation in Afghanistan" and "Afghanistan" respectively) pursuant to article 15(3) of the Statute.³
4. On 3 November 2017, the Presidency rendered the decision assigning the Situation in Afghanistan to the Chamber.⁴

III. Classification

5. Pursuant to regulation 23 *bis*(1) of the RoC, this document is classified as "confidential", since it contains sensitive information [Redacted].

¹ Email from Pre-Trial Chamber III to VPRS on 6 November 2017, 11:44h.

² Confidential Annexes I and II.

³ The Prosecutor, "Notice pursuant to regulation 45 of the Regulations of the Court", 30 October 2017, ICC-01/17-1-AnxI.

⁴ The Presidency, "Decision assigning the situation in the Islamic Republic of Afghanistan", 3 November 2017, ICC-01/17-1.

IV. Applicable Law

6. The Registry submits the present request in accordance with articles 15(3) and 68(1) of the Statute, rules 16(1), 50(1) and (3) and rule 85 of the Rules and regulations 23 *bis*(1), 35(1) and 50(1) of the RoC.

V. Submissions

A. Security situation

7. The Victims Participation and Reparations Section ("VPRS") liaised with relevant sections of the Registry in order to evaluate the current security situation in Afghanistan.⁵ [Redacted]
8. [Redacted]
9. [Redacted]

B. Victim representation form

10. The Registry developed a victim representation form⁶ and related guidelines on how to fill in this form⁷ and it is seeking the Chamber's approval to use the annexed documents.
11. The information included in the representation form will enable the Registry to assess whether the criteria set out in rule 85 of the Rules are met,⁸ and to

⁵ Security assessments sent by [Redacted] to VPRS on 2 and 6 October 2017.

⁶ Confidential Annex I. The form was developed based on the Registry's previous involvement in the article 15(3) process in Kenya and Georgia.

⁷ Confidential Annex II.

⁸ In assessing whether the criteria are met, the Registry will use the same standard of proof previously used by Pre-Trial Chambers in relation to the representations submitted in the context of the Kenya, Côte d'Ivoire and Georgia situations.

report to the Chamber on the victims' views on the Office of the Prosecutor's ("Prosecution") request for authorisation to start an investigation into the Situation in Afghanistan.

12. The representation form, once approved by the Chamber, will be available in English, Dari and Pashto, for download and print-out on the ICC web page. [Redacted], the Registry developed an online process which allows the form to be filled in without being downloaded [Redacted]. The guidelines on how to fill in the victim representation form in the three abovementioned languages will also be made available on the ICC website.

C. Request for extension of time

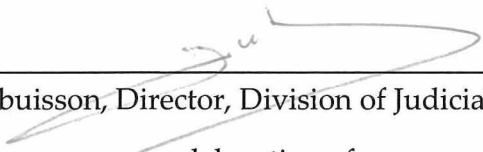
13. Pursuant to regulation 50(1) of the RoC, the time limit for victims to make representations under article 15(3) of the Statute is 30 days following the Prosecution's public notice to victims pursuant to rule 50(1) of the Rules.
14. [Redacted] the Registry submits that the 30-day time limit may prove insufficient to produce a meaningful sample of victims' representations. [Redacted] The Registry submits that good cause is shown for extending the 30 day time limit by a margin the Chamber deems appropriate.
15. The Registry respectfully asks the Chamber to issue a decision on the present request before the Prosecution gives its public notice to victims pursuant to rule 50(1) of the Rules, so that it would be in a position to refer to a potentially extended time period for victims to make representations in its notice.

D. Subsequent steps

16. Should the present request be granted, the Registry suggests transmitting to the Chamber the received representations on a rolling basis, possibly every

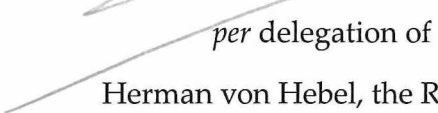
two weeks, together with a brief preliminary assessment including, *inter alia*, some statistical information on the type of representations received, the languages in which the representations were made, victims' gender, age, ethnicity, locations, and the scope of the alleged crimes.

17. Furthermore, shortly after the expiration of the deadline for victims to make representations, the Registry will be able to indicate to the Chamber the amount of time required for the submission of its comprehensive report containing a full legal assessment of the representations. This will mostly depend on the total number of representations received and the languages in which they have been submitted.



Marc Dubuisson, Director, Division of Judicial Services

per delegation of


Herman von Hebel, the Registrar

Dated this 7 November 2017

At The Hague, The Netherlands