

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/17
Date: **29 April 2021**

PRE-TRIAL CHAMBER II

Before: Judge Rosario Salvatore Aitala, Presiding Judge
Judge Tomoko Akane
Judge Antoine Kesia-Mbe Mindua

SITUATION IN THE ISLAMIC REPUBLIC OF AFGHANISTAN

Public
With two Public Annexes

**Transmission of a “Motion for Clarification and reclassification of “Motion
Seeking Remedies for Information and Effective Outreach”
(ICC-02/17-143-Conf-Exp-Anx 1)**

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

Mr Manoj Sachdeva

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

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Ms Spojmie Ahmady Nasiri, Lead
Counsel for Petitioners

Mr Nema Milaninia

I. Introduction

1. The Registry hereby transmits to Pre-Trial Chamber II (“Chamber”) in accordance with rule 13 (1) of the Rules of Procedure and Evidence, one document, entitled “Motion for Clarification and reclassification of “Motion Seeking Remedies for Information and Effective Outreach” (“Second Motion”), as Annex I, which it received on 26 April 2021 from Ms Spojmie Ahmady Nasiri (“Ms Nasiri”)¹ and one clarification e-mail² (“Clarification”), as Annex II.

II. Procedural History

2. On 20 April 2021, the Court Management Section (“CMS”) received an e-mail from Mr Nema Milaninia including a submission from Ms Nasiri’s entitled “Motion Seeking Remedies for Information and Effective Outreach”, (“First Motion”), which did not comply with the ICC format requirements.³
3. On the same day, the CMS contacted the Chamber, seeking advice on how to register the First Motion.⁴
4. Indeed, while Ms Nasiri has been granted in the past leave to submit observations as *Amicus curiae* pursuant to rule 103 of the Rules of Procedure and Evidence in the context of the Appeals proceedings,⁵ the Submitter seems not to have the required legal standing to represent victims in general for the purpose of the present proceedings.
5. As a result, and consistent with established practice, the Registry sought the Chamber’s guidance as to whether the documents should be filed in the record of the case as received or if it should be filed via a transmission filing, pending the assessment of Ms Nasiri’s standing.

¹ E-mail from Nema Milaninia to CMS on 26 April 2021, at 4:29.

² E-mail from Nema Milaninia to the Registrar and CMS on 28 April 2021 at 21:32.

³ E-mail from Nema Milaninia to CMS on 20 April 2021, at 4:39,.

⁴ Email from the CMS to the Chamber’s Legal Adviser on 20 April 2021 at 11:55.

⁵ See ICC-02/17-72-Corr – “Corrigendum of order scheduling a hearing before the Appeals Chamber and other related matters”, dated 27 September 2019.

6. By way of an e-mail, the Chamber instructed the CMS to register the First Submission in the record of the case at hand through a confidential *ex parte* Registry transmission filing.⁶
7. Following the Chamber's guidance, the Registry has filed the submissions *Ex-Parte* Registry and Submitter only.⁷
8. On 26 April 2021, CMS received the Second Motion from Ms Nasiri, in which she requested "1) clarification of the Chamber's reclassification of the Motion and its annexes to "Confidential, ex parte"; (2) that the Chamber reclassify the Motion and annexes D to G as "public"; and (3) that the Chamber maintain the "public" classification of this filing".
9. On the same day, the CMS contacted the Chamber, seeking advice on how to register this second document.⁸
10. On 28 April 2021, the Chamber issued a Decision by e-mail ("28 April 2021 Decision"),⁹ instructing the Registry, *inter alia*:
 - a. To prepare a public transmission filing for the Second Motion, detailing any relevant elements leading to its original request for guidance;
 - b. To attach the Second Motion as a public annex to the forthcoming transmission filing;
 - c. To reclassify filing ICC-02/17-143-Conf-Exp and its annexes as public, with the sole exception of those annexes originally indicated by the author of the First Motion as confidential, which should keep that level of confidentiality;
 - d. To transmit this decision to Ms. Nasiri and to the Office of the Prosecutor.
11. The same day, Mr Milaninia sent a clarification by way of e-mail.

⁶ E-mails from the Chamber's Legal Adviser to the CMS on 20 April 2021 at 14:40 and 14:50.

⁷ See – Icc-02/17-143-Con-Exp + Anxs – "Transmission of a "Motion Seeking Remedies for Information and Effective Outreach" dated 21 April 2021.

⁸ Emails sent by CMS to the Legal Adviser and the Chamber on 26 April 2021 at 9:11 and 17:05.

⁹ E-mail Decision entitled: "Decision on the submission of motions in the situation in Afghanistan and related levels of confidentiality", dated 28 April 2021, 18:15

III. Classification

12. Pursuant to the 28 April 2021 Decision, the present submission and its annexes are filed publicly.

V. Transmission

13. The Registry hereby transmits the Second Submission in accordance with the 28 April 2021 Decision (Annex I), as well as Mr Milaninia's clarification (Annex II).

14. Informs the Chamber that filing ICC-02/17-143-Conf-Exp and its annexes, except Annex D have been reclassified as Public.

15. Informs the Chamber that the Registry will submit a filing requesting additional Redactions to document ICC-02/17-143-AnxD.

16. Informs the Chamber that the 28 April 2021 Decision has been transmitted to Ms Nasiri, Mr Milaninia and the Office of the Prosecutor the same day.¹⁰

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Marc Dubuisson, Director, Division of Judicial Services
on behalf of Peter Lewis, Registrar

Dated this 29 April 2021

At The Hague, The Netherlands

¹⁰ Emails sent by CMS to Mr Milaninia and Ms Nasiri at 19:13 and to the Office of the Prosecutor at 19:25