



Formal Complaint Regarding Conflict of Interest and Ethical Violations Involving Ms. Venkateswari Alagendra and ICC Prosecutor Karim Khan

Washington, D.C., September 10, 2024

International Criminal Court (ICC)
Office of the Independent Counsel for Ethical Affairs
International Criminal Court
Maanweg 174, 2516 AB
The Hague, Netherlands

Subject: **Formal Request for Disciplinary Investigation Regarding Potential Conflicts of Interest and Ethical Violations Involving Ms. Venkateswari Alagendra and Prosecutor Karim Khan**

Dear Members of the Independent Counsel for Ethical Affairs:

On behalf of the **Arcadia Foundation**, an international NGO established in 2001, headquartered in Washington, D.C., we hereby submit this formal complaint regarding an apparent and significant conflict of interest involving **Ms. Venkateswari Alagendra**, defense counsel for the Venezuelan regime and Nicolás Maduro Moros, and **Mr. Karim Asad Ahmad Khan**, Chief Prosecutor of the International Criminal Court, who is Ms. Alagendra's brother-in-law.

Procedural Compliance

The Arcadia Foundation is committed to following all procedural requirements established by the International Criminal Court for the submission of formal complaints. This complaint has been submitted through the ICC Registry in accordance with Article 34 of the ICC Code of Professional Conduct for Counsel, which allows any person or group whose rights or interests may have been affected by alleged misconduct to file a complaint. We are prepared to provide any additional documentation or clarifications as required by the Office of the Independent Counsel for Ethical Affairs.

Legal Standing of the Arcadia Foundation

While the Arcadia Foundation is not formally accredited before the International Criminal Court, it is a legally established NGO with a long-standing commitment to promoting human rights and combating corruption, operating globally with a particular focus on issues involving transparency and justice.

As an organization that advocates for the integrity of international legal processes, the Arcadia Foundation has a vested interest in ensuring that the ICC maintains its impartiality and adheres to the highest ethical standards. Given that the potential conflict of interest involving Ms. Alagendra and Mr. Khan impacts the integrity of cases concerning human rights abuses, including those involving the Venezuelan regime, the Foundation is both directly and indirectly affected by these ethical concerns. Therefore, the Arcadia Foundation asserts its legitimate standing to submit this formal complaint in defense of global human rights and judicial transparency.

We request an immediate and thorough investigation into the potential breach of the ethical standards mandated by the **Rome Statute**, the **Code of Conduct for Counsel**, and other international legal frameworks governing professional conduct at the ICC. This conflict of interest could undermine the public's confidence in the impartiality and independence of the Court, core values which the ICC must uphold to maintain the legitimacy of its proceedings.

At the heart of these concerns is the familial relationship between Ms. Venkateswari Alagendra and Mr. Karim Khan, which raises critical questions about the integrity and impartiality of the Court's proceedings. This section will outline the specific conflicts and ethical concerns involved. The ethical obligations enshrined in the Rome Statute and the ICC's professional codes demand that such potential conflicts of interest be addressed with the utmost seriousness.

I. Conflict of Interest: The Familial Relationship Between Ms. Alagendra and Mr. Khan

Ms. Venkateswari Alagendra, currently a member of the legal defense representing the Venezuelan regime, is the sister-in-law of Mr. Karim Khan, the Chief Prosecutor of the ICC. This familial connection raises serious concerns about whether the impartiality of the ICC is being compromised, or, more critically, whether it **appears** to be compromised in the eyes of the public, victims, and stakeholders.

The principle of *recusatio in suspectu*, a cornerstone in international legal ethics, mandates that justice must not only be done but must be *seen to be done*. In this case, the mere appearance of a conflict of interest can jeopardize the perceived integrity of the ICC's operations, threatening the credibility of its work in prosecuting crimes of the most severe nature, including **crimes against humanity** and **genocide**.

II. Legal Framework Governing the Alleged Conflict of Interest

The relevant provisions governing conflicts of interest and ethical conduct in this matter are as follows:

1. Article 42(5) of the Rome Statute

This article prohibits the Prosecutor from engaging in any activity that could compromise prosecutorial functions or erode public confidence in their independence. This extends beyond concrete evidence of bias, addressing situations where public trust may be undermined due to appearances.

2. Article 41(2)(a) of the Rome Statute

This provision mandates the disqualification of any judge, prosecutor, or official whose impartiality might reasonably be questioned due to personal or familial relationships. The familial connection between Ms. Alagendra and Mr. Khan is precisely the type of relationship that triggers the application of this article.

3. **Article 7 of the ICC Code of Conduct for Prosecutors**

Article 7 reinforces the obligation of ICC prosecutors to act with **absolute independence** and avoid even the appearance of improper influence. Mr. Khan's failure to address the potential conflict of interest arising from his relationship with Ms. Alagendra directly contravenes this principle.

4. **Article 13 of the ICC Code of Conduct for Counsel**

This provision requires that counsel before the ICC act with complete independence. Ms. Alagendra's relationship with Mr. Khan places her participation in defense proceedings under scrutiny, particularly if her brother-in-law is in a position to oversee or influence prosecutorial strategies in cases concerning her clients.

5. **Canon 1 of the ICC Code of Professional Conduct for Counsel**

This Canon emphasizes that lawyers must adhere to the highest ethical standards, with **no room for conflicts of interest**. This standard applies to Ms. Alagendra, whose professional integrity is now under question due to her familial ties to the Chief Prosecutor.

III. **Potential Ethical Violations by Mr. Karim Khan**

As Chief Prosecutor, Mr. Karim Khan is entrusted with ensuring that all prosecutorial actions remain free from undue influence or conflicts of interest. His failure to formally disclose his familial relationship with Ms. Alagendra or take proactive steps to mitigate any perceived bias constitutes a grave violation of the ethical standards expected of his office. Specifically:

- **Failure to Declare Conflict of Interest:** Mr. Khan had an ethical duty under Article 42(5) of the Rome Statute to disclose his familial relationship to the Court's Registry and Presidency to avoid undermining the ICC's perceived impartiality.
- **Inaction on Recusal or Disqualification:** Mr. Khan could have requested that the **Registry or Presidency of the ICC** disqualify Ms. Alagendra from participating in cases where his office had prosecutorial oversight. By failing to do so, Mr. Khan has allowed a situation to develop where public confidence in the ICC is likely to be eroded.

IV. **Ethical Concerns Regarding Ms. Venkateswari Alagendra**

Ms. Alagendra, as defense counsel for the Venezuelan regime, must also be subject to investigation to determine whether her participation in ICC proceedings violates the ethical principles outlined in the Code of Conduct for Counsel. Specifically:

- **Participation in Proceedings under the Supervision of Her Brother-in-Law:** The fact that Ms. Alagendra is engaged in cases where her brother-in-law holds ultimate prosecutorial authority creates a perception of unfair advantage or preferential treatment, regardless of the actual conduct of either party.

- **Violation of Canon 1 of the Code of Professional Conduct for Counsel:** By accepting legal representation in cases overseen by her brother-in-law, Ms. Alagendra may have breached the duty of independence required of all counsel practicing before the ICC.

V. Actions Requested

Given the seriousness of these ethical concerns, we formally request that the **Office of the Independent Counsel for Ethical Affairs** take the following actions:

1. **Initiate a Formal Investigation:** Investigate the potential conflict of interest involving Ms. Alagendra's participation in defense cases before the ICC and her familial relationship with Chief Prosecutor Karim Khan.
2. **Review Mr. Khan's Conduct:** Investigate whether Mr. Khan, as Chief Prosecutor, failed to declare a conflict of interest or to take the necessary steps to mitigate the appearance of bias as required by the Rome Statute and the ICC's ethical codes.
3. **Assess Disciplinary Measures:** Evaluate whether both Ms. Alagendra and Mr. Khan should face disciplinary sanctions, including disqualification from current and future ICC cases, for breaches of professional ethics.
4. **Conduct a Broader Investigation:** Investigate whether Ms. Alagendra has served as counsel in other cases where Mr. Khan has had prosecutorial oversight, and determine if similar conflicts of interest have arisen in those instances.

VI. The Stakes for Impartiality and Justice

The public's confidence in the ICC, and by extension, the legitimacy of the entire system of international criminal justice, hinges on the impartiality and ethical conduct of its officers. This complaint strikes at the heart of these principles. The failure to address the conflict of interest between Mr. Khan and Ms. Alagendra could have far-reaching consequences for the ICC's reputation and the integrity of its decisions, particularly regarding the prosecution of **crimes against humanity, war crimes, and genocide**.

We call on the Office of the Independent Counsel to treat this matter with the utmost seriousness. The principles of **jus cogens** and **jus naturale** compel that the ICC not only act with unimpeachable fairness but be **perceived** as doing so by the international community, victims, and all stakeholders.

VII. Conclusion

In light of the grave ethical concerns outlined in this complaint, we respectfully urge the Office of the Independent Counsel for Ethical Affairs to conduct a thorough and impartial investigation. The integrity and impartiality of the International Criminal Court (ICC) are essential to maintaining public confidence in its proceedings, particularly in cases involving crimes against humanity, war crimes, and genocide.

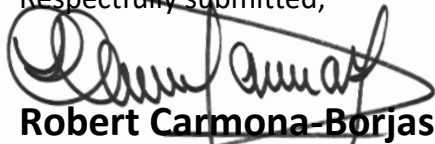
As a non-governmental organization with a longstanding commitment to the promotion of human rights and global transparency, the Arcadia Foundation has a legitimate interest

in ensuring the ICC upholds the highest standards of impartiality and ethical conduct. The potential conflict of interest between Ms. Venkateswari Alagendra and Mr. Karim Khan not only undermines the appearance of impartiality within the ICC, but directly impacts organizations such as ours, which are dedicated to supporting an international justice system free from undue influence and conflicts of interest.

We therefore reiterate the need for a disciplinary investigation into this matter to preserve the credibility of the ICC and to ensure that it continues to serve as a model of impartial and ethical justice. Failure to address these issues may severely erode public trust and undermine the ICC's ability to deliver justice to the victims of the most egregious international crimes.

We thank you for your immediate attention to this critical matter and remain at your disposal should any further information or clarification be required.

Respectfully submitted,



Robert Carmona-Borjas
CEO – Cofounder
rcb@arcadiafoundation.org



José Vicente Carrasquero A.
Director of Conflict Resolution Strategies
jvca@arcadiafoundation.org

Arcadia Foundation

5335 Wisconsin Ave., N.W., Suite 640
Washington, DC 20015
United States of America
+1(202)747-0876 Ext 644

www.arcadiafoundation.org