

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

No.: ICC-01/21-01/25

Date: 1 April 2025

Pre-Trial Chamber I

Before: Judge Iulia Antoanella Motoc, Presiding Judge
Judge Reine Adélaïde Alapini-Gansou
Judge María del Socorro Flores Liera

SITUATION IN THE REPUBLIC OF THE PHILIPPINES

IN THE CASE OF THE PROSECUTOR v. RODRIGO ROA DUTERTE

Under Seal, EX PARTE, only available to the Prosecution

Prosecutor's Second Notification

Source: Prosecutor

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

- ☒ The Office of the Prosecutor
- ☐ Counsel for Defence
- ☐ Legal Representatives of the Victims
- ☐ Other
- ☐ Unrepresented Victims
- ☐ Unrepresented Applicants for Participation/Reparation
- ☐ The Office of Public Counsel for Victims
- ☐ The Office of Public Counsel for the Defence
- ☐ States' Representatives
- ☐ Amicus Curiae

REGISTRY

-
- Registrar
Mr Osvaldo Zavala Giler

☐ Counsel Support Section
- ☐ Victims and Witnesses Unit

☐ Detention Section
- ☐ Victims Participation and Reparations Section

☐ Other

Introduction

1. The Prosecutor respectfully submits this Second Notification to clarify and/or correct certain factual averments in the notification submitted on 6 March 2025¹ ("First Notification"), in light of additional information that he has since become aware of and which he considers relevant to bring to the attention of Pre-Trial Chamber I. This Second Notification is submitted pursuant to the Prosecutor's obligation to provide complete and accurate information to the Chamber.
2. This Second Notification is filed under seal *ex parte*, in line with the classification of the First Notification.
3. The Prosecutor also requests that both the First Notification and this Second Notification are reclassified as confidential and made available to the Defence of Mr Rodrigo Duterte.

A. Second Notification to Pre-Trial Chamber I

4. In the First Notification, the Prosecutor had stated that in relation to the Article 15 communication referenced therein, he was not directly involved in investigations or interviewing any victim or witness.² The Prosecutor can now confirm that there is no overlap in the victims included in the Article 15 communication referenced in the First Notification and the victims referenced in the Prosecution's arrest warrant application.³ Simply put, the victims in the Article 58 Application are not the same victims referenced in the Article 15 Communication transmitted to the previous Prosecutor in 2018.
5. The Prosecutor also wishes to clarify that he was present and participated in one interview of one individual (not a victim of the alleged crimes) conducted by the legal

¹ ICC-01/21-81-US-Exp ("First Notification").

² First Notification, para. 3.

³ "Prosecution's urgent application under article 58 for a warrant of arrest against Rodrigo Roa DUTERTE", ICC-01/21-80-US-Exp, Annex C.

team. Additionally, the Prosecutor met with another individual (not a victim of the alleged crimes) who provided preliminary information regarding that person's knowledge of, and involvement in activities connected to the so-called "war on drugs." These meetings were not part of any planned investigative mission and were arranged at short notice during a visit undertaken by him for a completely unrelated purpose.

6. The Prosecutor had inadvertently omitted this information in the First Notification. Once the Prosecutor became aware of this oversight, he immediately took the decision to notify the Chamber by filing this Second Notification.

7. On Thursday, 27 March 2025, the Prosecutor was also informed by the Prosecution team handling the case that the first individual referred to in paragraph 5 above is a Prosecution witness in the case against Mr Duterte, and that the team intends to contact and interview the second individual also referenced in paragraph 5 above. The Prosecutor was unaware of this information prior to 27 March 2025. As previously stated, the investigation and review of evidence has been conducted by a team of lawyers within the Office of the Prosecutor, under the direct supervision of a Deputy Prosecutor.

8. The Prosecutor's prior interactions with the individuals mentioned in paragraph 5 above do not alter the substantive position outlined in the First Notification. The Prosecutor does not maintain a position which is adverse or otherwise contrary with respect to either individual, should they be called as witnesses in future proceedings. The nature and context of the previous interactions do not affect the Prosecutor's independence, impartiality, or objectivity in the present proceedings. The Prosecutor maintains full capacity to carry out his duties fairly and without bias, in accordance with the Statute and applicable legal standards.

9. Furthermore, as submitted in the First Notification, the previous fact-finding roles of individuals—such as those referenced by way of example in the filing—who

subsequently assumed prosecutorial roles do not, in themselves, constitute a disqualifying conflict.⁴

Conclusion

10. The Prosecutor accordingly notifies Pre-Trial Chamber I that he considers that there continues to be no conflict of interest requiring him to recuse himself from the Situation in the Republic of the Philippines or the case against Mr Duterte. The Prosecutor will, however, continue to keep the matter under review as developments arise and will provide further submissions or take any necessary steps should the Chamber deem it appropriate.

11. The Prosecutor intends to bring the matters raised in the First Notification, as well as in this Second Notification, to the attention of Defence Counsel for Mr Duterte, and to seek Counsel's views on the matter. Accordingly, as set out above, the Prosecutor respectfully seeks authorisation to reclassify both the First Notification and this Second Notification as confidential. This will allow the Defence to engage with the Prosecutor, whilst preserving the confidentiality of the investigations that remain necessary at the present stage of proceedings.

12. The Prosecutor remains committed to monitoring the situation closely and will not hesitate to reassess his role in accordance with the applicable legal standards if necessary. The Prosecutor further affirms his full respect for the Chamber's authority and discretion in determining whether any additional steps or clarifications are warranted.

Respectfully submitted,

⁴ First Notification, para 24.

A handwritten signature in blue ink, consisting of a stylized 'K' followed by a horizontal line and a dot.

Karim A.A. Khan KC, Prosecutor

Dated this 1st of April 2025
At The Hague, The Netherlands