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# 10

**keys for understanding Venezuela's lawsuit  
at the International Criminal Court**

# 1 What happened on February 13, 2020?

On February 13, the *Government of the Bolivarian Republic of Venezuela* requested that the *International Criminal Court* investigate serious crimes committed against the Venezuelan people by the *Government of the United States* due to the imposition of an economic blockade and unilateral coercive measures, euphemistically referred to as “sanctions.”

## What is the International Criminal Court? 2

The *International Criminal Court* (ICC) (also known as the *International Criminal Tribunal*) is a permanent court of international law whose mission it is to judge people accused of committing genocide, war crimes, crimes of aggression and crimes against humanity. It is different from the *International Court of Justice*, which is the legal body within the *United Nations* that primarily handles controversies between States.

The ICC is governed by the *Rome Statute* which was adopted on July 17, 1998, and came into force on July 1, 2002. The ICC is not part of the *United Nations*. Article 1 of the Statute states that the ICC “*shall have the power to exercise its jurisdiction over persons for the most serious crimes of international concern...*”

# 3 What is the Rome Statute?

The *Rome Statute* is the constitutive instrument of the *International Criminal Court*. It was adopted in the city of Rome, Italy, on July 17, 1998. *Venezuela* was one of the first countries to sign (1998) and ratify (6/7/2002) the Statute, and as such, it is a Member State to the Treaty.

The *United States* has not ratified the Statute and therefore is not part of the *International Criminal Court*. Instead, the U.S. Congress passed a law on August 2, 2002, the *American Service Members Protection Act*, that excludes military officials and other members of the Government of the *United States*, from being accountable to the ICC. With the goal of weakening the body, it also signed agreements with hundreds of countries to exclude U.S. nationals from its jurisdiction. *Venezuela* refused to sign such an agreement.

» **“116 billion dollars have been stolen from Venezuela, equivalent of six years of the national budget”**

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# 4 What does Venezuela's lawsuit at the ICC consist of?

There are three ways of referring a case to the ICC:

- It can be presented by a Member State to the ICC.
- It can be requested by the United Nations Security Council.
- An ICC prosecutor can initiate an investigation.

Applying its rights as a Member State, in conformity with Article 14 of the Statute, on February 13, *Venezuela* referred a case to the *Prosecutor of the International Criminal Court* relating to the situation caused by the unilateral coercive measures (UCM) applied by the *United States* government against the Venezuelan people, requesting that the Prosecutor investigate the commission of crimes codified in the Statute, in order to determine whether one or multiple people should be accused for said crimes.

Although using the terminology of international criminal law this referral is not technically a “*lawsuit*”, in practice it has similar effects, as such referral and lawsuit can be used as synonyms in this case.

## Which crimes form the basis of Venezuela's lawsuit? **5**

The lawsuit (referral) presented to the ICC Prosecutor indicates that the unilateral coercive measures imposed by the *United States* against *Venezuela*, since at least 2014, constitute a crime against humanity in accordance with Article 7 of the Rome Statute.

## **6** How is it a crime against humanity?

*Venezuela* denounced that the UCMs comprise all the elements of a crime against humanity in the terms specified under the Rome Statute:

a) “an attack...” (non-military). An attack is a course of conduct that implies the commission of multiple acts referenced in Article 7, paragraph 1, of the Statute.

b) “generalized or systematic...” It is not necessarily directed against a specific group and is spread over time.

c) “against a civilian population...”

d) “in conformity with the policy of a State or organization...” (as the United States government has done through laws, executive orders and decisions, regulations, threats and other diverse actions).

## What is the content of the lawsuit?

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The referral presented by *Venezuela* to the Prosecutor of the International Criminal Court is divided into two principal parts:

a) *The Facts*: This part details the situation in Venezuela before the application of unilateral coercive measures by the United States government. Moreover, it describes the impact that UCMs have had on the Venezuelan economy, the Venezuelan people's enjoyment of human rights, and the Bolivarian Republic of Venezuela's right to development.

In the document presented to the ICC, *Venezuela* relates a group of cases and facts that have impacted the Venezuelan population, such as the increase in infant and adult mortality, the increase in diseases, the reduction of caloric intake, the contraction in food imports, the impact on public services such as education, potable water, electric service and transport; all are attributable to the unilateral coercive measures and other threats imposed on Venezuela.

The lawsuit includes cases of patient deaths in the country and abroad due to the high cost of treatment for patients with kidney disease, bone marrow transplants and liver transplants, that could not be paid by the Government

of Venezuela due to the blocking of its bank accounts and resources in the international financial system.

b) *The Law*: This part argues that UCMs are illegal, details the crimes committed by their application and develops the judicial and admissibility aspects for the ICC.



**“Child mortality and undernourishment rates have increased in Venezuela due to the blockade on food and medicine purchases imposed by the United States”**

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## **Does the ICC have jurisdiction to judge U.S. authorities?**



The United States of America has not ratified the Rome Statute, and as such, it is not a Member State of the body.

As such, the document presented by Venezuela to the ICC invokes the theory of “jurisdiction by effects” or “jurisdiction based on effects.”

This means that though the crimes were committed from a State that is not a party to the Rome Statute (the United States), the detrimental effects of the crime take place in the territory of a Member State (Venezuela) and affect its civilian population.

The document presented by Venezuela cites various cases known by the ICC in which the Prosecutor affirmed its jurisdiction to investigate nationals that are from countries that are not party to the Rome Statute.

Therefore, the International Criminal Court has the jurisdiction to judge U.S. authorities for the unilateral coercive measures applied against Venezuela.

# 9 What happens next?

After being presented with a referral, the ICC Prosecutor must carry out inquiries that lead to a preliminary examination and, subsequently, initiate an investigation aimed at determining if any of the crimes codified in the Rome State have been committed and the person or persons responsible.

It is not up to *Venezuela* to indicate or identify which persons are responsible, as this is a task that must be carried out by the ICC Prosecutor.



# 10

## **What is Venezuela looking for with this lawsuit?**

As *President Nicolás Maduro* said, *Venezuela* is turning to the correspondent international bodies in order to seek justice. The United States has produced immeasurable damage to the people of Venezuela, which can be seen in the impacts to the lives and health of millions of people, particularly vulnerable groups: children, adolescents, people with diverse functionality (disabilities), seniors, patients and the sick. Serious impacts in access to food, medicine and, in general, goods essential to the economy and the national life violate human rights and restrict the development, sovereignty and independence of Venezuela. Our country seeks to raise visibility and awareness about these serious crimes to our people and the world. Finally, the lawsuit seeks to identify and judge those responsible and press for the repeal of these illegal measures that violate international law and human dignity.

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