

Annex

Public

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

No.: ICC-02-18
Date: **22 August 2025**

THE PRESIDENCY

Before: Judge Tomoko Akane, President
Judge Rosario Salvatore Aitala, First Vice-President
Judge Reine Alapini-Gansou, Second Vice-President

SITUATION IN THE BOLIVARIAN REPUBLIC OF VENEZUELA I

Public Document

Observations from the African Bar Association and the International Association of Democratic Lawyers regarding the International Criminal Court Prosecutor Karim A.A. Khan's Request to be Excused from the Venezuela I Situation

Source: African Bar Association (AFBA) & The International Association of Democratic Lawyers (IADL)

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

☒ **The Office of the Prosecutor**

☐ **Counsel for the Defence**

Specify the team(s) to be notified

☐ **Legal Representatives of the Victims**

Specify the team(s) to be notified

☐ **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 Defence**

☒ **States' Representatives**

☐ **Amicus Curiae**

REGISTRY

Registrar

M. Zavala Giler, Osvaldo

☐ **Counsel Support Section**

☐ **Victims and Witnesses Unit**

☐ **Detention Section**

☐ **Victims Participation and
Reparations Section**

☐ **Other**

A. Introduction

1. The African Bar Association ("AFBA") was established in 1971 as a professional body uniting individual lawyers and national legal associations in Africa. The Association brings together the five African sub regional lawyers, their respective national associations spread over the AFBA continent. Its headquarters is in Abuja in Nigeria. The first objective of AFBA is "to maintain the honour and integrity of the legal profession through the promotion of the highest standards of professional ethics". AFBA is formally affiliated with the International Criminal Court Bar Association ("ICCBA").
2. The International Association of Democratic Lawyers ("IADL") is a non governmental organisation with consultative status with ECOSOC and represented at UNESCO. It was founded in 1946 in Paris and its aims include "to struggle for strict adherence to the rule of law and the independence of the judiciary and legal profession".
3. AFBA and the IADL have the honour of presenting their Observations regarding International Criminal Court Prosecutor Karim A.A. Khan's Request to be Excused from the Venezuela I Situation. These observations are submitted pursuant to Article 38(3) of the Rome Statute. Under Article 38(3), the Presidency is entrusted with the proper administration of the Court, which necessarily encompasses safeguarding the integrity of judicial proceedings and the transparency of processes concerning requests for disqualification and recusals. AFBA and the IADL accordingly place these Observations before the Presidency in the interest of assisting the Presidency in maintaining confidence in the impartiality and proper administration of its proceedings.
4. AFBA and the IADL note the Decision of the Appeals Chamber on the "Request for the Appeals Chamber to Conduct an Ex Officio Review of the Prosecutor's Conflict of Interest in the Venezuela I Situation"¹ whereby the Prosecutor, Mr. Karim A.A. Khan KC was directed to recuse himself from the Venezuela I Situation. AFBA and the IADL are alarmed by matters raised in the Prosecutor's Request to be Excused

¹ ICC-02/18-118 01-08-2025 1/22 PT

from the Venezuela I Situation which was filed on 18 August 2025 (“Prosecutor’s Request”) in compliance with the Appeals Chamber Decision.² The Prosecutor’s Request brings to light serious issues that may potentially be damaging not only to the independence of the Appeals Chamber but also to the perception of impartiality of the Court in the eyes of the victims, suspects and accused persons, States Parties and the international community as a whole.

5. The procedural history leading up to the Prosecutor’s Request is clearly set out in that request.

B. Observations by the AFBA & IADL

6. AFBA and the IADL are extremely concerned about the serious threats against the Judges of the Appeals Chamber and also Deputy Prosecutor Niang made by the Applicant, United States registered NGO Arcadia and its American-Venezuelan Co-Founder and CEO Mr. Robert Carmona-Borjas, who serves on the Faculty of the American University in Washington D.C.³ In this regard, AFBA refers to paragraph 5 of the Prosecutor’s Request which sets out Mr. Robert Carmona-Borjas’s various threats posted on his X account, one of which stated: *“Arcadia Foundation will submit a report next Monday, February 17, to Secretary of State @SecRubio and the White House requesting that, in accordance with Article 5 of the executive order signed by President Donald Trump on February 6, 2025, sanctions be imposed on the ICC magistrates responsible for this ruling, except for Judge Luz del Carmen Ibanez Carranza, for having shielded Prosecutor Karim Khan and consolidating a system of impunity that allows for the political manipulation of investigations. These sanctions would include revoking visas, freezing assets and prohibiting financial transactions in the United States for the magistrates and their direct family members.”*⁴

7. It is particularly troubling that Mr. Robert Carmona-Borjas elected to direct his tweet not only to U.S. Secretary of State Marco Rubio, but also to the Prime Minister of Israel, Mr. Netanyahu, both of whom have no legitimate reason to be involved in these proceedings. This raises serious questions about Mr. Carmona-Borjas’s

² ICC-02/18-121 18-08-2025 1/12 PT

³ https://en.wikipedia.org/wiki/Robert_Carmona-Borjas

⁴ Prosecutor’s request, para 5

motivations, thereby casting doubt on the good faith and propriety of his actions in making his application against Prosecutor Khan.

8. It is also observed that the Appeal Chamber's Decision reversing its previous Decision rejecting the Applicant's request to disqualify the Prosecutor was issued only after the Applicant's public threats against the Judges of the Appeals Chamber.⁵

9. The integrity of the Court depends on the unimpeded independence of its judges. If parties dissatisfied with outcomes are permitted to threaten reprisals, without consequences, the very possibility of impartial adjudication collapses. The Presidency must therefore affirm, for the benefit of not only the Venezuela I proceedings but also for the institution as a whole, that such conduct will not be tolerated under any circumstances. By firmly addressing and sanctioning such conduct, the Court will both protect the present proceedings and deter future acts of coercion against its Judges and other elected officials.

10. **The Presidency should not only deprecate this conduct in the strongest possible terms, but also send a clear and unambiguous message of deterrence first to Mr. Carmona-Borjas himself, that threats and intimidation directed at the Court or its officials may expose him to liability under Article 70 of the Statute and second to others observing these proceedings -whether parties, governments, NGOs, or individuals - that the Court will protect its officials against such attacks, and that any attempt to undermine judicial independence by threats or coercion will be met with appropriate sanction.**

11. AFBA and the IADL consider that the Presidency should take action including denying Mr. Robert Carmona-Borjas rights to appear before it given his egregious conduct. AFBA and the IADL also consider that Mr. Robert Carmona-Borjas should be referred by the Presidency to the ICC Disciplinary Commissioner, Ms. Catherine Mabilie, for investigation and action.

12. Based on the above Observations, AFBA and the IADL hereby request the Presidency to take necessary steps to protect the integrity of the International Criminal

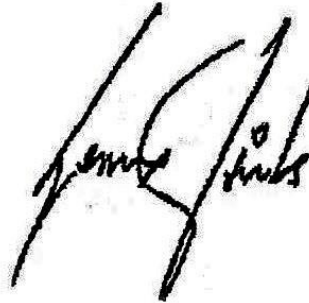
⁵ Prosecutor's Request paras 5-8

Court by sanctioning Mr. Robert Carmona-Borjas and denying him rights of audience before the ICC, by referring his conduct to the Disciplinary Commissioner and/or referring the matter to the Office of the Prosecutor to consider investigating any possible Article /70 offences that he may have committed.

Jointly Submitted on 22 August 2025 by:



**AFRICAN BAR ASSOCIATION
(AFBA)**



**INTERNATIONAL ASSOCIATION OF
DEMOCRATIC LAWYERS (IADL)**