

# Annex 1

# Public

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**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

*Original: English*

*No.: ICC-02/18*  
Date: **1 August 2023**

**THE APPEALS CHAMBER**

**Before:** Judge Marc Perrin de Brichambaut, Presiding  
Judge Piotr Hofmański  
Judge Luz del Carmen Ibáñez Carranza  
Judge Solomy Balungi Bossa  
Judge Gocha Lordkipanidze

**SITUATION IN THE BOLIVARIAN REPUBLIC OF VENEZUELA I**

**Public**

**Public Redacted Version of  
Request to Present Opinions and Observations of Victims in the Appeal of the  
Bolivarian Republic of Venezuela against the “Decision of Pre-Trial Chamber I  
Authorizing the Resumption of the Investigation Pursuant to Article 18(2) of the  
Statute.”**

**Source:** [REDACTED]

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

**The Office of the Prosecutor**

**Counsel for the Defence**

**Legal Representatives of the Victims**

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants  
(Participation/Reparation)**

**The Office of Public Counsel for  
Victims**

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

**States' Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

M. Zavala Giler, Osvaldo

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

Mr. Philipp Ambach

**Other**

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**I. INTRODUCTION**

1. On the basis of Article 68(3) of the Rome Statute (hereinafter the Statute), as well as Rules 91 and 93, in accordance with Rule 107(5) of the Rules of Procedure and Evidence, the following [REDACTED], respectfully request jointly, on behalf of the 436 victims we represent, that we be allowed to present opinions and observations of the victims regarding the appeal introduced by the Bolivarian Republic of Venezuela (hereinafter Venezuela) against the decision of the Pre-Trial Chamber (hereinafter PTC) authorizing the resumption of the investigation in Situation Venezuela I<sup>1</sup>.
2. This application is made on behalf of 436 victims who meet the temporal, territorial and material scope of the situation. Moreover, they participated previously in the consultation process before the Victims Participations and Reparations Section (hereinafter VPRS), where they expressed their considerations regarding whether the Prosecutor's investigation should be resumed or not, and the report of which was made public on April 20, 2023.
3. In this regard, a total of (seven) annexes are attached to the present application, which contain the referrals made by the [REDACTED] to the VPRS, of a total of 232 forms containing the opinions of 436 victims that we represent, as well as a group of 6 videos of testimonies of the victims for the consultation of the opinions and observations. Following the Appeals Chamber's decision of 21 July 2023 authorising the Office of Public Counsel for Victims (hereinafter OPCV) to submit written observations, the undersigned made an effort to act as quickly and expeditiously as possible.
4. In view of the risks involved, as well as the possible threats, reprisals or harm that may be caused to the victims, the present application and its respective

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<sup>1</sup> Pre-trial Chamber I, "Decision authorising the resumption of the investigation pursuant to article 18 (2) of the Statute", 27 June 2023, No. ICC-02/18. Available at: <https://www.icc-cpi.int/sites/default/files/CourtRecords/0902ebd1804e8166.pdf>

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annexes are made confidential ex parte so that they are available only to the Secretariat.

5. This request arises because the decision resulting from the appeal proceedings will directly affect the personal interests of the victims. The matter at issue is whether the PTC decision authorizing the resumption of the investigation should be confirmed, modified, or revoked. Therefore, it is crucial for the victims to participate in this process by having access to the appeal filed by Venezuela and by having the opportunity to submit the considerations they deem relevant. Conducting an investigation is a fundamental step for the victims to obtain justice.

**II. PROCEDURAL HISTORY**

6. In November 2022, the PTC issued an order for the possible victims to be consulted regarding their opinion on whether the Prosecutor's investigation should be resumed or not. This led to the consultation process before the VPRS<sup>2</sup>. On April 20, 2023, it was announced that the vast majority of victims had called for the resumption of the investigation<sup>3</sup>. In response, Venezuela requested to be allowed to respond to the victims, but on May 4, 2023, the PTC rejected this request, deeming it unfeasible at that stage of the proceedings to respond in detail as Venezuela had intended<sup>4</sup>.

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<sup>2</sup> Pre-trial Chamber I, "Order inviting observations and views and concerns of victims", 18 November 2022, No. ICC-02/18. Available at: [https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2022\\_06722.PDF](https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2022_06722.PDF)

<sup>3</sup> In this regard, see: Information for Victims Situation in the Bolivarian Republic of Venezuela I. Available at: <https://www.icc-cpi.int/victims/informacion-para-las-victimas-de-la-situacion-de-venezuela-i>

<sup>4</sup> Pre-trial Chamber I, "Decision on Venezuela's request for leave to respond to the VPRS report", 4 May 2023, No. ICC-02/18. Available at: <https://www.icc-cpi.int/sites/default/files/CourtRecords/0902ebd180465323.pdf>

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7. Subsequently, on June 27, 2023, the PTC decided to authorize the resumption of the investigation<sup>5</sup>. However, on July 3, 2023, Venezuela announced its appeal against this decision<sup>6</sup>. On July 7, 2023, the OPCV requested to appear before the Appeals Chamber<sup>7</sup>.
8. On July 12, 2023, Venezuela was granted a deadline until August 14, 2023, to submit and substantiate its appeal<sup>8</sup>. Subsequently, on July 20, 2023, the Appeals Chamber rejected Venezuela's request for a suspensive effect<sup>9</sup> and on July 21, 2023, authorized the OPCV to submit written observations<sup>10</sup>.

**III. INFORMATION ON THE APPLICANTS**

9. The [REDACTED] have a direct relationship with 436 victims of Situation Venezuela I, who fall within its temporal, territorial, and material scope. These victims, as part of the Venezuelan civilian population, were subjected to acts committed by Venezuelan State security forces and so-called "colectivos" (armed groups of civilian supporters of the government) during the demonstrations and related political instability that took place at least since February 2014, in the territory of the Bolivarian Republic of Venezuela. These acts are alleged to constitute crimes against humanity, including arbitrary

<sup>5</sup> Pre-trial Chamber I, "Decision authorising the resumption of the investigation pursuant to article 18 (2) of the Statute", 27 June 2023, No. ICC-02/18. Available at: <https://www.icc-cpi.int/sites/default/files/CourtRecords/0902ebd1804e8166.pdf>

<sup>6</sup> See Venezuela's official communiqué. Available at: <https://mppre.gob.ve/comunicado/venezuela-notifica-cpi-apelacion-reanudacion-investigacion-asunto-denominado-venezuela-i/> Similarly, The Appeals Chamber I, "Decision on the Bolivarian Republic of Venezuela's application for extensión of time to file the appeal brief", 12 July 2023, No. ICC-02/18 OA. para. 2. Available at: <https://www.icc-cpi.int/sites/default/files/CourtRecords/0902ebd18051283d.pdf>

<sup>7</sup> The Appeals Chamber I, "Request appear before the Appeals Chamber pursuant to regulation 81(4) of the Regulations of the Court", 7 July 2023, No. ICC-02/18. Available at: <https://www.icc-cpi.int/sites/default/files/CourtRecords/0902ebd180504f62.pdf>

<sup>8</sup> The Appeals Chamber I, "Decision on the Bolivarian Republic of Venezuela's application for extension of time to file the appeal brief", 12 July 2023, No. ICC-02/18 OA. Available at: <https://www.icc-cpi.int/sites/default/files/CourtRecords/0902ebd18051283d.pdf>

<sup>9</sup> The Appeals Chamber I, "Decision on the Bolivarian Republic of Venezuela's request for suspensive effect", 20 July 2023, No. ICC-02/18 OA. Available at: <https://www.icc-cpi.int/sites/default/files/CourtRecords/0902ebd180527366.pdf>

<sup>10</sup> The Appeals Chamber I, "Decision on the OPVC's "Request to appear before the Appeals Chamber pursuant to the regulation 81(4) of the Regulations of the Court", 21 July 2023, No. ICC-02/18 OA. Available at: <https://www.icc-cpi.int/sites/default/files/CourtRecords/0902ebd18052736c.pdf>

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detention or other severe deprivations of liberty, torture, sexual violence, other inhumane acts, and persecution based on political grounds, among others.

10. The victims have endured severe physical and mental suffering, attacks against their dignity and personal integrity, as well as sexual violence, including threats, pointing of firearms at some of them, mistreatment, inhuman detention conditions, and physical torture methods such as electrical shocks applied to areas such as the neck and temples, burns on the body, stress positions (squatting, hanging from tubes, isolation), exposure to low temperatures, beatings with various objects such as firearms, fists, and kicks, asphyxiation with plastic bags over the head, forced nudity, threats of rape, and rape itself, among others. Additionally, some of them suffered persecution and harassment, including constant surveillance by state security forces. The vast majority of victims were forced to leave the country, leaving behind their homeland, loved ones, and way of life, as they felt their personal integrity and that of their families were in danger, while others remain in Venezuela in terror and constant panic.
11. The 436 victims represented by the [REDACTED] previously participated in the consultation process conducted through the VPRS, and with their consent, a total of 232 forms containing the opinions of the victims regarding whether the Prosecutor's investigation should be resumed or not were submitted. Therefore, it is logical and necessary that on this occasion, the victims represented by the signatories of this request be allowed to present their opinions and observations on Venezuela's appeal. The main purpose of the appeal is to halt the investigation, which would evidently affect the interests of the victims, as will be analyzed below.

#### **IV. ON THE PROCEDURAL LEGITIMACY OF VICTIMS TO PARTICIPATE IN THE APPEALS PROCESS**

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12. Pursuant to Article 68(3) of the Statute and Rules 91, 93 and 107(5), when the personal interests of the victims are affected, the Court may allow them to present opinions and observations to be taken into account at an appropriate stage of the proceedings.
13. It follows from the above that in order for victims to present their views, they must first prove that they have personally suffered an affectation of their interests.
14. Therefore, considering that Venezuela announced the appeal on July 3, 2023, against the decision of the PTC authorizing the resumption of the investigation and was granted a deadline until August 14, 2023, to submit the appeal brief, and that on July 21, 2023, the OPCV was authorized by the Appeals Chamber to submit written observations, it is deemed appropriate and necessary that the victims represented by the [REDACTED] be allowed to present their observations and opinions regarding Venezuela's appeal. This is because the decision in the appeal proceedings could, among other scenarios, put an end to the investigation, which would obviously have a direct and significant impact on the victims. They expect the investigation to continue as it constitutes one of the first necessary steps in their pursuit of justice.
15. In this regard, considering the significant number of victims (436) represented by the [REDACTED], and the close contact they have with the victims, it is pertinent to provide the opportunity for their observations to be presented on their behalf. This would ensure that the right of the victims to be heard through their representatives is upheld, particularly concerning the appeal that Venezuela has publicly announced through media and social networks, seeking to terminate the Prosecutor's investigation.

**V. REQUEST**

16. Based on the reasons stated above, the applicants respectfully request the Chamber to consider the possibility of allowing us to directly present opinions



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and observations on behalf of the victims, regarding the appeal filed in Situation Venezuela I.

17. In this regard, the opinions and observations would address whether the Pre-Trial Chamber's decision authorizing the resumption of the investigation should be confirmed, modified, or revoked, as well as any considerations deemed necessary in light of Venezuela's appeal. Additionally, we request that the consultation process previously carried out by the VPRS be taken into consideration, as the gathered information is recent and relevant regarding whether the Prosecutor's investigation on Situation Venezuela I, should continue or not.

Respectfully submitted on behalf of the Applicants by Counsel,

[REDACTED]

Dated this 1st day of August 2023

At [REDACTED]