



Original: English

**No. ICC-02/18 OA
Date: 24 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 document

Decision on requests for victims' involvement

Decision 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, Prosecutor

Ms Alice Zago

The Office of Public Counsel for Victims

Ms Paolina Massidda

Mr Enrique Carnero Rojo

States Representatives

Competent authorities of the Bolivarian Republic
of Venezuela

REGISTRY

Registrar

Mr Osvaldo Zavala Giler

Victims Participation and Reparations Section

Mr Philipp Ambach

The Appeals Chamber of the International Criminal Court,

In the appeal of the Bolivarian Republic of Venezuela against Pre-Trial Chamber I's "Decision authorising the resumption of the investigation pursuant to article 18(2) of the Statute" of 27 June 2023 (ICC-02/18-45),

Having before it the "Application to present victims' views and concerns in the appeal of the Bolivarian Republic of Venezuela against Pre-Trial Chamber I's 'Decision authorising the resumption of the investigation pursuant to article 18(2) of the Statute'" submitted by a group of victims on 28 July 2023 (ICC-02/18-55-Red),

Having before it the "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'" submitted by a group of victims on 2 August 2023 (ICC-02/18-56-Anx1-Red-Corr),

Having before it the "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'" submitted by a group of victims on 3 August 2023 (ICC-02/18-57-Anx1-Red),

Renders the following

DECISION

1. The Victims Participation and Reparations Section is instructed to collect and transmit to the Appeals Chamber representations from any interested victim and victims group and prepare and submit a report thereon by Tuesday, 17 October 2023, in the manner set out at paragraphs 14-15 of this decision.
2. The time limit for the Prosecutor's response to "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)" is extended until the expiry of the time limit for the observations of the Office of Public Counsel for Victims.

REASONS

I. PROCEDURAL HISTORY

A. Proceedings before the Pre-Trial Chamber

1. On 3 November 2022, the Office of Public Counsel for Victims (hereinafter: "OPCV") requested that Pre-Trial Chamber I (hereinafter: "Pre-Trial Chamber") grant it leave to file, together with four Venezuelan lawyers, a joint submission presenting victims' views and concerns in relation to the ongoing article 18(2) proceedings.¹
2. On 15 November 2022, the Competent authorities of the Bolivarian Republic of Venezuela (hereinafter: "Venezuela") requested the Pre-Trial Chamber to authorise the participation of victims only through the submission by the Victims Participation and Reparations Section (hereinafter: "VPRS") of a report summarising the victims' views and concerns, and to allow Venezuela to respond to such a report.²
3. On 18 November 2022, the Pre-Trial Chamber instructed the VPRS to liaise with victims and any legal representatives, including the OPCV and the four aforementioned lawyers, to collect their views and concerns on the Prosecutor's request under article 18(2) of the Statute, and to transmit those views and concerns to the Pre-Trial Chamber, together with a report (hereinafter: "Pre-Trial Chamber's Order on Victims' Involvement").³
4. On 19 and 20 January 2023, and 20 April 2023, the VPRS transmitted to the Pre-Trial Chamber views and concerns of victims, together with reports thereon.⁴

¹ [OPCV Request to Submit Observations on the Prosecutor's Request to Resume the Investigation under Article 18\(2\) of the Statute](#), ICC-02/18-19, paras 3, 26.

² [Proposals on the procedure before Pre-Trial Chamber I – Venezuela I](#), dated 10 November 2022 and registered on 15 November 2022, ICC-02/18-20-AnxII, paras 29-30, p. 13.

³ [Order inviting observations and views and concerns of victims](#), ICC-02/18-21, para. 11, p. 7.

⁴ [First Registry Transmission of Victims' Views and Concerns in the Article 18\(2\) Proceedings](#), 19 January 2023, ICC-02/18-22, with 16 confidential *ex parte* annexes; [First Registry Report on Article 18\(2\) Victims' Views and Concerns Pursuant to Pre-Trial Chamber's Order ICC-02/18-21](#), 19 January 2023, ICC-02/18-23-Red (confidential version filed same day, ICC-02/18-23-Conf), with a confidential

5. On 27 June 2023, the Pre-Trial Chamber rendered its decision authorising the Prosecutor to resume the investigation into the situation in Venezuela, pursuant to article 18(2) of the Statute (hereinafter: “Article 18(2) Decision”).⁵

B. Proceedings before the Appeals Chamber

6. On 3 July 2023, Venezuela submitted its notice of appeal against the Article 18(2) Decision.⁶

7. On 21 July 2023, the Appeals Chamber granted the OPCV’s request,⁷ and invited it to submit written observations on Venezuela’s appeal brief in relation to the general interests of victims (hereinafter: “Decision on OPCV Request”).⁸

8. On 28 July 2023, a group of 609 victims submitted a request (i) for leave to present views and concerns directly to the Appeals Chamber, pursuant to article 68(3) of the Statute and rule 93 of the Rules of Procedure and Evidence (hereinafter: “Rules”), and (ii) that their views and concerns previously submitted to the VPRS be taken into consideration (hereinafter: “Victims 1 Request”).⁹

9. On 2 August 2023, the Registry transmitted to the Appeals Chamber a request from a group of 73 victims to present their views and concerns in the appeal by

ex parte and a confidential annex; [Second Registry Transmission of Victims’ Views and Concerns in the Article 18\(2\) Proceedings](#), 20 February 2023, ICC-02/18-26, with 80 confidential *ex parte* annexes; [Second Registry Report on Article 18\(2\) Victims’ Views and Concerns Pursuant to Pre-Trial Chamber’s Order ICC-02/18-21](#), 20 February 2023, ICC-02/18-27-Red (confidential version filed same day, ICC-02/18-23-Conf), with a confidential *ex parte* and a confidential annex; [Third Registry Transmission of Victims’ Views and Concerns in the Article 18\(2\) Proceedings](#), 20 April 2023, ICC-02/18-39, with 1,723 confidential *ex parte* annexes; [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-Red-Corr (confidential version filed same day, ICC-02/18-40-Conf; corrected version filed on 22 June 2023), with two confidential and one confidential *ex parte* annexes.

⁵ [Decision authorising the resumption of the investigation pursuant to article 18\(2\) of the Statute](#), ICC-02/18-45.

⁶ [The Bolivarian Republic of Venezuela’s Notice of Appeal against Pre-Trial Chamber I’s “Decision authorising the resumption of the investigation pursuant to article 18\(2\) of the Statute” \(ICC-02/18-45\) and request for suspensive effect](#), 14 July 2023, ICC-02/18-46-AnxII-Red (confidential *ex parte* version dated 2 July 2023 was registered on 3 July 2023).

⁷ [Request to appear before the Appeals Chamber pursuant to regulation 81\(4\) of the Regulations of the Court](#), 7 July 2023, ICC-02/18-47.

⁸ [Decision on the OPCV’s “Request to appear before the Appeals Chamber pursuant to regulation 81\(4\) of the Regulations of the Court”](#), ICC-02/18-54.

⁹ [Application to present victims’ views and concerns in the appeal of the Bolivarian Republic of Venezuela against Pre-Trial Chamber I’s “Decision authorising the resumption of the investigation pursuant to article 18\(2\) of the Statute”](#), ICC-02/18-55-Red (confidential *ex parte* version filed on the same day, ICC-02/18-55-Conf-Exp), with confidential *ex parte* annexes.

submitting a response to Venezuela’s appeal brief and its request for suspensive effect, in accordance with article 68(3) of the Statute and rule 89(1) of the Rules (hereinafter: “Victims 2 Request”).¹⁰

10. On 3 August 2023, the Registry transmitted to the Appeals Chamber a request from a group of 436 victims (i) to present their opinions and observations regarding the appeal of Venezuela against the Article 18(2) Decision, on the basis of article 68(3) of the Statute, as well as rules 91, 93 and 107(5) of the Rules; and (ii) that the consultation process previously carried out by the VPRS be taken into consideration (hereinafter: “Victims 3 Request”).¹¹

11. On 14 August 2023, Venezuela filed its appeal brief (hereinafter: “Appeal Brief”).¹²

II. MERITS

13. As with the appeal proceedings arising out of the situation in the *Republic of the Philippines*,¹³ the Appeals Chamber considers it appropriate for victims to be involved in the appeal proceedings in the present situation.

14. In this respect, as in the situation in the *Republic of the Philippines*, the Appeals Chamber considers that the appropriate way for victims to be involved in the proceedings in the context of article 18(2) proceedings is by means of making

¹⁰ 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’”](#), ICC-02/18-56-Anx1-Red-Corr (confidential *ex parte* version filed on the same day, ICC-02/18-56-Conf-Exp-Anx1), with one confidential *ex parte* annex.

¹¹ 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.’”](#), ICC-02/18-57-Anx1-Red (confidential *ex parte* version filed on the same day, ICC-02/18-57-Conf-Exp-Anx1), with seven confidential *ex parte* annexes.

¹² 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’ \(ICC-02/18-45\)”](#), ICC-02/18-59-Conf-Exp, with confidential *ex parte* annexes (a public redacted version of Annex II dated 21 August 2023 was registered on 22 August 2023, ICC-02/18-59-AnxII-Red).

¹³ Appeals Chamber, *Situation in the Republic of the Philippines*, [Decision on requests for victims’ involvement and access to filings](#), 21 March 2023, ICC-01/21-66 (hereinafter: “*Philippines* Decision on Victims”), para. 17.

“representations”.¹⁴ The Appeals Chamber considers that this method is also suitable for the present appeal proceedings, and accordingly adopts this process *mutatis mutandis*. The Appeals Chamber therefore grants the victims’ requests in part by allowing victims to make representations. However, rather than presenting views and concerns directly to the Appeals Chamber pursuant to rule 93 of the Rules, or submitting a response within the meaning of regulation 24(2) of the Regulations of the Court, victims are directed to submit representations to the Appeals Chamber, with the assistance of their legal representatives if they so wish, and in accordance with the procedure set out below.

15. The VPRS is instructed to collect and transmit to the Appeals Chamber representations from any interested victim and victims group, with the assistance of their legal representatives if they so wish, on the issue of whether, in their view, the Article 18(2) Decision allowing for the resumption of the investigation by the ICC Prosecutor should be confirmed, amended or reversed on appeal. The VPRS shall prepare and transmit a report on these representations to the Appeals Chamber by Tuesday, 17 October 2023.


16. The Appeals Chamber notes that, as a public redacted version of the Appeal Brief was notified to the OPCV on 22 August 2023,¹⁵ the 21-day time limit for the OPCV’s observations¹⁶ started running on that day. In order to align the Prosecutor’s time limit for his response to the Appeal Brief with the one for the OPCV’s observations, the Appeals Chamber extends the time limit for the Prosecutor’s response to the Appeal Brief until the expiry of the time limit for the OPCV’s observations.

¹⁴ [Philippines Decision on Victims](#), para. 18. See also [Pre-Trial Chamber’s Order on Victims’ Involvement](#), paras 10-11; Pre-Trial Chamber I, *Situation in the Republic of the Philippines*, [Order inviting observations and victims’ views and concerns](#), 14 July 2022, ICC-01/21-47, para. 14; Pre-Trial Chamber II, *Situation in the Islamic Republic of Afghanistan*, [Decision on submissions received and order to the Registry regarding the filing of documents in the proceedings pursuant to articles 18\(2\) and 68\(3\) of the Statute](#), 8 November 2021, ICC-02/17-171, para. 14.

¹⁵ [Appeal Brief](#).

¹⁶ [Decision on OPCV Request](#), para. 7.

Done in both English and French, the English version being authoritative.

A handwritten signature in black ink, consisting of several loops and a final horizontal stroke, positioned above a solid black horizontal line.

Judge Marc Perrin de Brichambaut

Presiding

Dated this 24th day of August 2023

At The Hague, The Netherlands