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US Must Not Threaten ICC Investigation into Afghanistan

THE HAGUE—The U.S. government must respect the decision of the International Criminal Court's (ICC) Appeals Chamber authorizing an investigation into alleged crimes committed in Afghanistan, the Coalition for the International Criminal Court (CICC) said today.

In April 2019, the U.S. government imposed punitive sanctions against the ICC Prosecutor for seeking to open an investigation into the situation in Afghanistan. Later that year, the U.S. announced that it would impose sanctions against all ICC officials investigating U.S. or allied personnel for their conduct in Afghanistan.

"ICC States Parties must stand firm in solidarity with the Court and urge the U.S. government not to attack individuals who work to bring alleged war criminals to justice," said Ricardo Izquierdo, Legal Officer at the CICC.

The Office of the Prosecutor must ensure a fair, independent and impartial investigation. And Afghanistan, a State Party, must fully cooperate with this investigation.

Today's Appeals Chamber ruling reversed Pre-Trial Chamber II's 12 April 2019 decision, which rejected the Prosecutor's request in November 2017 to open an investigation into alleged crimes in Afghanistan on grounds that such an investigation "would not serve the [interests of justice](#)".

Civil society organisations and commentators criticised the Pre-Trial Chamber's decision, which appeared to prioritize political factors over victims' right to justice.

"We are hopeful that this investigation will bring some needed transparency and accountability for victims and we stand ready to assist the ICC in any help it needs with its mandate," said Maina Abbasi, member of the Afghanistan Transitional Justice Coordination Group.

Key Facts and Legal Background:

- On 20 November 2017, the Office of the Prosecutor (OTP) [applied](#) for permission to open an investigation into the situation in Afghanistan.
- On 10 September 2018, the U.S. announced that it would impose sanctions against the ICC in what some believe was retaliation against a possible investigation into Afghanistan.
- On 12 April 2019, the Pre-Trial Chamber (PTC) II [rejected](#) the OTP's application.
- On 17 September 2019, the PTC II partially [granted](#) the OTP's application to appeal the decision in April that denied permission to open the investigation.
- On 4–6 December 2019, the Appeals Chamber held a [hearing](#) and received oral arguments.

**About the CICC**

The CICC is a global network of over 2500 civil society organizations 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. The CICC is a program of the [World Federalist Movement - Institute for Global Policy](#) and is headquartered in The Hague, The Netherlands and New York, U.S., with additional regional presences in Europe and Latin America.

About the ICC

The ICC is the world's first permanent international court with jurisdiction over war crimes, crimes against humanity, genocide and the crime of aggression. Central to the Court's mandate is the principle of complementarity, which holds that the Court can only hear a case if national authorities are unable or unwilling to investigate and prosecute.

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