

1 International Criminal Court
2 Appeals Chamber
3 Situation: Bolivarian Republic of Venezuela I
4 ICC-02/18
5 Presiding Judge Marc Pierre Perrin de Brichambaut
6 Appeals Judgment - Courtroom 2
7 Friday, 1 March 2024
8 (The hearing starts in open session at 2.59 p.m.)
9 THE COURT USHER: [14:59:33] All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE PERRIN DE BRICHAMBAUT: [14:59:50] Good afternoon.
13 Would the Court Officer please call the case.
14 THE COURT OFFICER: [15:00:04] Good afternoon, Mr President.
15 Situation in the Bolivarian Republic of Venezuela I, situation reference ICC-02/18.
16 And for the record, we are in open session.
17 PRESIDING JUDGE PERRIN DE BRICHAMBAUT: [15:00:17] I am Judge Marc
18 Perrin de Brichambaut, presiding in this appeal arising from the Situation in the
19 Bolivarian Republic of Venezuela I.
20 My fellow judges in this appeal are Judge Piotr Hofmański, Judge Luz del Carmen
21 Ibáñez Carranza, Judge Solomy Bossa and Judge Gocha Lordkipanidze.
22 May I ask the parties and participants to please introduce themselves for the record,
23 starting with the representatives of Venezuela, whose appeal we are deciding today.
24 MR EMMERSON: [15:00:56] Good afternoon, your Honour, and to all those inside
25 and outside of the courtroom.

1 The Bolivarian Republic of Venezuela is represented today by Mr Larry Devoe
2 Marquez, the State Agent before the International Human Rights mechanisms; the
3 ambassador here in The Hague, Héctor Constan Rosales; by myself, Ben Emmerson,
4 as legal counsel; together with my colleagues Venkateswari Alagendra and
5 Aitor Martínez Jiménez.

6 PRESIDING JUDGE PERRIN DE BRICHAMBAUT: [15:01:32] Thank you very
7 much.

8 The Office of the Prosecutor, please introduce themselves.

9 MS BRADY: [15:01:37] Good afternoon, your Honour.

10 Appearing on behalf of the Office of the Prosecutor are Meritxell Regué, appeals
11 counsel; Nivedha Thiru, associate appeals counsel; Cara Pronk-Jordan, senior legal
12 coordinator; Alice Zago, head of the Venezuelan unified team; and I'm Helen Brady,
13 I'm the senior appeals counsel.

14 Thank you.

15 PRESIDING JUDGE PERRIN DE BRICHAMBAUT: [15:02:05] Thank you very
16 much.

17 Could the Legal Representatives of the victims, OPCV, please introduce themselves.

18 MS MASSIDDA: [15:02:13] Good afternoon, Mr President.

19 Victims in this proceeding are represented by the Office of Public Counsel for Victims.

20 Appearing today in courtroom, Mr Enrique Carnero Rojo, legal officer;

21 Ms Ludovica Vetrucchio, legal officer; Ms Ana Peña, case manager; and myself,

22 Paolina Massidda, principal counsel.

23 PRESIDING JUDGE PERRIN DE BRICHAMBAUT: [15:02:35] Thank you very
24 much.

25 Today, the Appeals Chamber will deliver its judgment in the appeal on the Bolivarian

1 Republic of Venezuela against Pre-Trial Chamber I's decision of 27 June 2023, entitled
2 "Decision authorising the resumption of the investigation pursuant to Article 18(2) of
3 the Statute". I shall refer to this as the "Impugned Decision".

4 This is a non-authoritative summary of the Appeals Chamber's written judgment in
5 the appeal. The written judgment will be made available and notified at the end of
6 this hearing.

7 I will now briefly explain the background of this appeal.

8 On 16 December 2021, pursuant to Article 18(1) of the Statute, the Prosecutor notified
9 all States Parties of his decision to initiate an investigation in the Situation in
10 Venezuela.

11 On 16 April 2022, the Prosecutor received from Venezuela a request for deferral of his
12 investigation on the basis that Venezuela is investigating or has investigated its
13 nationals with respect to alleged punishable acts.

14 On 4 December 2022, the Prosecutor filed an application to the Pre-Trial Chamber
15 requesting it to authorise the resumption of his investigation into the Venezuela
16 Situation.

17 On 27 June 2023, the Pre-Trial Chamber rendered the Impugned Decision, in which it
18 authorised the Prosecutor to resume the investigation into the Situation in Venezuela.

19 On 3 July 2023, Venezuela submitted its notice of appeal and on 14 August 2023, its
20 appeal against the Impugned Decision.

21 In the course of these appellate proceedings, the Appeals Chamber received written
22 submissions from the Prosecutor and the Office of Public Counsel for Victims, as well
23 as representations from victims and observations from the organisation of American
24 States Panel of Independent International Experts.

25 On 7 and 8 November 2023, the Appeals Chamber held a hearing, during which

1 representatives of Venezuela, the Office of the Prosecutor, and the OPCV made oral
2 submissions, including on certain issues identified by the Appeals Chamber.
3 In its appeals brief, Venezuela raises six grounds of appeal.
4 First, Venezuela submits that the Pre-Trial Chamber erred by imposing on Venezuela
5 the burden of proof and by accepting the Prosecutor's notification of his intended
6 investigation, despite its procedural shortcomings and insufficient specificity.
7 Second, Venezuela argues that the Pre-Trial Chamber erred by exclusively relying on
8 the English translation of selected case files, and failing to require translations of
9 information concerning domestic investigations that was in Spanish, and to examine
10 English translations of summaries of proceedings or records.
11 Third, Venezuela submits that the Pre-Trial Chamber erred by relying on the
12 temporal jurisdiction of the situation referred to the Prosecutor by six States Parties.
13 Fourth, Venezuela argues that the Pre-Trial Chamber erred by finding that it was
14 necessary for domestic investigations to cover contextual elements of crimes against
15 humanity, discriminatory intent, and sexual and gender-based crimes.
16 Fifth, Venezuela submits that the Pre-Trial Chamber erred in law in its
17 complementarity assessment by relying on irrelevant factors while failing to give any
18 weight to relevant factors.
19 Sixth, Venezuela argues that the Pre-Trial Chamber erred by excluding national
20 proceedings from its determination on the basis that there had been delays and
21 periods of inactivity.
22 Venezuela requests the Appeals Chamber to reverse the Impugned Decision.
23 The Appeals Chamber's judgment, which I will now outline, is unanimous. As I
24 shall set out in more details later, the Appeals Chamber has found it appropriate to
25 confirm the Impugned Decision.

1 Under the first ground of appeal, Venezuela submits that the Pre-Trial Chamber erred
2 in law by failing to impose on the Prosecutor the burden of persuasion to demonstrate
3 that the cases investigated by Venezuela did not sufficiently mirror the Prosecution's
4 investigation. In this regard, the Appeals Chamber recalls its recent ruling in the
5 Philippines judgment that, I quote, "the burden of providing information relevant to
6 the pre-trial chamber's determination under Article 18(2) of the Statute remains on the
7 State seeking deferral". End of quote.

8 The Appeals Chamber finds no convincing reasons to depart from this ruling.

9 Venezuela also argues that the Pre-Trial Chamber erroneously characterised the
10 additional information provided by the Prosecutor as a second Article 18(1)
11 notification, and relied on it to assess the scope of the Prosecutor's investigation. The
12 Appeals Chamber finds no error in the Pre-Trial Chamber's findings in this regard.
13 In light of the purpose of such additional information, stipulated in Rule 52(2) of the
14 Rules of Procedure and Evidence, it is not in and of itself an error of Pre-Trial
15 Chamber to rely on such information as if it were part of the Prosecutor's Article 18(1)
16 notification to the extent that such information complements and clarifies the
17 information already provided in the Prosecutor's notification.

18 Venezuela avers that the Prosecutor's additional information does not meet the
19 requirements of notification, as it sets out alleged criminal acts which the Prosecutor
20 does not intend to investigate. The Appeals Chamber notes in this regard that there
21 is no expectation at this stage of the proceedings that the Prosecutor should notify
22 States of every act he or she intends to investigate, especially in those situations
23 referred to the Court which cover a large number of alleged criminal acts. Indeed, in
24 such situations, the Prosecutor may be in no position to identify all potential cases
25 that fall within the scope of a broad referral and commit so early in the process to

1 investigating them.

2 It is not, in and of itself, an error for a Pre-Trial Chamber to rely on the Prosecutor's
3 information about criminal acts with respect to which the Prosecutor does not express
4 a clear intention to investigate, as long as such information, together with other
5 information provided by the Prosecutor, provides the general parameters of the
6 situation and sufficient detail with respect to the groups or categories of individuals
7 in relation to the relevant criminality, including the patterns and forms of criminality
8 that he or she intends to investigate.

9 The Appeals Chamber also finds that the Pre-Trial Chamber did not err by rejecting
10 Venezuela's argument that it had not received sufficient information to exercise its
11 right under Article 18 of the Statute.

12 Venezuela further argues that the Pre-Trial Chamber erred in finding that there is no
13 time limit for the Prosecutor's application for a ruling under Article 18(2) of the
14 Statute. However, the Appeals Chamber notes that Article 18(2) of the Statute does
15 not impose any time limit on the Prosecutor for his or her application to a Pre-Trial
16 Chamber for authorisation to investigate.

17 As a result, the Appeals Chamber rejects the first ground of appeal.

18 Under the second ground of appeal, Venezuela mainly submits that the Pre-Trial
19 Chamber erred by exclusively relying on the English translation of selected 62 case
20 files and failing to require the Prosecutor to provide translations of material received
21 from the State in support of a deferral request.

22 The Appeals Chamber considers that it is the State seeking deferral that must provide
23 the translation into English or French of the documents upon which it relies to assert
24 that it is carrying out or has carried out relevant investigations, this in order to ensure
25 that the Pre-Trial Chamber can analyse the materials submitted in support of its

1 assertion. The Appeals Chamber is of the view that the State concerned is in the best
2 position to identify the relevant documents, especially where the supporting material
3 is voluminous and the State chooses to present a selection of this material.

4 Furthermore, the finding that the State must provide the required translations does
5 not preclude the State and the Prosecutor from engaging in a process of consultations
6 to ensure that the documents which the State considers the most relevant to support
7 its assertion are provided to the Pre-Trial Chamber in one of the working languages
8 of the Court. While the Prosecutor does not have an obligation to translate the
9 documents in support of a State's deferral request, he or she may provide assistance
10 where needed.

11 The Appeals Chamber also considers that having regard to the large amount of
12 information submitted by Venezuela in its original form, it was reasonable for the
13 Pre-Trial Chamber to invite Venezuela to focus its translation on "documents deemed
14 essential to its Deferral Request".

15 Venezuela further submits that the Pre-Trial Chamber erred in law and abused its
16 discretion by excluding *in limine* summaries of proceedings translated by the
17 Prosecutor originally provided by Venezuela in Spanish and any other documents
18 that were not "original police or court records".

19 The Appeals Chamber find that the Pre-Trial Chamber erred by failing to provide a
20 sufficiently reasoned decision on this point. The Appeals Chamber notes that the
21 Impugned Decision does not indicate which documents were not relied upon because
22 they were deemed to be irrelevant and which were not relied upon because they did
23 not contain original records. The Appeals Chamber considers that the Pre-Trial
24 Chamber erred by failing to conduct this assessment and to sufficiently explain why it
25 decided not to rely on these documents on the ground that they were not relevant or

1 did not contain court or police records.

2 Having reviewed the material in question, the Appeals Chamber considers that the
3 summaries or *fichas* have limited probative value and that even if it had not made the
4 error, the Pre-Trial Chamber "would [not] have rendered a [decision] that is
5 substantially different" from the Impugned Decision. The Appeals Chamber
6 therefore finds that the Pre-Trial Chamber's error does not materially affect the
7 Impugned Decision.

8 Venezuela submits that the Pre-Trial Chamber failed to consider its submissions and
9 to place any weight on the Memorandum of Understanding signed between
10 Venezuela and the Prosecutor simply because no such memorandum had been filed
11 before it.

12 The Appeals Chamber considers that Venezuela does not explain the significance of
13 what it intended to demonstrate on the basis of the Memorandum of Understanding.
14 Venezuela has therefore failed to explain why the Pre-Trial Chamber had a duty to
15 consider the impact of that memorandum on the Pre-Trial Chamber's Article 18
16 assessment.

17 For the foregoing reasons, the Appeals Chamber rejects the second ground of appeal.

18 Under the third ground of appeal, Venezuela alleges that the Pre-Trial Chamber erred
19 by relying on the temporal scope of the situation referred to the Prosecutor by six
20 States Parties to reach the conclusion that the temporal scope of the Prosecutor's
21 intended investigation "also covers conduct prior to April 2017". Venezuela also
22 submits that the Pre-Trial Chamber erred by finding that the incidents set out in the
23 Prosecutor's additional information were capable of curing the ambiguous temporal
24 scope described in the Article 18 notification.

25 The Appeals Chamber notes that the Prosecutor's Article 18(1) notification, together

1 with the additional information, provided Venezuela with sufficiently specific
2 information as to the temporal scope of the Prosecutor's intended investigation.

3 The Appeals Chamber also notes that the Pre-Trial Chamber, in identifying the
4 temporal scope of the Prosecutor's intended investigation, examined the Prosecutor's
5 Article 18(1) notification and the additional information separately from the State's
6 referral. Therefore the Appeals Chamber rejects Venezuela's argument in this
7 regard.

8 For these reasons, the Appeals Chamber rejects the third ground of appeal.

9 Under the fourth ground of appeal, Venezuela alleges five errors in the Pre-Trial
10 Chamber's assessment of whether Venezuela was actively investigating the criminal
11 acts referred to in the Prosecutor's Article 18(1) notification.

12 First, Venezuela alleges that the Pre-Trial Chamber failed to tailor the
13 complementarity test with respect to the identification of a case to the particularities
14 of the Prosecutor's Article 18(1) notification. Venezuela also argues that the Pre-Trial
15 Chamber "focused on whether domestic investigations had identified particular
16 perpetrators or taken steps to secure the arrest of particular individuals".

17 The Appeals Chamber considers that Venezuela misrepresents the Impugned
18 Decision in this respect. The focus of the Pre-Trial Chamber's assessment was on
19 whether Venezuela was conducting or had conducted any investigations or
20 prosecutions of the same categories of individuals, that is, alleged high-ranking
21 members of the State security forces and pro-government individuals in relation to
22 the relevant criminality, as encompassed by the Prosecutor's intended investigation.

23 The Appeals Chamber therefore finds that Venezuela fails to demonstrate any error of
24 the Pre-Trial Chamber in this regard.

25 Second, Venezuela alleges that the Pre-Trial Chamber required an unspecified degree

1 of coverage between Venezuela's domestic investigation and the acts notified by the
2 Prosecutor, and failed to provide adequate reasons as to the basis for its conclusions
3 that the acts investigated by Venezuela did not sufficiently mirror the alleged criminal
4 acts notified by the Prosecutor.

5 The Appeals Chamber considers that the Impugned Decision was sufficiently
6 reasoned. The Pre-Trial Chamber set out the criteria for its determination of whether
7 Venezuela's investigation sufficiently mirrored the parameters of the Prosecutor's
8 intended investigation. The Impugned Decision indicates with sufficient clarity how
9 the Pre-Trial Chamber arrived at this conclusion.

10 Turning to Venezuela's contentions in relation to the Prosecutor's use of "samples" in
11 the additional information, the Appeals Chamber notes the detail regarding the
12 alleged crimes, provided by the Prosecutor, in addition to the samples. The Appeals
13 Chamber considers that sufficient information was provided for the Pre-Trial
14 Chamber's assessment. Accordingly, the Appeals Chamber rejects Venezuela's
15 argument in this regard.

16 Third, Venezuela alleges that the Pre-Trial Chamber erred in law by finding that it
17 was necessary for domestic investigations to cover contextual elements of crimes
18 against humanity.

19 The Appeals Chamber recalls, I quote, that "the inclusion of contextual elements as
20 constitutive elements of the crimes allows [for] the identification of the legal interests
21 protected by each provision." End of quote. Therefore, in order to pursue the legal
22 interests protected by crimes against humanity, a State which has not incorporated
23 crimes against humanity in its domestic law, while it is not required to investigate the
24 alleged criminal acts under the legal qualifications of crimes against humanity, must
25 nevertheless investigate the factual allegations underpinning the contextual elements

1 of such crimes. This includes, in particular, an investigation into the factual
2 allegations underpinning the widespread or systematic nature of the attack and those
3 that may allow the conclusion that the attack was carried out pursuant to a "policy".
4 According, when the scope of the Prosecutor's intended investigation, as set out in an
5 Article 18(1) notification, includes allegations relating to crimes against humanity, a
6 State seeking to assert its primary jurisdiction over such crimes must demonstrate the
7 existence of an advancing process of domestic investigations and prosecutions of the
8 facts and circumstances underpinning the alleged crimes, and do so including the
9 factual investigations underpinning the aforementioned contextual elements of crimes
10 against humanity that were sufficiently notified through an Article 18(1) notification
11 of the Prosecutor.

12 As a result, if a State does not investigate the factual allegations underpinning the
13 contextual elements of the alleged crimes against humanity that were sufficiently
14 notified to it, it follows that it will not be able to demonstrate in the proceedings
15 under Article 18(2) of the Statute that the domestic criminal proceedings sufficiently
16 mirror the scope of the Prosecutor's intended investigations.

17 In respect of Venezuela's arguments relating to the incorporation of crimes against
18 humanity into domestic legislation, the Appeals Chamber notes that the preamble of
19 the Statute stipulates that an "effective prosecution" of "the most serious crimes of
20 concern to the international community as a whole", "must be ensured by taking
21 measures at the national level". The preamble also imposes on every State "the duty
22 to exercise its criminal jurisdiction over those responsible for international crimes".
23 Therefore, while the Statute does not expressly impose an obligation on States Parties
24 to incorporate crimes against humanity into their domestic legislation, such
25 incorporation may facilitate the fulfilment of their duty to exercise criminal

1 jurisdiction over "those responsible for international crimes".

2 Turning to Venezuela's contention that an alleged widespread or systematic attack is
3 investigated where national authorities investigate "several alleged crimes either in
4 different locations at the same period or in the same location over a period of time",
5 end of quote, the Appeals Chamber notes that Venezuela does not refer to any
6 national investigation that compared or otherwise jointly examined findings made in
7 the course of investigations into individual alleged crimes with a view to assessing
8 whether such crimes were widespread or systematic.

9 Concerning Venezuela's arguments contesting the systematic nature of the alleged
10 acts and the existence of a State policy, the Appeals Chamber notes that for a State to
11 be successful in seeking a deferral of the Prosecutor's investigation, it is not enough
12 for it to make a blanket statement that the Court lacks material jurisdiction on the
13 basis of the absence of contextual elements of the alleged crimes against humanity.

14 In such a situation, the State must support and substantiate its assertions by
15 demonstrating concrete and tangible investigative steps it undertook to reach such a
16 conclusion.

17 In this context, the Appeals Chamber notes that Venezuela did not provide the
18 Pre-Trial Chamber with sufficient information as to Venezuela's domestic
19 proceedings in respect of the same groups or categories of individuals in relation to
20 the factual allegations underpinning the contextual elements of the alleged crimes
21 against humanity, including the "patterns" of criminality. As just discussed,
22 domestic investigations into isolated acts of detentions and physical assaults allegedly
23 perpetrated by direct low-level perpetrators without examining the systematic nature
24 of their commission and without investigating the factual investigations
25 underpinning the contextual elements, albeit the subject matter was quoted as 17,000

1 investigations, all these failed to address the distinct legal interests protected by
2 crimes against humanity.

3 The Appeals Chamber finds that Venezuela fails to show any errors in the Pre-Trial
4 Chamber's findings in this respect.

5 As regards the domestic proceedings concerning the alleged acts of torture and cruel
6 and inhumane treatment associated with the arrest and detention to which Venezuela
7 refers, the Appeals Chamber notes that none of these proceedings shows any
8 investigating efforts on the part of the competent national authorities to explore
9 possible patterns of criminality or connections between those isolated crimes and
10 other similar crimes, or the existence of a policy.

11 The Appeals Chamber therefore rejects these arguments presented by Venezuela.

12 Fourth, Venezuela alleges that the Pre-Trial Chamber erred by finding that
13 Venezuela's investigations needed to cover discriminatory intent in connection with
14 underlying acts pertaining to the Prosecutor's potential investigations related to
15 persecution, while excluding domestic investigations into human rights violations.

16 The Appeals Chamber notes that the crimes against humanity of persecution under
17 Article 7 of the Statute requires discriminatory intent as one of its elements and that it
18 is committed, I quote "on political, racial, national, ethnic, cultural, religious, gender
19 [...], or other grounds that are universally recognised as impermissible under
20 international law". End of quote.

21 Given the distinct legal interests protected by this element of crimes, it was not an
22 error for the Pre-Trial Chamber to examine whether the competent authorities had
23 investigated factual allegations of discriminatory intent in relation to the crimes
24 investigated.

25 Venezuela refers to "the possibility of addressing matters of discriminatory intent as

1 an aggravating factor in sentencing". However, the Appeals Chamber notes that
2 Venezuela does not refer to any specific case in which consideration of discriminatory
3 intent was actually used as a factor in the determination of the appropriate sentence.
4 Similarly, the Appeals Chamber notes that Venezuela misrepresents the Impugned
5 Decision in arguing that the Pre-Trial Chamber erred by "disregarding investigations
6 into human rights violations on the ground that they were not being labelled as
7 criminal offences", and fails to indicate any specific domestic investigation or
8 prosecution that the Pre-Trial Chamber purportedly disregarded.
9 The Appeals Chamber therefore rejects Venezuela's argument in this respect.
10 Fifth, Venezuela alleges that the Pre-Trial Chamber erred in law by excluding
11 domestic investigations into criminal acts pertaining to sexual and gender-based
12 violence, due to its erroneous focus on whether they were being investigated or
13 prosecuted as such.
14 The Appeals Chamber reiterates that the legal interests provided by each crime can be
15 discerned by reference to the elements of that specific crime, and that the interests
16 connected by materially distinct elements are necessarily different.
17 In the situation at hand, the Appeals Chamber considers that the Pre-Trial Chamber
18 did not err by observing that "the legal pre-qualification and conviction do not
19 include any crimes with a sexual or gender component". To the extent that
20 Venezuela's investigations and prosecutions examined the relevant acts as "torture"
21 and "cruel treatment", the domestic proceedings failed to address the distinctive legal
22 interests protected by the crime of rape and other forms of sexual violence, and to
23 protect the distinguishable harms suffered by victims.
24 Furthermore, Venezuela relies on a potential requalification as rape at a later stage in
25 the national proceedings. However, in the absence of any concrete evidence of

1 taking such steps at present, the Appeals Chamber will not entertain Venezuela's
2 hypothetical submissions in this regard.

3 The Appeals Chamber therefore rejects these arguments of Venezuela.

4 The Appeals Chamber therefore rejects the fourth ground of appeal in its entirety.

5 Under the fifth ground of appeal, Venezuela submits that the Pre-Trial Chamber
6 erred in law in its complementarity assessment by relying on irrelevant factors. For
7 instance, Venezuela argues that the Pre-Trial Chamber erroneously relied on the
8 number of identified suspects, the number of arrest warrants and the rank of possible
9 suspects. Venezuela also contends that the Pre-Trial Chamber failed to give any
10 weight to relevant factors such as whether the national authorities were collecting
11 data about victims. However, the Appeals Chamber rejects this ground of appeal as,
12 with respect to some of the arguments under this ground, Venezuela misrepresents
13 the Impugned Decision and makes unsubstantiated arguments on the other points.

14 Under the sixth ground of appeal, Venezuela submits that the Pre-Trial Chamber
15 erred by excluding national proceedings from its determination on the basis that there
16 had been delays and periods of inactivity. In particular, Venezuela argues that the
17 Pre-Trial Chamber failed, first, to set out the standard for assessing delays or
18 inactivity in the progress of domestic investigations and, second, to consider relevant
19 factors while attaching undue weight on irrelevant factors.

20 However, the Appeals Chamber notes that according to the Pre-Trial Chamber, its
21 overall conclusion in the Impugned Decision was "primarily informed" by factors
22 other than "periods of unexplained investigative activity", which it considered to be
23 "non-determinative" factors. Therefore, even if it was an error for the Pre-Trial
24 Chamber to rely on these factors, this would not have affected the Impugned
25 Decision.

1 The Appeals Chamber also notes that "inactivity" signifies the absence of "an
2 advancing process" consisting of steps directed at ascertaining whether a person is
3 responsible for the alleged conduct. In this regard, the Pre-Trial Chamber referred to
4 "steps" such as the identification of suspects, the charging of an accused and the
5 taking of "a judicial decision on an accused's criminal responsibility". The Appeals
6 Chamber considers that it is sufficiently clear from these findings that the Pre-Trial
7 Chamber understood to constitute in -- what the Pre-Trial Chamber understand to
8 constitute "inactivity". It follows that contrary to Venezuela's argument, the
9 Pre-Trial Chamber did not err by failing to provide a reasoned explanation in this
10 respect.

11 Therefore, the Appeals Chamber rejects the sixth ground of appeal.

12 For these reasons, and for the reasons which are stated more fully in the written
13 judgment, the Appeals Chamber rejects the appeal and confirms the Impugned
14 Decision.

15 This brings an end to the summary of the Appeals Chamber's judgment.

16 I would like to thank my colleagues on the bench, the legal officers and all the interns
17 which have contributed to this decision, as well as the court reporters, interpreters
18 and other Registry staff for their invaluable assistance today in holding this hearing.

19 The hearing is adjourned.

20 THE COURT USHER: [15:39:46] All rise.

21 (The hearing ends in open session at 3.39 p.m.)