

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: ICC-02/17
Date: 23 February 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
Third Registry Report on Article 18(2) Victim Representations Pursuant to the Pre-Trial Chamber's Orders ICC-02/17-171 and ICC-02/17-173

Source: Registry

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

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Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

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Defence**

States' Representatives

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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 its further “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 third report on victim representations received in the context of the situation in the Islamic Republic of Afghanistan (“Afghanistan” and “Situation”), together with its assessment of the representations received since its second report (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” (“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 Rome Statute (“Statute”); and (b) prepare a report including a brief assessment of whether criteria under rule 85 of the

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.

Rules of Procedure and Evidence (“Rules”) are met and of the victims’ views and concerns as to the Prosecutor’s Request (“8 November 2021 Decision”).⁴

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 and 28 January 2022 respectively, the VPRS transmitted to the Chamber the first⁶ and second⁷ batch of Article 18 victim representations received as well as the First⁸ and Second⁹ Report on victim representations.
6. On 23 February 2022, the VPRS transmitted to the Chamber a third batch of victim representations received.¹⁰

III. Classification

7. Pursuant to regulation 23 *bis*(1) of the Regulations of the Court (“RoC”), the annexes to the present document are classified as “confidential *ex parte*, only available to the Registry”, because they contain confidential information that may lead to the identification of victims.

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

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, “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.

⁸ 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.

⁹ Registry, “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-Conf. A public redacted version was notified on the same date.

¹⁰ Registry, “Third Registry Transmission of Victims’ Representations Pursuant to the Pre-Trial Chamber’s Orders ICC-02/17-171 and ICC-02/17-173”, 23 February 2022, ICC-02/17-180.

IV. Applicable Law

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

V. Submissions

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

9. During the reporting period, the VPRS continued to engage with interlocutors, responded to requests and advised interlocutors on how they, and/or victims directly, can engage safely in the representation process before the Court. The current humanitarian situation and the harsh living and security conditions in Afghanistan continue to be challenging factors in the exercise. Also the general lack of access to victims in the country and the priority placed on their safety and well-being explain the limited engagement in terms of absolute numbers of representations received in the process to date.
10. Some interlocutors highlighted that it is in the victims' best interest for the investigation to be resumed without delay. Therefore, they asked that the current Article 18(3) representation process should lead to a swift resumption of the Prosecutor's investigation into the Situation.

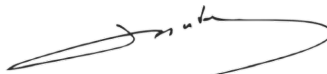
2. Victim representations received

11. Since its Second Transmission, the VPRS received three victim representations submitted via email. These representations are collective (i.e. introduced on behalf of more than one victim).

12. All these representations support the Prosecution's Request and several concerns related to said request were expressed. This information is outlined in Annex I to the present filing.
13. Unless instructed otherwise, the Registry will continue transmitting the representations received and its reports thereon on a monthly basis.

3. Assessment criteria applied by the Registry

14. In accordance with the 8 November 2021 Decision,¹¹ 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 is included in Annex II to the present report.



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

Dated this 23 February 2022

At The Hague, The Netherlands

¹¹ 8 November 2021 Decision, para. 14.