

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No. : ICC-02-18

Date: 13 December 2024

THE APPEALS CHAMBER

Before: Judge Tomoko Akane
Judge Luz del Carmen Ibáñez Carranza
Judge Solomy Balungi Bossa
Judge Gocha Lordkipanidze
Judge Erdenebalsuren Damdin

SITUATION IN THE BOLIVARIAN REPUBLIC OF VENEZUELA I

Public Document

**Request for Leave to Submit *Amicus Curiae* Observations by
Un Mundo Sin Mordaza**

Source: Un Mundo Sin Mordaza

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, Prosecutor Ms Alice Zago	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 Ms Paolina Massidda Mr Enrique Carnero Rojo	The Office of Public Counsel for the Defence
States' Representatives Competent authorities of the Bolivarian Republic of Venezuela	Amicus Curiae
REGISTRY	
Registrar Mr Osvaldo Zavala Giler	Counsel Support Section
Victims and Witnesses Unit	Detention Section
Victims Participation and Reparations Section Mr Philipp Ambach	Other

I. Introduction

1. Pursuant to Rule 103(1) of the Rules of Procedure and Evidence (RPE), Un Mundo Sin Mordaza, a Venezuelan NGO, respectfully requests the authorisation of the Appeals Chamber to submit observations as *amicus curiae* on the “*Request for Recusal of the Prosecutor of the International Criminal Court in the case of Venezuela I due to a Conflict of Interest*” filed by the Arcadia Foundation on 4 November 2024.¹
2. Un Mundo sin Mordaza is an NGO that seeks to promote and empower citizens in terms of human rights through art and culture as spaces of expression. In particular, it seeks to strengthen the capacities of young people and members of the Venezuelan diaspora to monitor and defend human rights through art and digital activism, especially freedom of expression, and to empower the Venezuelan diaspora to expose and denounce human rights violations internationally.
3. Concerned about the repercussions that this request of recusal may have on the process and, ultimately, on the rights of the victims, Un Mundo Sin Mordaza requests the Appeals Chamber’s authorisation to submit important information relating to the this request as *amicus curiae*.

II. Procedural Background

4. The SoV ratified the Rome Statute on 13 December 2000, which came into effect on 1 July 2002.²
5. On 8 February 2018, the OTP opened a preliminary examination on the alleged commission of crimes against humanity in Venezuela, since at least April 2017, in

¹ E-mail sent by the Arcadia Foundation on 4 November 2024, at 21:24

² ICC, States Parties of the Rome Statute : Venezuela.

<https://asp.icc-cpi.int/states-parties/latin-american-and-caribbean-states/venezuela>

the context of “demonstrations and related political unrest.”³ By that time, the OTP had received information about the arrest and detention of thousands of actual or perceived members of the opposition, including information that a number of them were allegedly subjected to serious abuse and ill-treatment in detention.⁴

6. On 27 September 2018, six OAS State Parties (Argentina, Canada, Colombia, Chile, Paraguay, and Peru), submitted a referral to the Office of the Prosecutor, requesting the opening of an investigation into the crimes against humanity allegedly committed in Venezuela since 12 February 2014.⁵
7. On 14 December 2020, the OTP announced that there were reasonable grounds to believe that crimes had allegedly been committed in the State of Venezuela⁶ and on 5 November 2021, the OTP announced the opening of an investigation into the crimes against humanity allegedly committed in the State of Venezuela since 12 February 2014.⁷

³ OTP, Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, on opening Preliminary Examinations into the situations in the Philippines and in Venezuela. 8 February 2018. Available at : <https://www.icc-cpi.int/news/statement-prosecutor-international-criminal-court-fatou-bensouda-opening-preliminary-0>

⁴ OTP, Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, on opening Preliminary Examinations into the situations in the Philippines and in Venezuela. 8 February 2018. Available at : <https://www.icc-cpi.int/news/statement-prosecutor-international-criminal-court-fatou-bensouda-opening-preliminary-0>

⁵ ICC, Situation in the Bolivarian Republic of Venezuela I, State Parties referral. 26 September 2018. Available at :

https://www.icc-cpi.int/sites/default/files/itemsDocuments/180925-otp-referral-venezuela_ENG.pdf

⁶ OTP, Report on Preliminary Examination Activities 2020, 14 December 2020, para. 202. Available at : <https://www.icc-cpi.int/sites/default/files/itemsDocuments/2020-PE/2020-pe-report-eng.pdf>.

⁷ OTP, Press release : "ICC Prosecutor, Mr Karim A.A. Khan QC, opens an investigation into the Situation in Venezuela and concludes Memorandum of Understanding with the Government". 5 November 2021. Available at :

<https://www.icc-cpi.int/news/icc-prosecutor-mr-karim-aa-khan-qc-opens-investigation-situation-venezuela-and-concludes>

8. Finally, on 4 November 2024 the Arcadia Foundation filed a “Request for Recusal of the Prosecutor of the International Criminal Court in the case of Venezuela I due to a Conflict of Interest”.⁸

III. Applicable law

9. The present *amicus curiae* application is made on the basis of Article 21(1)(a) of the Statute, in accordance with Rule 103(1) of the RPE which provides that:

“At any stage of the proceedings, a Chamber may, if it considers it desirable for the proper determination of the case, invite or grant leave to a State, organization or person to submit, in writing or orally, any observation on any issue that the Chamber deems appropriate.”⁹

10. In this respect, The Appeals Chamber has previously allowed *amicus curiae* submissions when they were “desirable for the proper determination of the case” or when the issues raised were novel and could benefit from such interventions.¹⁰

VI. Conclusion

11. Based on the above information, it is submitted that, if the application is granted, Un Mundo Sin Mordazas’ *amicus curiae* submission will provide unique and relevant information to assist the Appeal Chambers in reaching the appropriate findings relating to request for Recusal of the Prosecutor.
12. In addition, it is requested that Un Mundo Sin Mordaza be allowed to have access to the request presented by the Arcadia Foundation, since the matter will

⁸ E-mail sent by the Arcadia Foundation on 4 November 2024, at 21:24

⁹ ICC, Rules of Procedure and Evidence. Available at :

<https://www.icc-cpi.int/sites/default/files/RulesProcedureEvidenceEng.pdf>

¹⁰ ICC-01/09-01/11-942, The Appeals Chamber, Prosecutor v. Ruto and Sang, Decision on the “Requests for Leave to Submit Observations under Rule 103 of the Rules of Procedure and Evidence”, 13 September 2013, para.10.

address issues within the knowledge of Un Mundo Sin Mordaza, which this NGO would be able to comment on based on the information that it has.



Rodrigo Diamanti
President

Dated this 13 December 2024

At The Hague, the Netherlands