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Court

Original: **English** | No.: **ICC-01/21-01/25**
Date: **2 April 2025**

PRE-TRIAL CHAMBER I

Before: **Judge Iulia Antoanella Motoc, Presiding**
Judge Reine Adélaïde Sophie 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*

PUBLIC
With confidential annex I and confidential *ex parte* annex II, available only to the Registry

Public Redacted Version of "Registry Submissions on Matters Related to the Participation of Victims", 2 April 2025

Source: **Registry**

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☐ **Counsel for the Defence**

☐ **Legal Representatives of the Victims**

☐ **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**

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☒ **Counsel Support Section**

☐ **Victims and Witnesses Unit**

☐ **Detention Section**

☒ **Victims Participation and Reparations Section**

☐ **Other**

I. Introduction

1. Pursuant to the order issued by Pre-Trial Chamber I on 21 March 2025 ("Chamber" and "Order", respectively)[1] in the case of *The Prosecutor v. Rodrigo Roa Duterte* ("*Duterte* case" or "Case"), the Registry hereby presents its submissions on: *(i)* the admission process for applicants seeking to participate in proceedings; *(ii)* application forms for participation; *(iii)* identity documents available in the Republic of the Philippines ("Philippines"); and *(iv)* legal representation of victims. The Registry further transmits for the Chamber's consideration a draft household form for participation in the proceedings and/or reparations (Annex I) and a list of identity documents available in the Philippines (Annex II).

II. Procedural History

2. On 7 March 2025, the Chamber issued a warrant of arrest for Rodrigo Roa Duterte ("Mr Duterte") pursuant to article 58 of the Rome Statute ("Statute").[2]
3. On 12 March 2025, Mr Duterte was surrendered to the Court[3] and a hearing for his first appearance before the Chamber was convened on 14 March 2025.[4] During this hearing, the Chamber announced that the confirmation of charges hearing in the Case is provisionally scheduled to begin on 23 September 2025.[5]
4. On 21 March 2025, the Chamber issued the Order by which it, *inter alia*, ordered the Registry to file observations in relation to participation of victims as outlined *supra* in paragraph 1 by no later than 2 April 2025.[6]

III. Classification

[1] Pre-Trial Chamber I, "Order seeking observations on matters related to the conduct of confirmation proceedings", 21 March 2025, ICC-01/21-01/25-94.
[2] Pre-Trial Chamber I, "Warrant of Arrest for Mr Rodrigo Roa Duterte", 7 March 2025, ICC-01/21-83. The warrant of arrest was reclassified as public on 11 March 2025.
[3] ICC Press Release, "Situation in the Philippines: Rodrigo Roa Duterte in ICC custody", 12 March 2025, https://www.icc-cpi.int/news/situation-philippines-rodrigo-roa-duterte-icc-custody.
[4] Pre-Trial Chamber I, "Decision convening a hearing for the first appearance of Mr Rodrigo Roa Duterte", 13 March 2025, ICC-01/21-01/25-90.
[5] Transcript of hearing – Initial Appearance, 14 March 2024, ICC-01/21-01/25-T-002-ENG, p. 10.
[6] Order, para. 6 and p. 7.

5. Pursuant to regulation 23*bis*(1) of the Regulations of the Court ("RoC"), this report is classified as "confidential *ex parte* Registry only" since it contains sensitive information [Redacted]. Annexes I and II follow the same classification as the main filing.[7]

6. The Registry will concomitantly file a public redacted version of the present report and Annex I will be reclassified as confidential.[8]

IV. Applicable Law

7. The Registry submits the present report in accordance with the Order, article 68(1) and (3) of the Statute, rules 16(1), 85, 89 and 90 of the Rules of Procedure and Evidence ("Rules"), regulation 86 RoC, and regulations 106 to 109 of the Regulations of the Registry.

V. Submissions

8. The Registry presents its observations on the following matters: *(i)* the admission process for applicants seeking to participate in proceedings; *(ii)* application forms; *(iii)* identity documents; and *(iv)* legal representation of victims.[9]

(i) Admission Process

9. The Victims Participation and Reparations Section ("VPRS") recommends the adoption of the standard victim admission process followed by various ICC Chambers in recent cases.[10] This process, known as the "A-B-C Approach", is

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[7] With respect to Annex II, the Registry notes that some of the sample identification cards contained therein may refer to real cardholders. [Redacted]. Para. 19 below enumerates all documents contained in Annex II.

[8] Annex I is classified as "confidential" to avoid the distribution of the draft household form before its use is approved by the Chamber.

[9] As per the Order, para. 6.

[10] Since its initial application during the trial in the case of *The Prosecutor v. Bosco Ntaganda* – see Trial Chamber VI, "Decision on victims' participation in trial proceedings", 6 February 2015, ICC-01/04-02/06-

outlined in the latest version of the Chambers Practice Manual as the standard "generally […] applicable at all stages of proceedings."[11] Furthermore, the Independent Expert Report on the Review of the Court and the Rome Statute System held that the A-B-C Approach is a system in which "[t]he task for the Judiciary is greatly simplified and expedited."[12]

10. The key features of the A-B-C victim admission process are outlined in the Chambers Practice Manual:

> Under the A-B-C approach, the Registry classifies the applicants into three categories: (i) applicants who clearly qualify as victims ('Group A'), (ii) applicants who clearly do not qualify as victims ('Group B'); and (iii) applicants for whom the Registry could not make a clear determination for any reason ('Group C'). The Registry then transmits to the Chamber on a rolling basis and in un-redacted form, by way of a filing in the record of the case, all complete applications on the basis of the A-B-C grouping, including any supporting documentation. Only Group C applications, and any supporting documentation, are transmitted to the parties for observations pursuant to Rule 89(1) of the Rules, and legal representative as appropriate, with the necessary redactions to expunge the persons' identifying information. The Registry prepares reports that accompany each transmission, as provided for by Regulation 86(5) of the Regulations of the Court. These reports are notified to the Chamber, the parties and participants. These reports list the applications for participation and the group they are classified in. The reports need not include application-by-application reasoning or analysis and need not justify the respective

449 - the A-B-C Approach has been consistently adopted at pre-trial and trial phases in six ICC cases. Most recently - *Case of the Prosecutor v. Joseph Kony*, Pre-Trial Chamber III, "Decision on victim participation, legal representation, and on the OPCV's Application for recognition of the status of victims in the Kony case to the victims participating in the Ongwen case", 13 December 2024, ICC-02/04-01/05-540, para. 38.

[11] ICC, Chambers Practice Manual, Eight Edition, 21 October 2024, https://www.icc-cpi.int/about/judicial-divisions/chambers-practice-manual, para. 96.

[12] Independent Expert Review of the International Criminal Court and the Rome Statute System, Final Report, 30 September 2020, ICC-ASP/19/16, para. 847.

classifications. The Registry provides assessment reports for Group B applications to the Chamber alone. The reports contain the reasons for rejecting the applications, to allow the Chamber to make a final decision on such applications if necessary. All applications falling within Group C that are transmitted to the Chamber are provided, together with the transmission report, to the parties and legal representative as appropriate, at the same time and by way of the same filing in the record of the case made for the transmission to the Chamber. Barring a clear, material error in the Registry's assessment of Groups A and B, the Chamber, taking into account the Registry's assessment of the Group A and B applications, will decide. While the Registry's conclusions may be of assistance, it is for the Chamber to ultimately authorise or reject an applicant to participate in the proceedings. Once the parties' observations have been received, the Chamber assesses the Group C applications individually and determines whether the victims concerned shall be admitted to participate or not.[13]

11. The A-B-C Approach offers practical benefits, as observed in the aforementioned proceedings.[14] This equally applies to the present proceedings. It allows the parties and the Chamber to focus on pre-assessed unclear or ambiguous issues arising from victim applications in a grouped fashion. Moreover, the VPRS would only need to redact a fraction of relevant forms – specifically Group C applications submitted to the parties and legal representative(s) of victims. This streamlined approach results in significant time and resource savings. Consequently, the VPRS can efficiently process a larger number of victim applications, ensuring timely participation in proceedings leading up to the confirmation of charges hearing. Importantly, the A-B-C Approach prioritises meaningful victim participation while

[13] Chambers Practice Manual, Section V – A., in particular at para. 96, (iv) to (xi).
[14] Supra, fn. 10.

safeguarding the victims' well-being and dignity without causing undue delays.[15]

12. The VPRS takes this opportunity to address the relevant time frame for transmitting applications set in the Chambers Practice Manual.[16] While the Registry concurs with the established deadlines in principle, it would like to emphasize that VPRS rule 85 assessments are contingent upon the charges outlined by the Office of the Prosecutor in the Document Containing the Charges ("DCC"). Therefore, the Registry respectfully suggests that the timing for the submission of the DCC on the case record be taken into account when setting the VPRS transmission deadlines, providing sufficient time for the VPRS to collect and submit victim applications after the submission of the DCC.

(ii) Application Forms

13. The VPRS conducted three consultations with victims in the context of the Philippines situation ("Situation"):

(1) between 15 June and 13 August 2021: victim consultation under Article 15(3) of the Statute – 204 representation forms introduced on behalf of approximately 1,530 individual victims and 1,050 families were transmitted to the Chamber, in its previous composition, together with a report thereon;[17]

(2) between 14 July and 8 September 2022: victim consultation under Article 18(3) of the Statute - eight collective victim representations on

[15] Appeals Chamber, "Judgment on the appeal of Mr Mahamat Said Abdel Kani against the decision of Pre-Trial Chamber II of 16 April 2021 entitled 'Decision establishing the principles applicable to victims' applications for participation'", 14 September 2021, ICC-01/14-01/21-171 paras. 60-62. See also para 82: *The ABC Process is "in principle an adequate tool to ensure the fairness and expeditiousness of the proceedings while at the same time respecting the rights of both the suspect/accused and the victims."*
[16] Chambers Practice Manual, para. 97.
[17] Registry, "Registry Report on Victims' Representations", 27 August 2021, ICC-01/21-11.

behalf of 293 individuals and 366 families were transmitted to the Chamber, together with a report thereon;[18] and

(3) from 21 March to 22 May 2023: victim consultation under Article 18(3) of the Statute before the Appeals Chamber – five victim representations containing views and concerns expressed on behalf of 350 individual victims and 165 families were transmitted to the Appeals Chamber, together with a report thereon. [19]

14. The victim representations form used during the aforementioned consultations ("Victim Representation Form") was developed by the VPRS specifically for consultations under Articles 15(3) and 18(2). Its primary purpose was to gather victims' views on the Prosecutor's requests to either initiate an investigation in the Situation (under Article 15(3)) or resume the investigation following a deferral request (under Article 18(2)). Additionally, the Victim Representation Form contained information required by the VPRS to determine whether the criteria outlined in rule 85 of the Rules were satisfied.

15. Given the objectives of the victim consultations under Articles 15(3) and 18(2), and considering the limited scope of such proceedings, the criteria under rule 85 of the Rules were assessed by the VPRS based on the intrinsic coherence of the information provided by the victim(s). The Victim Representation Form facilitated collective representations, omitting the need for the names of all individual victims, their signatures, or documents verifying their identity or, where applicable, kinship. Consequently, victims and all VPRS interlocutors were informed from the outset that the Victim Representation Forms were not application forms for participation in judicial proceedings against an accused person and/or reparations. It was clarified that, should judicial proceedings commence within the context of a case, victims wishing to exercise their right

[18] Registry, "Registry Report on Article 18(2) Victim Representations", 22 September 2022, ICC-01/21-55.

[19] Registry, "Registry Report on Article 18(2) Victim Representations in Appeals Proceedings ", 22 May 2023, ICC-01/21-75.

to participate in said proceedings and/or to request reparations would be required to complete the standard application form for participation and/or reparations, available on the ICC's website. Said form allows victims to provides all necessary information and documentation required for the Chamber to properly assess and rule upon a victim's participatory status in relevant case proceedings.

16. Accordingly, the VPRS proposes to use its existing joint standard application form for participation and reparations[20] for individuals,[21] pursuant to rule 85 of the Rules and as referenced to in the Chamber Practice Manual.[22] The use of the joint standard form in other cases over the past years has yielded positive outcomes, enhancing the quantity and quality of the information gathered. Furthermore, the standardised approach has streamlined the application process, allowing for comprehensive submissions from victims covering both participation and reparation aspects.

17. Additionally, since the material scope of the *Duterte* Case is currently confined to the crime against humanity of murder, the VPRS seeks the Chamber's approval to also employ, in addition to the aforementioned individual form, a "household" form for participation in proceedings and/or reparations within the present Case.[23] This form would enable all indirect victims within the same household, where members of the group have suffered personal harm resulting from the killing of the same direct victim(s), to jointly complete one form. The VPRS envisages that the household form would be used by family members – such as nuclear or extended families – as well as individuals who are not blood-related, but can demonstrate sufficient proximity with the direct

[20] Should the VPRS consider minor adjustments of the form necessary mindful of the specific context following consultation with its interlocutors, it would inform the Chamber accordingly.
[21] Given the current material scope of the Case as defined in the arrest warrant—limited to the crime against humanity of murder—victims in this case can only be individuals; therefore, the victim application form for organizations under R85(b) RPE will not be relevant.
[22] Chamber Practice Manual, para 96(i). See also the standard form as presently available on the Philippines specific page of the ICC website: https://www.icc-cpi.int/victims/republic-philippines.
[23] The draft household form is submitted as Annex I to the present submission.

victim of murder (e.g., close friends living together with a personal bond).[24] The same logic would apply to any additional crimes that may be included in the DCC, where the direct victims and all members of their household who also suffered personal, albeit indirect harm would be able to fill in the household form.

18. The household form was designed to ensure that sufficient information is gathered for each household member, including supporting documentation, enabling the VPRS to carry out assessments satisfying the conditions under rule 85 of the Rules, determining each victim's eligibility on an individual basis. The VPRS has already introduced the concept of the household form to its interlocutors during the various information sessions and meetings held since the arrest of the suspect, who endorsed it as a data-collection tool that would streamline and expedite the process of collecting victims' information and would be appropriate in the Philippine context.[25] The VPRS has already tested the concept of household forms in the Ugandan context with convincing results; in the *Kony* case, Pre-Trial Chamber III already approved the VPRS' use of a household form.[26]

(iii) Identity Documents

19. According to available information, while the Philippines has ongoing initiatives to establish a centralised national identification system, especially following the Philippine Identification System Act of 6 August 2018,[27] there is

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[24] The form still follows an individual-centred approach (*see infra,* para. 18) and is not designed and should not be used by larger groups, such as entire communities, religious or other types of organisations or associations.

[25] According to information received from VPRS interlocutors, multigenerational households are common in the Philippines, particularly among the "urban poor", which includes most victims and survivors of the so-called War on Drugs ("WoD").

[26] Pre-Trial Chamber III, *The Prosecutor v. Joseph Kony*, "Decision on victim participation, legal representation, and on the OPCV's Application for recognition of the status of victims in the Kony case to the victims participating in the Ongwen case", 13 December 2024, ICC-02/04-01/05-540, para. 41.

[27] Philippine Identification System, https://philsys.gov.ph/national-id-briefer/. The Philippine Statistics Authority (PSA) has continued its efforts to reach populations in rural areas of the country and populations living overseas. Philippine Identification System, "PSA Hits 92M National ID Registrations", 12 February 2025, at https://philsys.gov.ph/psa-hits-92m-national-id-registrations/.

a backlog in the distribution of national identity (ID) cards. According to the VPRS interlocutors consulted, most Filipinos do not have national ID cards and, while birth certificates are more common, this cannot be assumed for everyone.[28] As such, the VPRS anticipates that some applicants will require the option of unofficial identity documents.

20. A list of official identity documents available in the Philippines was compiled with the support of VPRS interlocutors and is submitted as Annex II to the present filing. The list provides a brief description, the issuing authority,[29] and a sample image for each document and includes the following : *(i)* Passport; *(ii)* National ID card; *(iii)* Social Security System (SSS) card; *(iv)* Government Service Insurance System (GSIS) ID card or GSIS Unified Multi-Purpose ID (UMID) card; *(v)* Driver's license; *(vi)* Professional Regulatory Commission (PRC) ID card; *(vii)* Overseas Workers Welfare Administration (OWWA) ID or OWWA e-card; *(viii)* Department of Labor and Employment card (iDOLE card); *(ix)* Voter's certification with dry seal; *(x)* Firearms license; *(xi)* Senior citizen ID card; *(xii)* Persons with disabilities (PWD) ID card; *(xiii)* National Bureau of Investigation (NBI) clearance; *(xiv)* Alien Certificate of Registration ID card; *(xv)* PhilHealth ID card; *(xvi)* Airman's license; *(xvii)* Pag-IBIG Loyalty Card; *(xviii)* Integrated Bar of the Philippines (IBP) ID card; *(xix)* Pantawid Pamilyang Pilipino Program (4Ps) ID card; *(xx)* School ID or certificate of enrolment/registration with photo and the institution's dry seal; *(xxi)* Taxpayer Identification Number (TIN) card; *(xxii)* Postal ID card; *(xxiii)* Barangay certification; *(xxiv)* Seaman's Book (Seafarer's Record Book); *(xxv)* Police clearance; *(xxvi)* Cedula (community tax certificate); *(xxvii)* Philippine Statistics Authority (PSA) marriage certificate; *(xxviii)* PSA birth certificate; *(xxix)* Solo parents ID card; and *(xxx)* Baptismal certificate.

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[28] See also J. Villasis and K. Abante, "Everyone Should Count: Barriers and Opportunities for Birth Registration in the Philippines", 15 April 2020, at https://www.researchgate.net/publication/340645167_Everyone_Should_Count_Barriers_and_Opportunities_for_Birth_Registration_in_the_Philippines_WeSolve_Working_Paper.

[29] While most documents are issued by government entities, documents issued by schools or churches are also included.

21. The Registry respectfully recommends that the Chamber accepts the following documents as proof of identity for applicants and persons acting on their behalf: (i) all documents listed above and included in Annex II to the present submission; and (ii) in the absence of any such documents, a declaration signed by two witnesses and accompanied by the identity documents of such witnesses, which establishes the identity of the applicant or the person acting on behalf, or the relevant kinship.[30]

(iv) Legal Representation of Victims

a. *Common legal representation of participating victims*

22. Following the arrest of Mr Duterte, the VPRS [Redacted] who facilitated the three consultation processes conducted in the Situation [Redacted].[31] [Redacted].

23. In this context, the VPRS was informed that [Redacted] engaged in discussions amongst themselves regarding legal representation of victims before the ICC.[32] A number of lawyers [Redacted] expressed an interest to consult and coordinate with other lawyers and submit a proposal to work as a team representing victims in the present Case.[33]

24. The VPRS considers that early action in the organisation of common legal representation is recommended, to meaningfully assist victims in choosing legal representatives who will represent them in the proceedings[34] and/or effectively facilitate the timely organisation of their (common) legal representation upon a Chamber's request. In order to give full effect to the

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[30] For a recent example, see Pre-Trial Chamber III, *The Prosecutor v. Joseph Kony*, "Decision on victim participation, legal representation, and on the OPCV's Application for recognition of the status of victims in the Kony case to the victims participating in the Ongwen case", 13 December 2024, ICC-02/04-01/05-540, para. 42. See also, Trial Chamber IX, *The Prosecutor v. Dominic Ongwen*, "Reparations Order", 28 February 2024, ICC-02/04-01/15-2074, para. 454.

[31] See *supra,* para. 13.

[32] One [Redacted] organization [Redacted] contacted the Registry in 2023 and 2024 and requested training on legal representation of victims before the Court. Two trainings were provided by the VPRS, jointly with the Counsel Support Section of the Registry.

[33] [Redacted].

[34] In line with the Registry's mandate under Rule 16.1(b) of the Rules.

sequential approach of rule 90 of the Rules and provide the Chamber with valuable information to consider for the purpose of common legal representation pursuant to rules 90(2) or 90(3) of the Rules, the Registry sees value in consulting *(i)* relevant interlocutors who are in contact with and/or who represent victims; and, *(ii)* to the extent possible considering the security situation, a representative sample of victims in order to:

- provide information concerning: (i) the legal representation of victims before the Court, in particular the role and mandate of counsel before the Court; (ii) the provisions of rule 90 of the Rules; as well as (iii) the role that the Office of Public Counsel for Victims ("OPCV") may play;
- collect information on previous experiences victims may have had regarding legal representation in judicial proceedings;
- collect information on the most important aspects victims consider when choosing a legal representative, the characteristics and qualities they are looking for in a legal representative;
- assess whether distinct interests or conflict of interests exist and how they may impact the organisation of the legal representation of victims;
- assess whether victims have identified one or more (common) legal representatives; whether it is necessary to help them; and if, so how to provide the assistance; and
- identify potential common legal representatives in the event that victims cannot agree on a choice.

25. The Registry is currently evaluating the most efficient and secure way to conduct the aforementioned consultations. To the extent possible, it will endeavor to identify and include in these consultations, in a safe and secure manner, victims [Redacted], their legal representatives, and other relevant stakeholders that may be concerned by the current Case but have not been in contact with the VPRS during previous consultations.

26. Unless otherwise instructed, the Registry will submit to the Chamber a report on the consultations conducted, the information thus collected, and its potential recommendations on the way forward[35] no later than 6 June 2025.

b. Prior to the Chamber's decision on victim status - legal representation of applicants

27. The lawyers met[36] informed the VPRS that they would want to already convey the views and concerns of their clients to the Chamber in any potential proceedings prior to the designation of common legal representation by the Chamber.
28. Also, on 28 March 2025, the OPCV reached out to the VPRS, informing it that it "continues to be involved by providing advices to external counsel [of victims] following the arrest of Mr Duterte". Noting that victims' interests may need to be protected already before the appointment of a common legal representative by the Chamber, OPCV Counsel submits that "the [OPCV] has already a team working on the case and it is available for the legal representation of the victims until the appointment of counsel for the purpose of the confirmation of charges proceeding.
29. The Registry notes the importance of safeguarding the victims' right to participate in any proceedings affecting their personal interests, and avoiding any gaps in their legal representation. Therefore, the Registry respectfully suggests that the Chamber may want to address the issue of legal representation of applicants ahead of the Registry report mentioned in para. 26 above by: (i) allowing lawyers who were appointed by applicants, in victim application forms for participation or through powers of attorney, to make submissions before the Chamber until common legal representation in the Case

[35] In this regard, the VPRS will provide the Chamber with its suggestion on how an approach that prioritises the victims' choice of counsel in accordance with rule 90 of the Rules may proceed; the applicability of rule 90(2) of the Rules; and, if relevant, the VPRS will propose steps to organise common legal representation under rule 90(3) of the Rules.
[36] See *supra*, para. 23.

has been decided;[37] (ii) appointing the OPCV to represent the general interest of applicants who have not designated a legal representative until common legal representation in the Case has been decided.

Marc Dubuisson, Director, Division of Judicial Services
on behalf of
Osvaldo Zavala Giler, Registrar

Dated this 2 April 2025

At The Hague, The Netherlands

[37] The Registry notes that no financial assistance would be available until the Chamber has made a decision on the common legal representation of victims. The lawyers met by the Registry to date were informed accordingly.