

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

No.: ICC-02/18

Date: 17 January 2022

**PRE-TRIAL CHAMBER I**

**Before:** Judge Péter Kovács, Presiding judge  
Judge Reine Alapini-Gansou  
Judge María Socorro Flores Liera

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

**Public**

**With Confidential *Ex Parte* Annexes A-D only available to the Prosecution, the Registrar and the Bolivarian Republic of Venezuela**

**Notification on the status of article 18 notifications in the Situation in the Bolivarian Republic of Venezuela I**

**Source:** Office of the Prosecutor

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 QC

**Counsel for the Defence**

**Legal Representatives of Victims**

**Legal Representatives of Applicants**

**Unrepresented Victims**

**Unrepresented Applicants  
(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**

## Notification

1. The Office of the Prosecutor<sup>1</sup> hereby respectfully informs Pre-Trial Chamber I<sup>2</sup> that on 16 December 2021, pursuant to article 18(1) of the Rome Statute,<sup>3</sup> it notified all States Parties of the Prosecutor's decision of 3 November 2021 to initiate an investigation in the Situation in Venezuela.<sup>4</sup>
  
2. In the notification to States, the Prosecutor detailed the scope of the Situation under investigation and set out the status of the proceedings and cooperation<sup>5</sup> inviting States to inform the Court, within one month of receipt of the notification as per article 18(2), whether they were investigating, or had investigated, their nationals or other individuals within their jurisdictions with respect to the criminal acts allegedly committed in the Situation. To assist States in their determination, the Prosecutor also conveyed a summary of the findings of its Preliminary Examination.<sup>6</sup>
  
3. On the same day, 16 December 2021, in addition to the notification the Prosecutor also addressed a separate letter to the Venezuelan authorities on proposed steps to implement and give concrete effect to the MoU between the OTP and Venezuela.<sup>7</sup> To this end and also to address the procedural steps related to the article 18 process, the Prosecutor and high-level representatives of the Venezuelan Government sought to arrange an in-person meeting at the seat of the Court in December 2021. Due to a conjuncture of events, the meeting could not take place as intended.

---

<sup>1</sup> "OTP" or "Prosecution".

<sup>2</sup> "Chamber".

<sup>3</sup> "Statute".

<sup>4</sup> "Situation" or "Situation in Venezuela I". See press release dated 5 November 2021 <https://www.icc-cpi.int/Pages/item.aspx?name=pr1625>.

<sup>5</sup> In this respect, reference was also made to the Memorandum of Understanding ("MoU") signed in Caracas on 3 November 2021 by the Bolivarian Republic of Venezuela ("Venezuela" or "Venezuelan authorities") and the OTP: <https://www.icc-cpi.int/itemsDocuments/otp/acuerdo/acuerdo-eng.pdf>. As explained in the notification letter, the MoU sets the stage for continued dialogue and cooperation between Venezuela and the OTP, pursuant to the principle of complementarity.

<sup>6</sup> Annex A, containing copy of the standard article 18 notification sent to all States together with a summary of the findings of the preliminary examination of the Situation relating to Venezuela I.

<sup>7</sup> Annex B.

4. On 3 January 2022, Venezuela requested additional information from the OTP in relation to the acts which would be the object of the investigation into the Situation, pursuant to rule 52(2).<sup>8</sup>

5. On 13 January 2022, following further consultation undertaken virtually with the Venezuelan authorities, the Prosecutor responded to their request and provided additional information about the acts that may constitute crimes referred to in article 5, subject to the limitations provided for in article 18(1).<sup>9</sup>

6. In a spirit of cooperation,<sup>10</sup> dialogue and fairness, the Prosecutor further agreed to grant Venezuela a three months extension, namely until 16 April 2022, to inform the Court of its investigation within the meaning of article 18(2) – given that this time period would ordinarily expire on 16 January 2022.<sup>11</sup> This extension is appropriate and justified due to several circumstances, which are to be considered exceptional given, *inter alia*, the time that has elapsed between Venezuela’s 3 January request to the Prosecutor and his 13 January response, the provision of additional information, unsuccessful attempts by the Prosecution to meet in person with the Venezuelan authorities to discuss relevant procedural matters, the intervening Court recess as well as the ongoing challenges brought on by the on-going global pandemic.

7. This extension is also warranted to allow sufficient time, in the light of existing schedules, for the Prosecutor to travel to Venezuela before the expiry period and, as intended in December 2021, to engage in a meaningful dialogue with the Venezuelan

---

<sup>8</sup> Annex C.

<sup>9</sup> Annex D, pp. 3-9. The Prosecution notes that in addition to (i) the Prosecutor’s letter to Venezuela dated 13 January 2022 (p. 2-9), Annex D contains: (ii) a sample of open source reports (pp. 9-10) and (iii) a sample of alleged incidents cited in those reports (pp. 10-19), both provided to Venezuela together with the Prosecutor’s 13 January 2022 letter; (iv) a letter signed by the then OTP Director of the Jurisdiction, Complementary and Cooperation Division to Venezuela dated 19 October 2021 (pp. 20-21); and (v) a Summary of Preliminary Examination Findings enclosed to the OTP 19 October 2021 letter (pp. 22-52). Annex D does not contain the reports referred to in items (ii), (iii) and (v) given their voluminous nature, running into several thousands of pages, and the limited purpose of this notification. The Prosecution stands ready to submit these reports should the Chamber so instruct.

<sup>10</sup> In further compliance with the Chamber’s direction in its decision ICC-02/18-9-Conf, disposition, p. 12.

<sup>11</sup> Annex D, p. 6.

Government on issues of admissibility with a view to assessing, among others, the scope and need for recourse to possible article 18 proceedings.

8. The Prosecution has in the meantime been informed by several other States Parties that they are not investigating or have not investigated any individual for the criminal acts allegedly committed in the Situation. One State Party advised the Prosecution that it requires additional time in order to respond to the article 18 notification.

9. As the stipulation set out for the article 18(2) timeline is statutory, the Prosecution deems it appropriate to apprise the Chamber of the status of notifications to date and of the above-mentioned extension granted to Venezuela, to ensure adequate regard for the Chamber's judicial oversight throughout the article 18 procedure.

#### CONFIDENTIALITY

10. This filing is submitted as public with confidential *ex parte* Annexes A-D only available to the Prosecution, Registry and the Government of Venezuela, pursuant to regulation 23*bis*(1),<sup>12</sup> as they include confidential correspondence between the OTP and State Parties in the context of the Situation, as also foreseen in article 18(1). The Prosecution submits that all information relevant to the public contained in Annexes A-D is provided with sufficient level of specificity in the filing.

---

<sup>12</sup> Regulations of the Court.



---

**Mr Karim A. A. Khan QC, Prosecutor**

Dated this 17<sup>th</sup> day of January 2022

At The Hague, The Netherlands