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ICC prosecutor granted leave to appeal the decision rejecting Afghanistan investigation

The Hague— The doors have been opened, which might result in the International Criminal Court’s (ICC) highly criticised decision refusing the Prosecutor permission to open an investigation into grave crimes committed in Afghanistan being set aside on appeal, said **the Coalition for the International Criminal Court (CICC)** today.

The Pre Trial Chamber II’s decision yesterday allows the Office of the Prosecutor (OTP) to appeal their 12 April decision, in which the court declared that “an investigation into the situation in Afghanistan at this stage [would not serve the interests of justice](#).”

Some civil society organisations described the Pre-Trial Chamber’s decision as a “[shocking abandonment of victims](#)” by the international community.

Hundreds of thousands of civilians and especially women and children have been killed, maimed and tortured in Afghanistan’s on-going conflict.

“It is shocking that impunity reigns supreme for those implicated in the commission of war crimes and crimes against humanity allegedly committed in Afghanistan,” said **Ricardo Izquierdo, Legal Officer at the CICC**.

“Is it ever in the interests of justice for the ICC to refuse permission to open investigations into grave crimes on the basis that the OTP has a limited budget, speculation that member’ states will not cooperate with the Prosecutor and other political considerations?” **asked Mr. Izquierdo**.

This ensuing appeal will hopefully answer this fundamental question and identify the factors that the Pre-Trial Chamber is permitted to consider when determining whether to grant applications by the OTP for permission to open an investigation.

In March, the Trump Administration imposed punitive sanctions on Fatou Bensouda, the Prosecutor, in retaliation for the OTP’s application to the ICC for permission to open an investigation into the situation in Afghanistan.

“In view of the current US Administration’s exceptionally hostile policy towards the ICC, all States Parties to the Rome Statute should stand with the court and take measures to protect the Prosecutors, Judges and others who may face punitive retaliatory measures as a result of this judgment,” said **Mr. Izquierdo**.

Background

The International Criminal Court (ICC) [granted](#) on 17 September 2019, the ICC Office of The Prosecutor’s request for leave to appeal the decision not to open an investigation into alleged war crimes and crimes against humanity committed in the Islamic Republic of Afghanistan since 1 May 2003. The Prosecution may now present its submissions before the ICC Appeals Chamber.

The Coalition for the ICC continues to advocates for justice for victims of mass atrocities and for a strong and independent International Criminal Court.

About the ICC

The ICC is the world’s first permanent international court to have jurisdiction over war crimes, crimes against humanity, and genocide. Central to the Court’s mandate is the principle of complementarity, which holds that the Court will only intervene if national legal systems are unable or unwilling to investigate and prosecute perpetrators of genocide, crimes against humanity and war crimes.



There are currently eleven active investigations before the ICC: Burundi; the Central African Republic I & II; Democratic Republic of Congo; Darfur, Sudan; Kenya; Libya; Uganda; Côte d'Ivoire; Mali and Georgia. The ICC has publicly issued 34 arrest warrants and nine summonses to appear. Three trials are ongoing. There have been three convictions and three acquittals. Ten preliminary examinations currently ongoing, including into situations in Afghanistan, Bangladesh/Myanmar, Colombia, Gabon, Guinea, Iraq/UK, Palestine, Nigeria, Ukraine, and Venezuela. The OTP has concluded preliminary examinations relating to Honduras, the Republic of Korea and the Comoros referral, declining in each case to open an investigation.

About us

The [Coalition for the International Criminal Court](#) is a global network of over 2500 civil society organizations in 150 countries campaigning for an effective, independent, resilient and standard-setting ICC and fighting for justice for victims of genocide, war crimes, crimes against humanity, and the crime of aggression through national courts and the ICC. It is housed in and is a program of the [World Federalist Movement](#) – Institute for Global Policy and is headquartered in The Hague, The Netherlands.