



## To the Honourable Judges of the Appeals Chamber of the International Criminal Court

**Subject:** Clarification of Legal Reference in Arcadia Foundation's Submission on the Request for the Recusal of Prosecutor Karim A. A. Khan, in the Venezuela I Case

**Date:** Washington, DC November 14, 2024

**Submitted by:** Robert Carmona-Borjas, Chief Executive Officer, Arcadia Foundation

Dear Honourable Judges,

On behalf of the Arcadia Foundation, I respectfully submit this clarification to address an inadvertent reference error identified in our previous submission regarding the request for the recusal of Prosecutor Karim A. A. Khan in the matter of *The Prosecutor v. Nicolás Maduro Moros* (Venezuela I). This clarification is intended to reinforce our ethical concerns and to ensure alignment with the pertinent provisions of the Rome Statute.

### Clarification of the Applicable Article

In our initial submission, we referenced **Article 53** of the Rome Statute in connection with the Prosecutor's responsibility to take preventive measures to protect victims and prevent the continuation of crimes against humanity in Venezuela. Upon further examination, we acknowledge that the accurate reference should be **Article 54(3)(f)**, which specifically endows the Prosecutor with the authority to take all necessary actions to preserve evidence and to protect persons at risk due to their engagement with the Court.

**Article 54(3)(f)** grants the Prosecutor the prerogative to act *motu proprio* to protect individuals and prevent ongoing violations in cases where substantial evidence of crimes against humanity exists. Our principal argument—that the Prosecutor's inaction in the face of credible evidence constitutes a severe lapse in his duties—remains unchanged. We contend that this inaction may be influenced by an underlying conflict of interest, stemming from his familial relationship with Ms. Venkateswari Alagendra, who represents the Venezuelan regime.

### Core Argument and Ethical Implications

While our initial reference to Article 53 was erroneous, it does not detract from the fundamental basis of our claim. We submit that the Prosecutor's failure to employ his powers under **Article 54(3)(f)**, given the circumstances in Venezuela, presents profound ethical and procedural concerns regarding the impartiality expected of his office. The familial link to Ms. Alagendra, who serves as counsel to parties opposing justice efforts in Venezuela, casts substantial doubt upon the Prosecutor's objectivity and his obligation to act independently and within the high ethical standards maintained by this Court.

This clarification underscores the Arcadia Foundation's commitment to transparency and

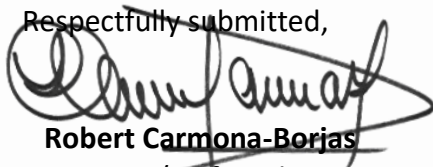
accuracy in our communications with the Court. We trust that this correction will support the Appeals Chamber in its comprehensive review. The apparent conflict of interest, coupled with the failure to act as prescribed under **Article 54(3)(f)**, embodies a severe ethical dilemma that risks undermining both the integrity and public trust in the Court.

### **Request for Consideration**

Given the weight of these ethical implications, we respectfully request that the Appeals Chamber incorporate this clarification in its consideration of our initial concerns. The Arcadia Foundation remains dedicated to assisting the **International Criminal Court** in upholding justice that is free from conflicts of interest and impervious to any influence that may compromise its impartiality.

Thank you for your attention to this clarification. Should the Appeals Chamber require further details, the Arcadia Foundation remains at the Court's disposal to provide any necessary assistance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Robert Carmona-Borjas', is written over a light gray rectangular background.

**Robert Carmona-Borjas**

CEO / Co-founder

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