

Pursuant to Pre-Trial Chamber I's instruction dated 14.04.2023, this document is reclassified as Public.

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

No.: ICC-02/18

Date: 31 March 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**

**Confidential *EX PARTE***  
**available to the Prosecution and the Bolivarian Republic of Venezuela**

**Prosecution's Response to the Government of the Bolivarian Republic of  
Venezuela's Request for Leave to Reply**

**Source:** Office of the Prosecutor

Pursuant to Pre-Trial Chamber I's instruction dated 14.04.2023, this document is reclassified as Public.

**Document 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 KC  
Ms Nazhat Shameem Khan  
Ms Alice Zago

**Counsel for Defence**

**Legal Representatives of the Victims**

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparation**

**The Office of Public Counsel for Victims**

**The Office of Public Counsel for the  
Defence**

**States' Representatives**

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 (Witness Counsel)**

Pursuant to Pre-Trial Chamber I's instruction dated 14.04.2023, this document is reclassified as Public.

## I. Submissions

1. On 28 February 2023, the Bolivarian Republic of Venezuela<sup>1</sup> submitted its Observations<sup>2</sup> to the Prosecution request to resume the investigation in the Situation of Venezuela I,<sup>3</sup> which the Prosecution responded to on 21 March 2023.<sup>4</sup>

2. On 27 March 2023, further to the Pre-Trial Chamber decision<sup>5</sup> and pursuant to regulation 24(5) of the Regulations of the Court,<sup>6</sup> Venezuela sought leave from the Chamber to reply to the Prosecution Response<sup>7</sup> and, if granted, to do so on 28 April 2023.<sup>8</sup> In the Request for Leave to Reply, Venezuela seeks to submit a general reply to “various elements” raised in the Prosecution Response,<sup>9</sup> setting out two non-exhaustive examples of the issues it seeks to address in its intended reply.<sup>10</sup>

3. The Prosecution respectfully observes that leave to reply will generally be granted only upon showing good cause<sup>11</sup> and, if permitted, replies must be narrowly tailored to only address new issues of fact or law that could not reasonably have been anticipated, or that the Chamber considers otherwise beneficial for the adjudication of the matter before it.<sup>12</sup> A reply should not be used to strengthen arguments previously advanced.<sup>13</sup>

4. The Prosecution respectfully notes that the two issues identified in the Request for Leave to Reply — as examples of a larger pool of unspecified issues — are not new

---

<sup>1</sup> “Venezuela” or “GoV”.

<sup>2</sup> [ICC-02/18-30-Conf-Exp-AnxII](#) (“GoV Observations”).

<sup>3</sup> [ICC-02/18-18](#) (“Prosecution Request”).

<sup>4</sup> [ICC-02/18-31-Conf-Exp](#) (“Prosecution Response”).

<sup>5</sup> [ICC-02/18-29](#), para. 12.

<sup>6</sup> “Regulations”.

<sup>7</sup> [ICC-02/18-34-Conf-Exp-AnxII](#) (“Request for Leave to Reply”), para. 10.

<sup>8</sup> Request for Leave to Reply, para. 8.

<sup>9</sup> Request for Leave to Reply, para. 12.

<sup>10</sup> Request for Leave to Reply, paras. 12-13 (*cf* with para. 10 referring to “a new issue”, emphasis added).

<sup>11</sup> See e.g. [ICC-01/05-01/08-294](#), para. 3; [ICC-02/04-01/15-252](#), p. 3.

<sup>12</sup> See e.g. [ICC-01/05-01/08-3165-Red](#), para. 5; [ICC-01/05-01/13-893](#), para. 10; see also [ICC-02/11-01/15-284](#), para. 11.

<sup>13</sup> [ICC-01/04-02/12-296-tENG](#), para. 7.

Pursuant to Pre-Trial Chamber I's instruction dated 14.04.2023, this document is reclassified as Public.

as they were identified in the GoV Observations.<sup>14</sup> Thus it could be inferred that they could have been reasonably anticipated.

5. Notwithstanding the above, the Prosecution defers to the Chamber's exercise of discretion to grant the Request for Leave to Reply in the manner the Chamber deems most appropriate so that all relevant and necessary issues are properly canvassed before it decides upon the Prosecution Request.

## II. Level of confidentiality

6. This reply is classified as confidential *ex parte* pursuant to regulation 23bis(2) as it refers to Venezuela's Request for Leave to Reply with the same classification. Once a public redacted version of the latter is filed, there will be no basis to maintain this response as confidential *ex parte* and the Prosecution will file a public redacted version, unless otherwise directed.



---

**Karim A.A. Khan KC, Prosecutor**

Dated this 31<sup>st</sup> day of March, 2023

At The Hague, The Netherlands

---

<sup>14</sup> GoV Observations, paras. 26-31 (on the issue of States' referral in the Situation of Venezuela I) and 104-111 (on the issue of persecution).