

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No. **ICC-02/18**

Date: **27 February 2023**

PRE-TRIAL CHAMBER I

Before: Judge Péter Kovács, Presiding Judge
Judge Reine Adélaïde Sophie Alapini-Gansou
Judge María del Socorro Flores Liera

SITUATION IN THE BOLIVARIAN REPUBLIC OF VENEZUELA I

Public

Decision on Venezuela's request for an extension of time and other procedural matters

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

The Office of the Prosecutor

Mr Karim A. A. Khan
 Ms Nazhat Shameem Khan
 Ms Alice Zago

Counsel for the Defence

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
 Participation/Reparation**

The Office of Public Counsel for Victims

Ms Paolina Massidda

The Office of Public Counsel for the Defence

States Representative

Competent authorities of the Bolivarian
 Republic of Venezuela

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
 Section Other**

Mr Philipp Ambach

PRE-TRIAL CHAMBER I (the ‘Chamber’) of the International Criminal Court (the ‘Court’) issues this decision on the request of the Bolivarian Republic of Venezuela (‘Venezuela’) for an extension of time (the ‘Request’),¹ transmitted by the Registry on 24 February 2023,² and other procedural matters.

I. Procedural history

1. On 24 September 2018, the Office of the Prosecutor (the ‘Prosecution’) received from a group of States Parties to the Rome Statute (the ‘Statute’) a referral under article 14 of the Statute regarding the situation in the Bolivarian Republic of Venezuela (the ‘Situation’).³
2. On 16 March 2021, the Presidency of the Court assigned the Situation to this Chamber.⁴
3. On 3 November 2021, the Prosecution opened the investigation into the Situation.⁵
4. On 17 January 2022, the Prosecution informed the Chamber that, on 16 December 2021, it had notified all States Parties, including Venezuela, of its decision to initiate an investigation into the Situation (the ‘Notification’).⁶ In the same document, the

¹ Annex II to Transmission of ‘Request for modification of the deadline for submission of translations of the files related to the State’s observations on OTP requests ICC-02/18-18’, received from the Authorities of the Bolivarian Republic of Venezuela, 23 February 2023, ICC-02/18-28-AnxII.

² Transmission of ‘Request for modification of the deadline for submission of translations of the files related to the State’s observations on OTP requests ICC-02/18-18’, received from the Authorities of the Bolivarian Republic of Venezuela, ICC-02/18-28.

³ Annex I to the Decision assigning the situation in the Bolivarian Republic of Venezuela to Pre-Trial Chamber I, 28 September 2018, ICC-02/18-1-AnxI.

⁴ Decision assigning judges to divisions and recomposing Chambers, ICC-02/18-4, pp. 6-7. Initially, on 28 September 2018, the Presidency assigned the Situation to this Chamber (*see* Decision assigning the situation in the Bolivarian Republic of Venezuela to Pre-Trial Chamber I, 28 September 2018, ICC-02/18-1, p. 3) and, on 19 February 2020, to Pre-Trial Chamber III (*see* Decision assigning the Situation in the Bolivarian Republic of Venezuela II and reassigning the Situation in the Bolivarian Republic of Venezuela I to Pre-Trial Chamber III, 19 February 2020, ICC-02/18-2, p. 4).

⁵ ICC Press Release, ICC Prosecutor, Mr Karim A.A. Khan QC, opens an investigation into the Situation in Venezuela and concludes Memorandum of Understanding with the Government, 5 November 2021.

⁶ *See* Notification on the status of article 18 notifications in the Situation in the Bolivarian Republic of Venezuela I, ICC-02/18-16 (with confidential *ex parte* annexes A-D only available to the Prosecution, the Registrar and the Bolivarian Republic of Venezuela, ICC-02/18-16-Conf-Exp-AnxA, ICC-02/18-16-Conf-Exp-AnxB, ICC-02/18-16-Conf-Exp-AnxC, and ICC-02/18-16-Conf-Exp-AnxD, respectively).

Prosecution invited States to inform the Court, within one month of receipt of the Notification, whether they were investigating, or had investigated, their nationals or others within their jurisdictions with respect to crimes allegedly committed in the Situation.⁷

5. On 20 April 2022, the Prosecution notified the Chamber that Venezuela, through correspondence dated 15 April 2022, had: (i) stated that it is ‘investigating or [has] investigated its nationals or others within its jurisdiction with respect to alleged punishable acts against human rights [...] in [accordance] with the [Notification]’, and (ii) requested the Prosecution to defer its investigation ‘in favour of the actions carried out by the appropriate national authorities of Venezuela’ (the ‘Deferral Request’).⁸

6. On 1 November 2022, the Prosecution requested the Chamber to authorise the resumption of its investigation into the Situation pursuant to article 18(2) of the Statute.⁹

7. On 18 November 2022, the Chamber issued the ‘Order inviting observations and views and concerns of victims’ (the ‘Order on the conduct of proceedings’).¹⁰ In its order, the Chamber: (i) invited Venezuela to provide observations on the Prosecution’s request to authorise the resumption of its investigation by no later than 28 February 2023;¹¹ (ii) instructed the Prosecution to submit a response, if any, to these observations, within three weeks of their notification, or by no later than 21 March 2023;¹² and (iii) invited victims and their legal representatives to submit their views and concerns on the Prosecution’s request through the Victims Participation and Reparations Section, which was instructed to collect such views and concerns and to transmit them to the Chamber, together with a short report summarising them, by no later than 21 March 2023.¹³

See also Annex A to the Notification, ICC-02/18-16-Conf-Exp-AnxA, containing a copy of the Notification as sent to all States Parties and other States with jurisdiction.

⁷ *See* Notification, paras 1-2. *See also* Annex A to the Notification.

⁸ Notification of the Bolivarian Republic of Venezuela’s deferral request under article 18(2) of the Rome Statute, ICC-02/18-17 (with confidential and public redacted versions of annexes A and B), para. 1.

⁹ Prosecution request to resume the investigation into the situation in the Bolivarian Republic of Venezuela I pursuant to article 18(2), ICC-02/18-18 (with confidential *ex parte* annexes A and B, available to the Prosecution and the Bolivarian Republic of Venezuela only; and public annex C).

¹⁰ ICC-02/18-21.

¹¹ Order on the conduct of proceedings, para. 9, p. 7.

¹² Order on the conduct of proceedings, para. 9, p. 7.

¹³ Order on the conduct of proceedings, paras 10-11, p. 7.

8. On 24 February 2023, the Registry transmitted to the Chamber the request for an extension of time submitted by Venezuela.¹⁴

II. Analysis

9. In the Request, Venezuela seeks an extension of time of three weeks to submit English translations of the material upon which it intends to rely in its observations which are currently due on Tuesday, 28 February 2023.¹⁵ In support thereof, Venezuela submits that there is good cause within the meaning of regulation 35 of the Regulations of the Court (the ‘Regulations’).¹⁶ It argues in this regard that the translation into English of the court records upon which it intends to rely ‘represents, in qualitative and quantitative terms, a considerable amount of work’.¹⁷ Venezuela further submits that once the final translations are available, it will be necessary to ‘check them again against the original documentation’ which requires additional time.¹⁸ It contends that the Request has been submitted ‘as soon as it appeared that [Venezuela] was faced with a situation where it had no choice but to resort to the Chamber’ pursuant to regulation 35 of the Regulations.¹⁹ Finally, Venezuela maintains that the requested extension will not prejudice the Prosecution and that it is in the interests of justice.²⁰

10. Regulation 35(2) of the Regulations provides that a chamber ‘may extend [...] a time limit if good cause is shown’. The Chamber considers that the reasons provided by Venezuela show good cause within the meaning of regulation 35(2) of the Regulations. This is particularly so, considering that the extension sought only concerns the submission of the material upon which Venezuela intends to rely and not its observations which are due on 28 February 2023. As such, the extension of time of three weeks for the submission of English translations of the material upon which Venezuela intends to rely in its observations will not affect the expeditious conduct of the proceedings.

¹⁴ Transmission of ‘Request for modification of the deadline for submission of translations of the files related to the State’s observations on OTP requests ICC-02/18-18’, received from the Authorities of the Bolivarian Republic of Venezuela, ICC-02/18-28.

¹⁵ Request, paras 3, 7, 13.

¹⁶ Request, para. 7.

¹⁷ Request, para. 9.

¹⁸ Request, para. 10.

¹⁹ Request, para. 5.

²⁰ Request, paras 11-12.

11. Furthermore, the Prosecution and the victims participating in these proceedings will not be prejudiced. The Chamber notes in this regard that the Prosecution has examined the material in its original language and that the victims are also in a position to understand the material in its original language. Venezuela is therefore instructed to submit translations into one of the working languages of the Court of the material upon which it intends to rely in its observations by Tuesday, 21 March 2023. The Chamber hereby encourages Venezuela to ensure that translations are provided only for those documents deemed essential to its Deferral Request.

12. Finally, the Chamber notes that, in its observations on the conduct of proceedings of 10 November 2022, Venezuela requested to be allowed to reply to any substantive submissions by the Prosecution.²¹ To ensure the efficient and expeditious conduct of the proceedings, the Chamber hereby invites Venezuela to submit any request for leave to reply within the meaning of regulation 24(5) of the Regulations by Tuesday, 28 March 2023.

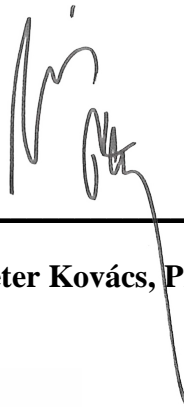
²¹ Annex II to the Transmission of a communication from the Bolivarian Republic of Venezuela on the 'Prosecution's request to resume the investigation into the situation in the Bolivarian Republic of Venezuela I pursuant to article 18(2)' (ICC-02/18-18), ICC-02/18-20-AnxII, paras 39-40, p. 14.

FOR THESE REASONS, THE CHAMBER HEREBY

GRANTS Venezuela's request for an extension of time of three weeks for the submission of translations into one of the working languages of the Court of the material upon which Venezuela intends to rely in its observations; and

INVITES Venezuela to submit any request for leave to reply within the meaning of regulation 24(5) of the Regulations by Tuesday, 28 March 2023.

Done in English. A French translation will follow. The English version remains authoritative.



Judge Péter Kovács, Presiding Judge



Judge Reine Adélaïde Sophie

Alapini-Gansou



Judge María del Socorro

Flores Liera

Dated this Monday, 27 February 2023

At The Hague, The Netherlands