

Annex I

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Introduction

1. Following the Appeals Chamber's "Decision on requests for victims' involvement" of 24 August 2023¹ ("Chamber" and "Decision" respectively) in the Situation in the Bolivarian Republic of Venezuela I ("Situation" and "Venezuela", respectively), the Victims Participation and Reparations Section ("VPRS") of the Registry assisted victims in exercising their right to participate in the present appeal proceedings. The Appeals Chamber had invited victims to submit, directly or through representatives, their views and concerns on whether Pre-Trial Chamber I's decision of 27 June 2023² authorising the resumption of the investigation by the Prosecutor ("Article 18(2) Decision"), should be confirmed, amended or reversed on appeal. The VPRS transmitted to the Chamber 172 documents (i.e. emails, forms, other written documents) from victims and victim representatives containing views and concerns expressed on behalf of 2,684 individual victims and 104 families.³
2. The victims urge the Chamber to confirm the Article 18(2) Decision. In the words of one victim, *"[w]e need the help of the ICC because there is no justice here. They have manipulated the judicial system to their benefit. The world cannot imagine what we suffer here, what we are victims of. To this date, the Venezuelan State continues to commit crimes against humanity, including acts of imprisonment and torture, despite recent legislative changes by the government. The fact that the very crimes the Venezuelan government repeatedly alleges to be investigating continue to be committed by State authorities – even in the past two months from the date of this document, after the Article 18(2) Decision – clearly demonstrates that the State is unwilling or unable to genuinely investigate the crimes."*⁴

¹ Appeals Chamber, "Decision on requests for victims' involvement", 24 August 2023, ICC-02/18-60.

² Pre-Trial Chamber I, "Decision authorising the resumption of the investigation pursuant to article 18(2) of the Statute", 27 June 2023, ICC-02/18-45.

³ See *infra*, para. 13.

⁴ r/22431/23.

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3. The present report consists of three parts. The first part offers an overview of the present victims' participation process for the purpose of the appeal proceedings. The second part provides details of the victims' views and concerns received by the VPRS. The final part provides an overview which draws out the key themes mentioned by victims.

I. Overview of the process**A. Security situation**

4. [Redacted].⁵ The security context described in the final consolidated Registry report on Article 18(2) victims' views and concerns ("Article 18(2) Report") continues to be relevant.⁶ [Redacted].⁷

B. Approach implemented

5. Following the issuance of the Decision, the VPRS reached out to [Redacted] it had been in touch with throughout the Article 18(2) victim consultation process, including [Redacted] who submitted requests to present victims' views and concerns on Venezuela's appeal.⁸ This was done in order to provide information about the appeal proceedings and to put in place a

⁵ [Redacted].

⁶ Registry, Annex I to "Final Consolidated Registry Report on Article 18(2) Victims' Views and Concerns Pursuant to Pre-Trial Chamber's Order ICC-02/18-21", 20 April 2023, ICC-02/18-40-AnxI-Conf, paras. 5-7. A public redacted version was notified on the same day, ICC-02/18-40-AnxI-Red ("Annex I to Final Consolidated Report").

⁷ [Redacted].

⁸ Registry, "Registry Transmission of an 'Application to present victims' views and concerns in the appeal of the Bolivarian Republic of Venezuela against the Pre-Trial Chamber I's 'Authorisation pursuant to article 18(2) of the Statute to resume the investigation'", dated 1 August 2023 and notified on 2 August 2023, ICC-02/18-56; "Registry Transmission of a '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'", dated 3 August 2023, ICC-02/18-57; "Transmission of 'The Bolivarian Republic of Venezuela's Appeals Brief against the Pre-Trial I's 'Decision authorizing the resumption of the investigation pursuant to article 18(2) of the Statute' (ICC-02/18-45)", 14 August 2023, ICC-02/18-59-Conf-Exp. A public redacted version of Annex II dated 21 August 2023 was registered on 22 August 2023, ICC-02/18-59-AnxII-Red.

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system for collecting victims' views and concerns on whether the Article 18(2) Decision should be confirmed, amended or reversed on appeal.

6. [Redacted], the VPRS organized or attended [Redacted] informative sessions [Redacted]. The meetings allowed the VPRS to provide information about the present appeal proceedings [Redacted]. The VPRS [Redacted] provided information and guidance on legal and practical issues, as well as assistance with various technical aspects.
7. On 7 September 2023, the Registry posted on the ICC website information for victims on the current victim consultation process in English⁹ and, on 21 September 2023, in Spanish.¹⁰ The VPRS asked victims to submit their views and concerns by Tuesday, 3 October 2023, midnight Venezuela time.¹¹
8. In light of the security situation¹² and the allotted amount of time (40 calendar days)¹³ for victims to submit views and concerns, the VPRS aimed to establish an equally effective and secure victim participation process. To this end, it informed victims who had previously participated in the Article 18(2) consultation before the Pre-Trial Chamber that they do not need to fill in forms (again), since an assessment under Rule 85 of the Rules of Procedure and Evidence ("Rules") had already been conducted by the VPRS during the previous consultation process.¹⁴ The VPRS stressed that the

⁹ <https://www.icc-cpi.int/victims/situation-bolivarian-republic-venezuela-i>.

¹⁰ <https://www.icc-cpi.int/victims/informacion-para-las-victimas-de-la-situacion-de-venezuela-i>.

¹¹ The VPRS estimated that it would need two weeks to process (*i.e.* register and assess) the views and concerns received and to prepare its report thereon before the expiry of the deadline set by the Chamber of 17 October 2023.

¹² See *supra*, para. 4.

¹³ 40 calendar days between the date of the Decision, *i.e.* 24 August 2023, and the deadline set by the VPRS for victims to send their views and concerns, *i.e.* 3 October 2023.

¹⁴ This category of victims was invited to bring forward their views and concerns on whether the Article 18(2) Decision should be confirmed, amended or reversed on appeal, individually or collectively through a representative, in any format they see fit (*i.e.* word document, body of email, video recording, etc.). To facilitate the process, the VPRS suggested a general structure for the victims' submissions composed of three parts: i) information about the victim(s) or person(s)/organisation(s) submitting the document on behalf of victim(s), information about the victim(s)/family(ies) represented (*i.e.* number of victims/ families represented, reference number of form previously submitted, name of victim/representative who submitted the form) and information on whether all victims represented have previously participated in the Article 18(2) consultation before the Pre-Trial Chamber or not; ii)

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Chamber has access to all victims' views and concerns expressed either on forms or in other formats previously transmitted to the Pre-Trial Chamber; therefore, it was safeguarded that victims who previously participated did not re-submit their previous documents or felt obliged to repeat the information previously provided to the Pre-Trial Chamber. The VPRS highlighted that the scope of the present consultation is limited to the question of whether the Appeals Chamber should confirm, amend or reverse the Article 18(2) Decision and victim(s) are invited to provide any information they deem relevant for the Appeals Chamber Judges in order to make a ruling in the present appeals proceedings.

9. For victims who had not previously participated in the Article 18(2) consultation before the Pre-Trial Chamber, the VPRS designed a template form, similar to the template form used in the Article 18(2) victim consultation before the Pre-Trial Chamber, but adjusted to the specific issue as formulated by the Chamber.¹⁵ The template form, available in English and Spanish, was circulated to interlocutors and posted on the ICC website.

C. Information gathered through meetings with interlocutors

10. In addition to the views and concerns collected through the victims' submissions,¹⁶ the VPRS also gathered information from [Redacted] that were met during the present consultation process. They all strongly welcomed the invitation for victims to exercise their right to express views

victims' views on whether the Article 18(2) Decision should be confirmed, amended or reversed on appeal and other related concerns; and iii) signature and contact information of the victim(s)/person(s)/organisation(s) making the submission.

¹⁵ See the Decision at para. 15. The two substantial differences between the two template forms consist in: 1) amended wording of Question 11: in the previous template form, it read as follows: "Do the victim(s) want the Prosecutor of the ICC to resume an investigation into the Situation in Venezuela I? Yes/No Why?", whilst Question 11 of the template form used for the current consultation reads as follows: "Do the victim(s) want the Appeals Chamber of the ICC to confirm/amend/reverse the Article 18(2) Decision allowing for the resumption of the investigation by the ICC Prosecutor? Why?"; and 2) Question 12 in the previous template form read as follows: "What crimes do the victims want the Court to investigate?"; the question was removed from the present form.

¹⁶ See Decision, paras. 8-10.

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and concerns in the present appeal proceedings. All VPRS interlocutors that were consulted confirmed the victims' hope that the Article 18(2) Decision will be confirmed, the ICC investigation in the Situation will be resumed, and, as they underlined, justice will finally be rendered. Victims consider the ICC to be their only and last hope for justice. Some of the interlocutors consulted see the Government's appeal as a delaying tactic; they consider that the arguments brought by the Government before the Appeals Chamber demonstrate that Venezuela is not recognizing that crimes were and continue to be committed, and that it is unwilling to conduct authentic investigations into the alleged crimes against humanity committed in the country.

11. VPRS interlocutors reported that the main challenges, obstacles and concerns encountered were:

- i. *[Redacted]*.
- ii. *Lack of information about the ICC and its processes in Spanish.* Interlocutors reported that the lack of official translations of ICC documents, especially for the Article 18(2) Decision, the Government's Appeal Brief and the submissions of the Office for Public Counsel for Victims ("OPCV"),¹⁷ made it difficult for victims to participate in the present consultation. Victims and other interlocutors met by the VPRS stressed the importance of making the proceedings accessible to victims. They argued that the Court's limited Spanish working capacity should not impact victims' rights of access and participation before the Court. They also asked for Spanish to be (one of) the working language(s) in the present Situation.
- iii. *Amount of time allowed for the consultation.* Some interlocutors flagged that ideally there should have been more time for more comprehensive consultations. At the same time, there is recognition of the countervailing interest in a speedy decision of the Chamber.

¹⁷ OPCV, "Observations on behalf of victims on the Venezuela Government Appeal against the Decision authorising the resumption of the investigation", 13 September 2023, ICC-02/18-61.

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- iv. *The extreme state of poverty of victims.* The majority of the victims live in dire circumstances and their lack of access to basic necessities (income, food, healthcare, medication, gas, electricity, phones, internet, etc) poses additional difficulties to the exercise of their participation in ICC - and other - proceedings. [Redacted].
 - v. [Redacted].
12. Other matters and requests made by victims, representatives and other interlocutors consulted were:
- i. The terminology of “potential victims” used by the Pre-Trial Chamber I was perceived as harmful for victims and their representatives; it was reported that the terminology was subsequently used by the Government to attack and undermine the credibility of victims who submitted their views and concerns in the Article 18(2) victim consultation. Interlocutors urge the Appeals Chamber to refer to the participating victims as “victims of the Situation.”
 - ii. The scope of the Venezuela I situation should be expanded to also include the crimes committed since 1 July 2002 when the Rome Statute entered into force by Venezuela.
 - iii. The alleged murders committed in Venezuela must be investigated by the ICC Prosecutor. [Redacted].
 - iv. The opening of an ICC office in Caracas was welcomed [Redacted] to ensure that victims can obtain information, training and assistance [Redacted].¹⁸
 - v. A number of questions were also raised about the Memorandum of Understanding (“MoU”) between the Government of Venezuela and the Office of the Prosecutor (“OTP”) and about the mechanisms that will be used by the OTP in order to assess the Government’s compliance. [Redacted].

¹⁸ [Redacted].

II. Details of victims' submissions received

13. The VPRS transmitted 172 communications¹⁹ containing victims' views and concerns in various written formats (i.e. emails, filings, standard forms, Word or PDF documents).²⁰ They were introduced on behalf of 2,684 individual victims and 104 families.
14. 132 submissions were submitted in Spanish and 40 in English or in Spanish with an English translation.²¹
15. The VPRS conducted a legal assessment of whether the victims (individuals or families) who had not participated in the previous Article 18(2) victim consultation fall within the definition of victim under rule 85 of the Rules on the basis of the intrinsic coherence of the information provided in the documents received. A detailed explanation of the assessment criteria applied is provided in Annex III.
16. Following its legal assessment, the VPRS transmits to the Chamber, through a separate transmission filing.²²

III. Victims' views and concerns

¹⁹ This figure excludes 22 duplicate forms / communications received by the VPRS and one forms which was assessed by the VPRS as falling outside the scope of the Situation.

²⁰ The VPRS also took into consideration all victims' communications (i.e. emails, standard forms) received after the end of the previous Article 18(2) victim consultation (i.e. after 7 March 2023) that could not be transmitted to the Pre-Trial Chamber. When the security considerations allowed it, the VPRS contacted these individuals in order to obtain their views and concerns on whether the Article 18(2) decision should be confirmed, amended or reversed by the Appeals Chamber.

²¹ The VPRS utilised its very limited Spanish-speaking resources to conduct the legal assessment of the views and concerns received in Spanish; therefore all views and concerns received have been analysed. However, the majority of the Spanish submissions transmitted to the Chamber do not contain an English translation.

²² Only one form received was assessed by the VPRS as falling outside the scope of the Situation and was not transmitted to the Chamber.

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17. This third section of the present report is not intended to replace or summarize the original views and concerns submitted by victims, which were transmitted, under separate cover, on the same date as the present report, for the Chamber's consideration. Some of the submissions included legal arguments on the grounds of appeal invoked by the Government of Venezuela²³ and provided information about domestic cases²⁴ which are not reflected in detail in the present report. Rather, the objective of this section is to provide an overview which draws out the various key themes addressed by victims, as well as relevant contextual information which may assist the Chamber in its deliberation on whether to confirm, amend or reverse the Article 18(2) Decision.

A. Victims urge the Chamber to confirm the Article 18(2) Decision

18. All submissions received by the VPRS indicated that victims want the ICC Prosecutor to investigate the crimes against humanity committed in the Situation and that, therefore, the Article 18(2) Decision should be confirmed on appeal. The main motivating factors invoked were: *i*) the Government of Venezuela is unwilling and unable to genuinely carry out investigations and prosecutions of perpetrators of crimes against humanity; *ii*) the extremely limited domestic criminal proceedings do not sufficiently mirror the ICC Prosecutor's intended investigation; *iii*) the Venezuelan judicial system is characterized by lack of independence, lack of impartiality, lack of capacity and resources, due process violations, intent to shield the perpetrators from justice and unjustified delays;²⁵ *iv*) there is no realistic prospect for victims

²³ See, *inter alia*, r/22431/23, r/22456/23, r/22357/23, r/22360/23, r/22367/23, r/22398/23, r/22399/23, r/22400/23, r/22427/23, r/22428/23, r/22430/23. Moreover, the victims who introduced submission r/22431/23 expressed their agreement with all the arguments outlined by the OPCV in their observations on behalf of victims and stated that they fully support the OPCV's request that the Appeals Chamber confirms in its entirety the Article 18(2) Decision.

²⁴ See, *inter alia*, r/22314/23, r/22352/23, r/22430/23, r/22431/23.

²⁵ See also <https://www.jepvenezuela.com/2023/08/28/jepvzla-presenta-informe-especializado-sobre-tipologias-estatales-e-impunidad-en-venezuela/>.

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to obtain justice in Venezuela for any of the alleged crimes against humanity committed, most notably murder, imprisonment or other severe deprivation of physical liberty, torture, rape and other forms of sexual violence, deportation and persecution; *v*) crimes against humanity continue to be committed in Venezuela, even after the Article 18(2) Decision was issued, with total impunity; *vi*) the ICC investigation continues to be seen as a unique opportunity for victims' voices to be heard, to end impunity and to prevent future crimes.

19. A limited number of relevant quotes are listed below:²⁶

- a) *"The undersigned victims and their representatives are in full agreement with the decision issued by the Honourable Pre-Trial Chamber authorizing the Office of the Prosecutor of the International Criminal Court to continue with the investigation in the Venezuela I Situation. The Venezuelan State has insisted that there are no crimes against humanity without having established real mechanisms for impartial, expeditious, effective and conclusive investigation, which is why the victims and their representatives support the position of the Prosecutor's Office that refers to: "(i) that Venezuela is not investigating the patterns and policies underlying the contextual elements of the crimes against humanity; (ii) that there have been unwarranted delays in the domestic proceedings; (iii) that the domestic proceedings focus on the direct perpetrators and low-level members of the security forces; (iv) that the proceedings have not been or are not being conducted independently or impartially. [...] There is no justice possible in the country, the justice system does not work, nor will it work because it is controlled by the aggressors themselves. [...] The search for justice in our case before the ICC is nothing more than a demonstration of the scarcity and lack of justice and partiality that exists in the Venezuelan judicial system, which is why it is important for us that the ICC continues the investigation*

²⁶ Quotes that were originally in Spanish have been unofficially translated by the VPRS.

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to establish the responsibility not only of the officials who acted directly in the crimes, but also of the military high command that ordered and allowed these crimes to be executed in our cases as in the others.”²⁷

- b) *“Consequently, it is the opinion of the undersigned that the decision authorizing the resumption of the investigation by the ICC Prosecutor’s Office (OTP) should be upheld. The vast majority of the events documented by the representative organizations [...] remain in absolute inactivity, with no domestic investigations. Of the first 436 registered events that fall within the temporal, geographic, material and contextual parameters of the Venezuela I situation, only 87 cases, or 19.9%, are known to have been investigated. However, the few investigations opened have not been exhaustive; on the contrary, they are deficient, interrupted by long periods of inactivity and do not seek to clarify the facts, but rather to procure impunity, since most of them do not even have an individualized defendant. In addition, it was learned that in one case there was an acquittal and in another there was a conviction, but none of the 436 cases had an investigation directed at middle or senior targets; only against the direct perpetrators. In addition, the cases were treated by the Venezuelan justice system in an isolated manner, without even analysing the possible existence of a pattern and, even less, the possible participation of common superiors in the different acts, in order to verify whether there was a concurrence of actions and persons. [...] In addition to the deficiencies mentioned above, it is urgent to point out that the Venezuelan justice system is going through a serious institutional crisis, which truncates the separation of powers, autonomy, and independence, as well as the impartiality of the system. [...] Despite the objections raised by Venezuela, it has been conclusively demonstrated that the State has not complied with its obligation to adequately and effectively investigate the crimes of which it is accused. The*

²⁷ r/22453/23.

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lack of substantial progress in the investigations, the long periods of inactivity and the insufficient cooperation with the ICC are elements that support the PTC's decision to authorize the continuation of the investigation. [...] Furthermore, Venezuela's refusal to acknowledge the relevance of the contextual elements and crimes at the domestic level, as well as its failure to demonstrate significant progress in its investigations, reinforce the need for the OTP investigation. Ultimately, this decision will contribute to accountability and the pursuit of justice for the victims of serious human rights violations in Venezuela."²⁸

- c) *"[T]he 523 signatory victims and their legal representatives submit that the Article 18(2) Decision should be confirmed on appeal, to authorize the Prosecution's investigation of "criminal acts which may constitute crimes referred to in article 5 of the Statute", in particular crimes against humanity.[...] Victims and their legal representatives, highlight, first, that Venezuela's domestic criminal proceedings do not sufficiently mirror the Prosecution's intended investigation of crimes against humanity and, in the alternative, that the State is unwilling or unable genuinely to carry out the investigation or prosecution, as reflected by a lack of independence and impartiality, due process violations, an intent to shield, unjustified delays, and a lack of capacity. [...] There is no justice here. Judges have no interest in doing justice. [W]hen crimes under the ICC's jurisdiction occur, there are almost no investigations or prosecutions, in particular for so-called 'political cases'. [...] The State has refused to admit the existence of crimes against humanity in Venezuela committed since 2014. There can hardly be a willingness to investigate something that is claimed not to have happened. Not only are perpetrators not being investigated – it is the victims themselves who are prosecuted, and treated as 'criminals'. Victims observe that even if there are some limited investigations in a small number of cases*

²⁸ r/22456/23.

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– often in response to national or international pressure – these limited cases do not demonstrate that the State is genuinely willing or able to carry out investigations or prosecutions for crimes against humanity. The victims represented by this document reject Venezuela’s appeal in its entirety.”²⁹

- d) “It is urgently necessary that the investigation regarding crimes against humanity in Venezuela continues, because it is the only real possibility of justice that the victims of these crimes have.”³⁰
- e) “The government of Venezuela in its appeal highlights a series of arguments that we consider to be false and fallacious about the situation we have lived and continue to live. Among other procedural issues, the Venezuelan government in its appeal argues that an “effective investigation” has been and is taking place without “unjustified delay” to the “criminal acts” committed - according to it - in 2017 , in a very specific and limited time frame. However, and as we already argued at the time of the Victims’ Consultation carried out by the Section for Victim Participation and Reparations this is not true: there exists and has been existing since 2002- that is, for more than 20 years - an organized plan of systematic and widespread attack to persecute, detain and torture people who are or who are considered and perceived to be dissidents or opponents of the regime of Hugo Chavez, now of Nicolas Maduro, directed from the highest commands of the State, under the protection of impunity and the denial to the victims of access to justice. [...] As a result, the current climate is one of intimidation and fear. No possibility of change in Venezuela. No possibility of justice in the country. We reiterate that the lack of judicial reform in Venezuela, the lack of genuine procedures, the interdependence and impartiality of the Venezuelan judicial system, only leaves us with the only opportunity we

²⁹ r/22431/23.

³⁰ r/22355/23.

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have, through the present investigation in the Court, to assert our voices, uncover the truth, end impunity and prevent future crimes.”³¹

- f) *“[We want the ICC investigation] because in Venezuela there is no rule of law, and they are never going to investigate internally in a serious and transparent manner, because they are the same authorities and the chain of command that violate the constitution and the laws, threatening, torturing, murdering, extorting, expropriating, confiscating, imprisoning without reason, kidnapping, applying “sippenhaft”.³² [...] Since a long time ago, they have been applying the “Sippenhaftung” with families, friends and neighbours of people who have raised their voice against the human rights violations of fundamental rights. [...] Our only real and serious hope is the ICC. Why does it take so long to have justice? In Venezuela, the only people left are us the elderly, and unaccompanied children, because our children were forced to flee to preserve their lives and freedom. [The ICC investigation] has to continue, to preserve human rights that are imbedded in the Venezuelan constitution.”³³*
- g) *“[T]here were 3 months of harassment, extortion, and psychological torture against the whole family until the day they entered my house without a warrant. [Redacted], my case went to court and everything was done, the only thing missing was for the [Redacted] to render the judgment, which never happened. [...] [T]here are unjustified procedural delays aimed at exhausting the relatives of victims and determine them to abandon the cases. [...] That is why we need the ICC to open offices in Caracas and investigate these human rights violations. There are horrible things that are not known because some relatives are afraid to denounce. They kill the young people,*

³¹ r/22482/23.

³² Reference added by VPRS: "Sippenhaft" or "Sippenhaftung" is a German term – last applied by Nazi Germany - for the idea that a family or clan shares the responsibility for a crime or act committed by one of its members, justifying collective punishment. VPRS interlocutors explained that the persecution by the Venezuelan Government is not limited to opposition members, but also to their relatives and friends. [Redacted].

³³ r/22383/23.

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they commit horrendous tortures. The State and the president know it. Even so, the guilty ones do not go to jail."³⁴

20. A number of victims also asked the Appeals Chamber to amend the Article 18(2) Decision and extend the temporal scope of the Venezuela I Situation to include the crimes committed since 2002:

*"It is not only necessary, it is urgent that the [Article 18(2)] Decision of the Pre-Trial Chamber is confirmed [by the Appeals Chamber] and even amended so that the scope of the Situation also includes the crimes [against humanity] committed since 2002 [...]."*³⁵

B. Crimes against humanity continue to be committed in Venezuela

21. Multiple submissions reported that crimes against humanity falling within the scope of the Situation continue to be committed, even after the Article 18(2) Decision was issued.

a) *"First, as a way of insisting on the necessity of confirming Pre-Trial Chamber I's Article 18(2) Decision, victims wish to provide their views regarding the existence of the crimes against humanity of imprisonment or other severe deprivation of physical liberty (article 7(1)(e)); torture (article 7(1)(f)); rape or any other form of sexual violence of comparable gravity (article 7(1)(g)); murder (article 7(1)(a)); deportation or forcible transfer of population (article 7(1)(d)); and persecution against any identifiable group or collectively on political grounds (article 7(1)(h)). Victims insist on the fact that these crimes continue to be committed in Venezuela, even after Pre-Trial Chamber I's Article 18(2) Decision. Victims [...] would like to add that in Venezuela the crime against humanity of imprisonment or other severe deprivation of liberty continues to occur, as hundreds of political prisoners*

³⁴ r/22346/23.

³⁵ r/22398/23, r/22399/23, r/22400/23.

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remain in detention, and new victims are detained for politically-motivated reasons every year, including in recent months.”³⁶

- b) *“ [The] victims indicated that the human rights violations in Venezuela have never stopped – they are ongoing, recurring and continuous. [...] Nothing has changed in Venezuela with respect to the persecution, the systematic repression and the commission of crimes against humanity. The Venezuelan State continues to imprison, torture and commit human rights violations, without hiding it. Moreover, [Venezuela] changes the law in its favour in order to try to escape international justice. [...] In July, August and September [2023], the Venezuelan State has intensified its persecution, intimidation, threats and imprisonment of opponents and the closure of media [including radio stations and digital media outlets].”³⁷*

22. The victim submissions also denounce an increasing number of attacks on human rights defenders and organizations:

- a) *“The State has undertaken actions that fall within a policy of persecution, threats, harassment, stigmatization and intimidation against people and organizations that defend rights in the country. [...] Likewise, a restrictive regulatory framework has been created for the free and independent work of non-governmental human rights organizations and humanitarian actors. [...] [The submitter] views with great concern the situation of vulnerability and risk experienced by individuals and organizations that defend human rights in Venezuela.”³⁸*
- b) *“In its observations to the Appeals Chamber, the Venezuelan Government stated that it cannot oppose what is drawn from ‘social media and organizations that are positioned against the state itself, politically’, when referring to the principle of complementarity and its allegedly ‘sufficient jurisdictional activity.’ This statement reconfirms the Government’s view of human rights and other civil*

³⁶ r/22431/23.

³⁷ r/22430/23.

³⁸ r/22453/23.

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society organizations as ‘opponents’ and enemies of the State simply for doing their work, which is essential in a healthy democracy. The Venezuelan Government’s persistent attacks and systematic repression of perceived opponents continue to severely deprive a portion of the population of their fundamental rights, including their civil and political liberties. [...] Human rights defenders in Venezuela continue to face systematic targeting, that in some cases, amounts to the crime of persecution.”³⁹

The crime of murder

23. Similar to the previous Article 18(2) consultation before the Pre-Trial Chamber, a large number of the submissions received report the significant number of murders ⁴⁰ committed in Venezuela that were never investigated:⁴¹

“We highlight the crime against humanity of murder as an example of the State’s unwillingness and inability to investigate and prosecute. The rate of impunity for human rights violations known to the Public Prosecutor’s Office is estimated at 99% and is particularly grave for cases of murder. In cases of murder in the context of protests or security operations [...] the number of cases of intentional homicides investigated and sentenced is extremely low. Victims consider that the ICC is the only possible forum to investigate the crime of murder, as victims only trust the ICC as the space where they will obtain genuine justice, given that in Venezuela there is no genuine will to carry out real investigations into the murders that have been perpetrated, nor to try or convict the perpetrators, in particular the high-level perpetrators that belong to the structure developed to perpetrate the systematic and widespread attacks described.”⁴²

³⁹ r/22427/23.

⁴⁰ Reference is made to the definition of the act of murder under art. 7(1) (a) of the Statute, namely that “[t]he perpetrator killed one or more persons” (footnote omitted), in the Elements of Crimes, at page 4.

⁴¹ See also <https://www.jepvenezuela.com/2023/06/01/jepvzla-presenta-informe-especializado-sobre-el-asesinato-como-crimen-de-lesa-humanidad/>.

⁴² r/22431/23.

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Targeted groups

24. Similar to the previous victim consultation process before the Pre-Trial Chamber, the VPRS has received views and concerns from many different specific categories of victims: [Redacted].

25. [Redacted]⁴³

C. Security situation and fear of retaliation and persecution

26. The overwhelming majority of the submissions received raised security concerns for either the victim(s) presenting views and concerns, their family members, the individuals or organizations assisting victims, the lawyers, etc., irrespective of whether they currently reside in Venezuela or elsewhere. Fear of retaliation was consistently mentioned by victims. A limited number of relevant quotes is included below:

a) *“[S]ubsequently, on 31 October 2021, the Prosecutor of the International Criminal Court, Karim Khan, visited Venezuela, [Redacted]. Under a series of measures that were imposed on me, I managed to secure my release but was now being shadowed by regime officials, constantly harassed, wherever they showed up I had to leave, I didn’t dare go out alone, I stayed at home, practically imprisoned. My mother with the same suffering and fear, more still, due to the fact that, having analysed the gravity of the human rights violation, [Redacted]. Rather than calm, this led to greater persecution, fear, being a victim even of the prosecuting authorities of my country. Both my mother and I were harassed, our access to the case file was impeded, we were prevented from obtaining copies, our requests went unanswered. I was revictimized at the premises because of the red tape and long waiting times to be dealt with, and my aggressors are at large, walking around casually and making threats in the city where I live. [I] am without peace, without calm, without being able to function normally in society.*

⁴³ r/22431/23.

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In the face of such harassment, [I am] living in total uncertainty and in fear of reprisals. My mother and I left, practically fled, our country.”⁴⁴

- b) *“[T]he [security] situation [...] denounced also in the forms sent during the previous consultation [before the Pre-Trial Chamber] has worsened. [Redacted].”⁴⁵*
- c) *“[T]he current climate in Venezuela is one of intimidation and fear - without any hope of change, without no possibility to obtain justice in our country. We therefore reiterate [...] that our only opportunity to have our voices heard, to unveil the truth, to end impunity and prevent future crimes, is an ICC investigation.”⁴⁶*
- d) *“Victims, their families, NGOs and even defence attorneys are often harassed and persecuted by members of the government. [...] It is important to note that these challenges are likely to worsen during the election period, as the Venezuelan government is likely to come under increased pressure to silence its critics. [The victims ask] that the ICC be aware of these challenges and take steps to mitigate them. This could include: providing additional support to victims, their legal representatives, and organizations cooperating with the investigation; raising awareness of the risks of intimidation and bribery, by, for instance, providing informational materials in Spanish; working with other international actors, such as the Inter-American Commission on Human Rights, to consolidate a collective strategy to protect them.”⁴⁷*
- e) *“People think members of the military are part of the Government, but they don’t receive information as such. the Government wants them there under an obligation. [The victim] has many colleagues who cannot leave, because if they do, they will be considered traitors to the country. Young people in the armed forces cannot even talk freely with their families, they cannot even tell them if they’re doing well or not because their phones are tapped, so [the Government]*

⁴⁴ r/22314/23.

⁴⁵ r/22399/23.

⁴⁶ r/22400/23.

⁴⁷ r/22427/23.

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knows about everything they say. [The victim] tried to obtain a passport to leave the country but she could not because they had blocked civil servants and members of the military in the system. When she had completed [Redacted] years of service, she tendered her letter of resignation, but they did not allow her to leave. So she decided not to report to the offices for duty the next day and to leave that same day for [Redacted]. Now she is in [Redacted] and cannot return to her country because she has no passport, and when people who leave Venezuela come back they are imprisoned for six years as traitors to the country. [The victim] is scared to go back because if she is imprisoned, who will take care of her [Redacted]?"⁴⁸

- f) *"I fear for my life and the lives of my family members. [...] The criminal gangs that represent Maduro can be found in other Latin American countries and they persecute Venezuelans who have migrated. In [Redacted], there is a lack of protection for Venezuelans by the [Redacted] authorities. [...] I want my complaint to be anonymous, please, because many of the armed colectivos are outside Venezuela, threatening those of us who fled the dictatorial regime of Nicolás Maduro and I am truly very scared and frightened for my life and the lives of my family members, who are victims of Maduro's regime."⁴⁹*
- g) *"The psychological harm inflicted through the systematic persecution against the civilian population is devastating. The Venezuelan people are defenceless, the Government is taking everything away, it can do anything to a person or their family [...] In a country without the rule of law, fear and resignation take the centre stage."⁵⁰*
- h) *"As a consequence of these aggressions, I have suffered serious physical and mental damages, which has affected my health and my quality of life. I have had to change my last name and live in constant fear for my safety. It is all because I do not agree with the way my country is run, and because I am a lesbian, I am*

⁴⁸ r/22325/23.

⁴⁹ r/22332/23.

⁵⁰ r/22430/23.

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[Redated] years old and I do not think I have to continue to suffer these harassments by the government. I have tried to denounce these events to the Venezuelan judicial authorities, but I have not received any response or protection. On the contrary, I have been subjected to harassment and intimidation by the Venezuelan government, which has tried to silence my voice and deny my rights."⁵¹

D. Other views

27. Finally, the VPRS extracted from the submissions received a sample of quotes displaying other most frequent victims' views and requests before the ICC: for their identity to be kept confidential; for expeditious and transparent proceedings; for outreach and regular communications with victims in Spanish, including in face-to-face meetings; and for genuine victim participation in potential future judicial proceedings. A small number of relevant quotes is included below:

- a) *" [W]e would like to request that these processes of consultation with the victims and their representatives continue to respect the confidential nature in order to guarantee the security of the persons who remain in the country under a real risk of having their rights violated."*⁵²
- b) *" [W]e request on behalf of the total number of victims we represent, whose identities are requested to be kept confidential, by virtue of the potential risks and threats, the full confirmation of the decision of the Pre-Trial Chamber (PTC) that authorized the resumption of the investigation. [...]"*⁵³
- c) *"The victims prefer to keep their identity anonymous for reasons of personal safety and that of their families, since the government does not want us to go to the process and persecutes, disappears, imprisons and kills all those*

⁵¹ r/22341/23.

⁵² r/22453/23.

⁵³ r/22456/23.

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who raise their voices and announce the situation in Venezuela and outside the country.”⁵⁴

- d) *“[The representatives, on behalf of victims], contends that Spanish should be authorized as a working language of the Court for the situation in Venezuela I, to ensure the participation of victims in the proceedings.”⁵⁵*
- e) *“One of the things that Venezuelans celebrate is being able to have direct contact with the ICC, without intermediaries that might, for monetary or political reasons, [...] not tell the whole truth of what happens in this country. [...] [M]any of us face limitations because we do not speak English or French; it would be much appreciated if an opportunity is given to the Spanish language, as it is vital for you to see the true dimensions of the Venezuelan problem - many Venezuelans want to raise our voice in protest before the world for the crimes that are committed in this country daily.[...] [Please] allow the victims to participate in the investigations via video calls and internet, as this would be the only way that we, who reside in Venezuela, have to communicate with you, please take into account the Spanish language, and it is very important [to put in place] protection measures for the victims and their families because the simple fact of denouncing can cost us our lives. [...] Justice cannot be left alone in the hands of judges and prosecutors, it is everyone’s task.”⁵⁶*

Conclusion

28. In conclusion, victims unanimously urge the Chamber to reject all the grounds of appeal invoked by the Venezuelan Government and to confirm the Article 18(2) Decision; victims fully support an investigation by the ICC Prosecutor into all crimes against humanity committed in the Situation. A number of victims also ask the Appeals Chamber to expand the temporal

⁵⁴ r/22482/23.

⁵⁵ r/22427/23.

⁵⁶ r/22357/23.

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scope of the Venezuela I investigation to all the crimes against humanity committed since 1 July 2022 when the Rome Statute entered into force for Venezuela.