

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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No.: ICC-02/17
Date: 28 January 2022

PRE-TRIAL CHAMBER II

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

SITUATION IN THE ISLAMIC REPUBLIC OF AFGHANISTAN

Public
with Confidential *EX PARTE* Annexes I and II, available only to the Registry

**Public redacted version of “Second Registry Report on Article 18 (2) Victims’
Representations Pursuant to the Pre-Trial Chamber’s Orders ICC-02/17-171 and
ICC-02/17-173”, 28 January 2022, ICC-02/17-179**

Source: Registry

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

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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**

Mr Philipp Ambach

Other

I. Introduction

1. Pursuant to Pre-Trial Chamber II (“Chamber”)’s “Decision on submissions received and order to the Registry regarding the filing of documents in the proceedings pursuant to articles 18(2) and 68(3) of the Statute”, issued on 8 November 2021 (“8 November 2021 Decision”)¹ and “Decision on the ‘Registry Submission Pursuant to Decision ICC-02/17-171 in Relation to Article 18(2) Proceedings’”, issued on 25 November 2021 (“25 November 2021 Decision”),² the Registry hereby submits its second report on victim representations, together with its assessment of the representations received between its last report and the present one (“Annex I”) and a detailed explanation of the assessment criteria applied (“Annex II”).

II. Procedural History

2. On 27 September 2021, the Prosecutor submitted a “Request to authorise resumption of investigation under article 18(2) of the Statute” (the “Prosecutor’s Request”).³
3. On 8 November 2021, the Chamber issued a decision, in which it *inter alia* ordered the Victims Participation and Reparations Section (“VPRS”) to: (a) start collecting victims’ views and concerns in the context of the proceedings pursuant to article 18(2) of the Statute; and (b) prepare a report including a brief assessment of whether criteria under rule 85 of the Rules are met and of the victims’ views and concerns as to the Prosecutor’s Request (“8 November 2021 Decision”).⁴

¹ Pre-Trial Chamber II, “Decision on submissions received and order to the Registry regarding the filing of documents in the proceedings pursuant to articles 18(2) and 68(3) of the Statute”, 8 November 2021, ICC-02/17-171, para. 14 and operative paragraphs p. 9.

² Pre-Trial Chamber II, “Decision on the ‘Registry Submission Pursuant to Decision ICC-02/17-171 in Relation to Article 18(2) Proceedings’”, 25 November 2021, ICC-02/17-173.

³ Office of the Prosecutor, “Request to authorise resumption of investigation under article 18(2) of the Statute”, 27 September 2021, ICC-02/17-161.

⁴ 8 November 2021 Decision, para. 14 and operative paragraphs p. 9.

4. On 25 November 2021, the Chamber issued a second decision in which it instructed the VPRS to submit a first report on the victims' views and concerns related to the Prosecutor's Request by Friday 17 December 2021, with further deadlines to be set in due course.⁵
5. On 17 December 2021, the VPRS transmitted to the Chamber the first batch of Article 18 victim representations received ("First Transmission")⁶ as well as the First Report on victim representations ("First Report").⁷
6. On 28 January 2022, the VPRS transmitted to the Chamber a second batch of victim representations received.⁸

III. Classification

7. Pursuant to regulation 23 *bis*(1) of the RoC, this document is classified as "confidential", [redacted]. The annexes to the present document are classified as "confidential *ex parte*, only available to the Registry", [redacted].

IV. Applicable Law

8. The Registry submits the present filing in the context of article 18(2) of the Statute and in accordance with article 68(3) of the Rome Statute ("Statute"), rules 16(1) and 85 of the Rules of Procedure and Evidence ("Rules"), regulation 23*bis*(1) of the RoC, the 8 November 2021 Decision and the 25 November 2021 Decision.

⁵ 25 November 2021 Decision, paras. 13 and 14 and operative paragraphs page 6.

⁶ Registry, "First Registry Transmission of Victims' Representations Pursuant to the Pre-Trial Chamber's Orders ICC-02/17-171 and ICC-02/17-173", 17 December 2021, ICC-02/17-174.

⁷ Registry, "First Registry Report on Article 18 (2) Victims' Representations Pursuant to the Pre-Trial Chamber's Orders ICC-02/17-171 and ICC-02/17-173", 17 December 2021, ICC-02/17-175-Conf. A public redacted version was notified on 20 December 2021.

⁸ Registry, "Second Registry Transmission of Victims' Representations Pursuant to the Pre-Trial Chamber's Orders ICC-02/17-171 and ICC-02/17-173", 28 January 2022, ICC-02/17-178.

V. Submissions

1. Activities carried out by the VPRS to reach out to victims concerned by the Situation in Afghanistan

9. During the reporting period, the VPRS has continued to engage with interlocutors [redacted].
10. In this regard, the VPRS has been responding to requests and advising interlocutors on how they, or the victims, can engage safely in the process in view of the current humanitarian situation and the harsh living and security conditions in Afghanistan. The VPRS notes that the general lack of access to the victims and the priority placed on their safety and well-being can at least partly justify the lack of massive engagement in the Article 18 representations process to date.

2. Victim representations received

11. Since its First Transmission, the VPRS received five victim representations submitted via email. Among them, four representations are collective (i.e. introduced on behalf of more than one victim).
12. All representations provided are in favour of the Prosecution's Request and several concerns related to the Prosecution's Request were expressed. This information is outlined in Annex I.
13. Unless instructed otherwise, the Registry proposes to continue transmitting the representations received and its report thereon on a monthly basis until the expiration of the deadline for such transmissions.⁹

⁹ The Registry notes that such deadline has not been determined yet.

3. Assessment criteria applied by the Registry

14. In accordance with the 8 November 2021 Decision,¹⁰ the VPRS conducted a preliminary assessment of each representation submitted in order to assess whether the individual or group making the representation falls within the definition of victims under rule 85 of the Rules. A detailed explanation of the assessment criteria applied by the Registry, submitted together with the First Report,¹¹ has been supplemented and is included in Annex II to the present report.

p.p. 
Marc Dubuisson, Director, Division of Judicial Services
On behalf of
Peter Lewis, Registrar

Dated this 28 January 2022

At The Hague, The Netherlands

¹⁰ 8 November 2021 Decision, para. 14.

¹¹ First Report, Annex II.