

Declaration of the Informal Venezuelan NGO's Network

19th Session of the Assembly of States Parties, The Hague, December 2020

Your Excellencies,

The Office of the Prosecutor of the International Criminal Court (ICC) announced on November 5 the conclusion of Phase 2 of the Preliminary Examination "Venezuela I", in the following terms: "the Prosecutor conveyed to the delegation that the Office had concluded its subject-matter assessment and determined that there was a reasonable basis to believe that crimes within the jurisdiction of the Court have occurred in Venezuela." This announcement was made following the visit of a high-level delegation from the Venezuelan State to the headquarters of the Prosecutor's Office, headed by the Attorney General, accompanied by the Ombudsman. These two officials were appointed by the National Constituent Assembly, created through nor free, nor reliable, neither transparent elections. This body will be dissolved this month, after three years usurping the constitutional functions of the National Assembly.

Progress towards Phase 3 is a critical step to avoid impunity for crimes committed in Venezuela, falling within the ICC's jurisdiction. This progress has led the Venezuelan State to initiate various actions pretending that there is a willingness to investigate and punish those responsible for such crimes. For example, the Attorney General intends to show that those responsible are punished by referring to trials of subordinate officials, when the reality is that there is no investigation, much less a single criminal trial, on the chains of command and those ultimately responsible for policies of repression. All of this is predictable, given the structural lack of independence and impartiality of the judiciary and the Attorney General's Office, widely reviewed by international bodies and Venezuelan civil society. Besides, it is impossible to collect statistical and management information about the justice system since the annual reports of the Supreme Court of Justice (TSJ), the Attorney General's Office and the Ombudsman's Office are not published. The appointment of judges continues to be made through provisional appointments. From the total number of judges, 85% are temporary. In violation of constitutional norms, there were no open competitive examinations that can provide stability in those positions. Finally, since the human rights NGOs are the ones that have made the complaints before international bodies such as the OTP, a policy of criminalization and persecution has been released. Today we denounce this policy of the Venezuelan State before this Assembly.

We trust that the ICC Prosecutor's Office will advance more quickly during Phase 3 of the Preliminary Examination "Venezuela I". We are convinced that there are no conditions to consider that the Venezuelan State can guarantee the principle of positive complementarity. On the contrary, it already performs delaying strategies and simulation of a willingness to cooperate.

For the victims of crimes under the jurisdiction of the ICC, the OTP's activity and a possible opening of an investigation by the ICC represent the last hope of justice that has been denied by the Venezuelan State.

Yours faithfully,

Informal Venezuelan NGO's Network