

Pursuant to Appeal Chamber's Order ICC-02-18-88 dated 19 February 2024, this document is reclassified as " Public

ANNEX II

Confidential *EX PARTE*,

**only available to the Office of the Prosecutor and
the Bolivarian Republic of Venezuela**

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

No: ICC-02/18

Date: 7 July 2023

APPEALS CHAMBER

Before: Judge Piotr Hofmański
Judge Marc Pierre Perrin de Brichambaut
Judge Luz del Carmen Ibáñez Carranza
Judge Solomy Balundi Bossa
Judge Gocha Lordkipanidze

SITUATION IN THE BOLIVARIAN REPUBLIC OF VENEZUELA I

CONFIDENTIAL

EX PARTE PROSECUTION AND VENEZUELA ONLY

**The Bolivarian Republic of Venezuela's Application for Extension of Time to
File the Appeal Brief**

Source: Bolivarian Republic of Venezuela

Documents to be notified in accordance with regulation 31 of the Regulations of the Court to:

The Office of the Prosecutor

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Counsel for the Defence

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for
The Defense**

States Representatives

Minister of Foreign Affairs of the
Bolivarian Republic of Venezuela

Amicus curiae

Registry

The Registrar

M. Osvaldo Zavala Giler

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and
Reparations Section**

Other

I. INTRODUCTION

1. On 27 June 2023, the Pre-Trial Chamber I rendered its decision authorising the resumption of the investigation pursuant to Article 18(2) of the Statute ('PTC I Decision').¹
2. On 27 June 2023, the the Permanent Mission of the Bolivarian Republic of Venezuela to OPCW, ICC and other International Organizations and Courts based in the Kingdom of the Netherlands was notified of a copy of the Decision from the Registry.
3. According to Rule 154(1) of the Rules of Procedure and Evidence, an appeal against a decision concerning jurisdiction and admissibility as provided under Article 82(1)(a) of the Statute may be filed with the Registry no later than five (5) days from the date on which the party filing the appeal is notified of the decision.
4. On 3 July 2023, the Bolivarian Republic of Venezuela filed its Notice of Appeal with the Registry.
5. According to Regulation 64(2) of the Regulations of the Court, the Government of Venezuela ("GoV") has twenty-one (21) days from notification of the PTC I Decision to file its Appeal Brief. As the GoV was notified of the PTC I Decision on 27 June 2023, the GoV has until 18 July 2023 to file its Appeal Brief.
6. The GoV will demonstrate below the existence of a good cause to extend the above-said time limit.

II. CLASSIFICATION

7. Pursuant to Regulation 23 bis of the Regulations of the Court, the present filing has been filed on a confidential *ex parte* basis due to the fact that it refers to the GoV notice of appeal, which is currently only available as a confidential *ex parte* filing. As soon as a public redacted version is filed, the present filing can be reclassified as public.

¹ Decision authorising the resumption of the investigation pursuant to article 18(2) of the Statute, ICC-02/18-45, 27 June 2023. [PTC I Decision]

III. APPLICATION FOR EXTENSION OF TIME TO FILE THE APPEAL BRIEF

8. Following Regulation 35 of the Regulations of the Court, the GoV requests the Appeals Chamber to extend the time limit for filing the Appeal Brief and grant an additional period of twenty days from 18 July 2023 or until 7 August 2023. Considering that 7 August 2023 falls during the summer judicial recess, the GoV requests to be allowed to file its Appeal Brief on the next business day, 14 August 2023, Monday, no later than 4 p.m. CET.
9. The State filed the present submission as soon as it appeared that it was facing a situation where it had no choice but to seize the Chamber based on the above-mentioned Regulation 35. It did so in such a way as to enable the Chamber to act within the time limits provided for the filing.²
10. The GoV submits that good cause exists to grant the requested extension of the deadline for submission of the Appeal Brief on account of the following circumstances:
11. First, the PTC I Decision was issued in English. In the absence of an ICC translation, the GoV was required to prepare an internal translation into Spanish. The PTC I Decision itself raises several complex legal and factual issues, which require careful consideration and consultation with national authorities in GoV.³ The subsequent drafting of the Appeal Brief and selection of its annexes will represent, in qualitative and quantitative terms, a considerable amount of work. The preparation of the observations in Spanish and their translation into English entails considerable delays for their drafters.
12. Second, one of the findings set out in the PTC I Decision was based on the absence of translations of certain documents into a working language. In order to assess and demonstrate the impact of the PTC's erroneous stance concerning translations on the outcome of the decision, the GoV will need to secure translations of pertinent documents into English. The GoV anticipates that it will require more than 21 days to complete this process.

² See for example Decision on the Prosecutor's Request for an Extension of Time, [ICC-01/12-01/18-346-tENG](#), 13 May 2019, § 17.

³ In the Philippines situation, the Appeals Chamber found that this constituted good cause to grant a request 20 day extension: [ICC-01/21-61](#), para. 8.

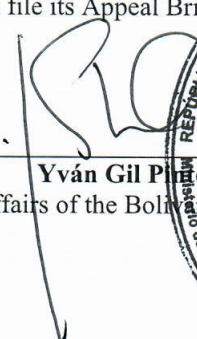
13. Third, while deadlines are not automatically suspended during judicial recess, the ICC has adopted a practice of doing so,⁴ to take into account the concrete logistical challenges that exist in terms of obtaining instructions and finalizing submissions at a time when key members of the GoV may be unavailable.
14. The State underlines the absence of prejudice for the Prosecution from the present request. The Prosecution does not face the same linguistic obstacles as the GoV and will be notified of its Appeal Brief within the time limit set by the Chamber.
15. In addition, the State indicates that the extension is also in the interest of justice. The conditions of Regulation 35 being met in this case, this criterion is, however, invoked here only as indicatively⁵.
16. For all of the above reasons, the State submits that there is good cause within the meaning of Regulation 35 of the Regulations to postpone the filing of the Appeal Brief.

IV. RELIEF SOUGHT

17. Accordingly, the GoV requests the Appeals Chamber to:

- a. Find that the GoV has shown good cause within the realm of Regulation 35(2) of the Regulations of the Court;
- b. Grant the GoV an additional period of at least twenty days from 18 July 2023, or until 14 August 2023, to file its Appeal Brief.

Respectfully submitted,


Yván Gil Pineda
Minister of Foreign Affairs of the Bolivarian Republic of Venezuela



Dated this 6 July 2023.
At Caracas, Venezuela.

⁴ See for example, [ICC-02/04-01/15-1861](#), para. 17; ICC-01/04-01/06-2033, para.4 and ICC-01/04-01/06-T-203-Red2-ENG-WT, p.64. See also ICC-01/05-01/08-T-43-Red2-ENG-WT, pp.31-32; ICC-01/04-01/07-T-173-RedFRA-WT, p.74; ICC-01/04-01/07-T-286-Red-FRA-WT, p.4,

⁵ See Decision on in-court protective measures for Witness D-0243, [ICC-01/04-02/06-2136](#), 1 December 2017, § 7 : "The Chamber further notes that if the criteria of Regulation 35 are not met, the Chamber may nevertheless grant an extension of time if it is in the interests of justice to do so".