

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

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

Date: **7 April 2025**

PRE-TRIAL CHAMBER I

Before: Judge Iulia Antoanella Motoc, Presiding Judge
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

Defence Observations on Registry Filing ICC-01/21-01/25-101-Red

Source: Defence for Mr Rodrigo Roa Duterte

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

☒ The Office of the Prosecutor

☒ Counsel for the Defence

Duterte Defence Team

☐ 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

☐ States' Representatives

☐ Amicus Curiae

REGISTRY

Registrar

Osvaldo Zavala Giler

☐ Counsel Support Section

☒ Victims and Witnesses Unit

☐ Detention Section

☒ Victims Participation and
Reparations Section

☐ Other

1. The Defence for Mr Rodrigo Roa Duterte notes the Registry's submissions on the participation of victims in the present proceedings¹ and hereby submits its observations on the following issues raised therein: (i) documents for the purpose of identifying victim applicants; and (ii) legal representation of the victim applicants.

(i) Identity documents available in the Republic of the Philippines

2. With respect to the types of identity documents that should be accepted by the Pre-Trial Chamber as proof of identity for victim applicants and persons acting on their behalf, the Pre-Trial Chamber should insist on the production of a national identity card and or a passport containing an up-to-date photograph. In the absence thereof, the Defence submits that the Pre-Trial Chamber should require those identification documents accepted in the staggered fashion mandated by the social security system of the Republic of the Philippines.² Limiting the range of identity documents enhances the reliability of the identity verification process and significantly reduces the risk of fraud. The use of varied and insufficiently verified identity documents could lead to misidentification, double-counting, and the inclusion of false victims – issues that could trigger unnecessary and time-consuming litigation. By adopting a more stringent approach from the outset, the Pre-Trial Chamber can avoid such pitfalls and streamline proceedings.
3. The non-sequential list provided by the Registry unjustifiably expands the identification regime set out by the Philippine social security system.³ The Registry fails to explain why such deviation is appropriate or even necessary in this case, other than the vague assertion that there exists a “backlog in the distribution of national identity (ID) cards”.⁴
4. The Registry further suggests that a declaration signed by two witnesses and accompanied by their identity documents should be considered sufficient to authenticate and establish the identity of the applicant or the person acting on their behalf. It refers to the decisions of Pre-Trial Chamber III in both *Kony* and *Ongwen* in support of its position. The Registry's reliance on those cases, however, is inapposite: In *Kony*, the Chamber did **not** accept such declarations *prima facie*, but instead held that it would “decide *whether* to accept such documents on an *ad hoc* basis, upon receipt

¹ Duterte, “Public Redacted Version of “Registry Submissions on Matters Related to the Participation of Victims”” [ICC-01/21-01/25-101-Red](#), 2 April 2025 (“Registry Submissions”).

² See Republic of the Philippines, Social Security System, “[List of Valid IDs](#)”.

³ [Registry Submissions](#), para. 20.

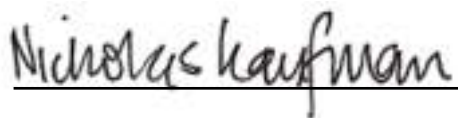
⁴ [Registry Submissions](#), para. 19.

of the Registry's assessments and recommendations".⁵ The *Ongwen* decision is inapplicable insofar as it was issued during the reparations, and not pre-trial, phase of proceedings.⁶

5. Accordingly, the Defence suggests that the Pre-Trial Chamber should follow the practice adopted in *Kony* and decide, on a rolling and *ad hoc* basis, whether a signed and witnessed declaration is sufficient to act as proof of an applicant's identity.

(ii) *Legal representation of victims*

6. The Defence endorses the right of the victims to be heard. Their participation in the proceedings should, nevertheless, respect the rights of the defence and be in keeping with the fair administration of justice.
7. Until common legal representation is finalised, the Registry proposes that lawyers appointed by victim applicants participate on behalf of their clients while the Office of Public Counsel for Victims ("OPCV") represents the general interests of unrepresented applicants.⁷ However, permitting submissions by individual lawyers for some, but not all, applicants while simultaneously appointing the OPCV for others will result in twice the number of submissions before this Chamber. It will be unwieldy, unnecessarily encumber the Defence, and slow down the proceedings. This will impact on Mr Duterte's right to a speedy judicial process.⁸
8. Accordingly, the Defence submits that all victim applicants should, presently, be represented only by the OPCV.



Nicholas Kaufman
Counsel for Rodrigo Roa Duterte

Dated this 7th day of April 2025
At The Hague, The Netherlands

⁵ *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, [ICC-02/04-01/05-540](#), 13 December 2024, para. 42 (emphasis added).

⁶ *Ongwen*, Reparations Order, [ICC-02/04-01/15-2074](#), 28 February 2024, para. 454.

⁷ [Registry Submissions](#), para. 29.

⁸ Rome Statute, [Art. 67\(1\)\(c\)](#).