



Request for Recusal of the Prosecutor of the International Criminal Court in the Case of Venezuela I Due to Conflict of Interest

Washington, D.C., September 8, 2024

The Presidency of the International Criminal Court

International Criminal Court (ICC)
Oude Waalsdorperweg 10, 2597 AK
The Hague, Netherlands

Subject: Formal Request for the Recusal of Prosecutor Karim Asad Ahmad Khan in Venezuela I on Grounds of Conflict of Interest and Breach of Ethical Obligations

I. Introduction and Background

The undersigned, representing the **Arcadia Foundation**, a non-governmental and nonprofit organization with a global mandate, established in Venezuela in 2001 and with its international headquarters in Washington, DC since 2007, respectfully submits this formal request for the immediate recusal of **Prosecutor Karim Asad Ahmad Khan** of the International Criminal Court (hereinafter "*the Prosecutor*") in the case of *The Prosecutor v. Nicolás Maduro Moros (Venezuela I)*.

The Arcadia Foundation is dedicated to the protection of human rights and the fight against corruption on a global scale. With a longstanding history of advocating for justice and transparency across international institutions, the Foundation has actively collaborated with global stakeholders to uphold ethical standards and promote accountability not only within governments but also across international organizations, legal bodies, and civil society. Arcadia's commitment extends to ensuring that all entities, public and private, adhere to the highest principles of transparency and impartiality, particularly in matters of justice and human rights.

This request is submitted on the basis of a clear conflict of interest, arising from the familial relationship between the Prosecutor and **Venkateswari Alagendra**, a defense attorney representing Nicolás Maduro Moros. This relationship, recently brought to light by credible and reputable sources such as *The Washington Post*, raises significant concerns regarding the impartiality and transparency that are required under the Rome Statute, as well as the broader international legal frameworks governing the operations of the ICC.

The Arcadia Foundation holds that the ICC must maintain the highest standards of independence and impartiality to ensure the legitimacy of its proceedings, particularly in cases involving allegations of crimes against humanity, such as the Venezuela I case. Failure

to act on this matter threatens to undermine the very integrity of the Court and the trust of the victims and international community.

II. Legal and Ethical Grounds for Recusal

Conflict of Interest Under the Rome Statute

The Rome Statute, the governing document of the ICC, sets forth strict provisions for the impartiality of Court officials, including the Prosecutor. Article 42(5) of the Rome Statute explicitly states:

"The Prosecutor shall not engage in any activity which is likely to interfere with his or her prosecutorial functions or which might affect confidence in his or her independence."

Given the revelation that **Venkateswari Alagendra**, sister-in-law of Prosecutor Karim Khan, is representing Nicolás Maduro's defense, this situation presents a direct violation of the independence requirement under the Rome Statute. The familial relationship between the Prosecutor and a key member of the defense team creates an undeniable appearance of impropriety and a reasonable apprehension of bias. This constitutes sufficient grounds for recusal under Article 41(2) of the Statute, which allows for the removal of any official if there exists a "*legitimate doubt*" regarding their impartiality.

In this case, the familial relationship raises exactly such doubts. The integrity and impartiality of the Prosecutor, a core pillar of justice within the ICC, have been compromised, warranting immediate corrective action.

Breach of Professional Ethical Standards

In addition to the provisions of the Rome Statute, the Prosecutor is bound by professional ethical standards that demand transparency and the avoidance of conflicts of interest. Article 54(1)(a) of the Rome Statute obligates the Prosecutor to conduct investigations impartially, considering both incriminating and exonerating evidence. The relationship between Karim Khan and Alagendra jeopardizes the ability of the Prosecutor to fulfill this duty without bias.

Moreover, the **ICC Code of Conduct for Counsel** mandates that any potential conflicts of interest must be disclosed at the earliest opportunity. The fact that this relationship has only recently come to light, despite Alagendra's prior involvement in the defense of Maduro, indicates a serious failure of disclosure on the part of the Prosecutor, which undermines the ethical foundation of the Court's proceedings.

Judicial Precedent and International Standards

Conflicts of interest have been addressed in previous international legal forums, including the ICC and the International Criminal Tribunal for the former Yugoslavia (ICTY). In *The Prosecutor v. Ngudjolo Chui* (ICC-01/04-02/12), the ICC emphasized that even the mere appearance of a conflict of interest or impropriety is sufficient to require the recusal of a

judicial or prosecutorial figure, irrespective of whether actual bias has been demonstrated.

In the ICTY case *The Prosecutor v. Anto Furundžija* (ICTY-95-17/1), the court stressed that both actual impartiality and the perception of impartiality are critical to maintaining the integrity of legal proceedings. In the case at hand, the public knowledge of the familial relationship between the Prosecutor and a member of Maduro's defense team has already eroded confidence in the ICC's neutrality in this matter.

III. The Impact of the Conflict of Interest on the Integrity of the Process

The ICC is entrusted with upholding both the letter of the law and the spirit of justice. The appearance of impartiality is vital to maintaining public trust, particularly in cases involving grave allegations such as crimes against humanity. The association between the Prosecutor and the defense attorney for Nicolás Maduro severely compromises the perception of fairness in the eyes of the victims, the public, and the international community.

The revelation of the familial relationship between Prosecutor **Karim Asad Ahmad Khan** and defense attorney **Venkateswari Alagendra** has been reported by major international media outlets, such as *The Washington Post*, amplifying concerns regarding the legitimacy of the ICC's handling of this case. According to the article titled "**Maduro likely lost Venezuela's election but refuses to leave. What now?**" published on September 6, 2024, **The Washington Post** outlines details about this conflict of interest, which further undermines the credibility of the prosecution in the case of *The Prosecutor v. Nicolás Maduro Moros (Venezuela I)*.

Link to article: <https://www.washingtonpost.com/world/2024/09/06/maduro-survives-election-opposition-options/>

This public disclosure heightens the urgency for the Prosecutor's immediate recusal in order to preserve the integrity of the proceedings.

IV. The Moral and Ethical Responsibility of the Prosecutor

As the chief legal officer responsible for prosecuting cases of the gravest international crimes, the Prosecutor bears an immense moral and ethical responsibility. The failure to recuse oneself in the presence of such an apparent conflict of interest not only constitutes a breach of legal and ethical obligations but also diminishes the moral leadership expected of someone in this position.

Given the gravity of the allegations against Nicolás Maduro, including crimes against humanity, it is imperative that justice is seen to be done. The continued involvement of the Prosecutor under these circumstances risks causing irreparable damage to the credibility of the Court and undermines the moral standing of the institution.

V. Request for Immediate Action

In light of the above, the Arcadia Foundation respectfully requests the following actions:

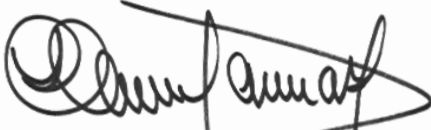
1. **Immediate Recusal of the Prosecutor:** The Presidency of the ICC should immediately recuse Prosecutor Karim Khan from all proceedings related to the Venezuela I case, pursuant to Article 41(2) of the Rome Statute.
2. **Appointment of an Independent Prosecutor:** A new, independent Prosecutor should be appointed to handle the case, ensuring that the investigation and prosecution proceed without any appearance of bias or conflict of interest.
3. **Investigation into Ethical Violations:** The ICC should open an internal investigation into whether the Prosecutor's failure to disclose the conflict of interest constitutes a breach of ethical duties under the ICC Code of Conduct.
4. **Public Statement from the Court:** In order to restore public confidence in the impartiality of the Court, the ICC should issue a public statement addressing the conflict of interest and outlining the steps being taken to preserve the integrity of the Venezuela I proceedings.

VI. Conclusion

The Arcadia Foundation submits this request with the deepest respect for the mission of the International Criminal Court. However, justice must not only be done, but must also be seen to be done. The conflict of interest involving the Prosecutor in this case is a direct affront to the principle of impartiality that underpins the ICC's authority. Immediate action is necessary to protect the rights of the victims and to uphold the credibility of the Court.

We urge the Presidency to act swiftly in order to preserve the integrity of these proceedings and the public trust in the ICC as a whole.

Respectfully submitted,



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References:

1. **Rome Statute of the International Criminal Court**
 - Article 42(5): Impartiality of the Prosecutor
 - Article 41(2): Grounds for recusal of officials
 - Article 21(3): Consistency with internationally recognized human rights
2. **ICC Code of Conduct for Counsel**
 - Outlines ethical standards and rules on conflicts of interest applicable to counsel and Prosecutors involved in ICC cases.
3. **The Prosecutor v. Ngudjolo Chui (ICC-01/04-02/12)**

- Case addressing the appearance of impropriety and the importance of impartiality in the ICC. Available at: <https://www.icc-cpi.int>
- 4. **The Prosecutor v. Anto Furundžija (ICTY-95-17/1)**
- A case from the International Criminal Tribunal for the former Yugoslavia (ICTY) emphasizing the importance of both actual and perceived impartiality in legal proceedings. Available at: <https://www.icty.org>
- 5. **The Washington Post**
- Herrero, Ana Vanessa, and Schmidt, Samantha. "Maduro likely lost Venezuela's election but refuses to leave. What now?" The Washington Post, September 6, 2024. Available at: <https://www.washingtonpost.com/world/2024/09/06/maduro-survives-election-opposition-options/>

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