



Original: English

No. ICC-01/21-01/25

Date: 17 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

Order on the conduct of confirmation proceedings

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

☒ The Office of the Prosecutor

☒ 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

☐ 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

PRE-TRIAL CHAMBER I of the International Criminal Court issues the present order on various matters related to the conduct of the confirmation of charges proceedings.

I. Procedural history

1. 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 (the 'Statute').¹
2. On 12 March 2025, Mr Duterte was surrendered to the Court and made his first appearance before the Chamber on 14 March 2025,² when the Chamber decided that the confirmation of charges hearing shall commence on 23 September 2025.
3. On 21 March 2025, the Chamber sought and indicated deadlines for observations from the parties and participants on various matters related to the conduct of the proceedings.³
4. On 2 April 2025, the Registry filed its observations on the participation of victims to the proceedings,⁴ to which the Defence responded on 7 April 2025.⁵
5. On 4 April 2025, the Prosecution filed submissions on the conduct of the proceedings,⁶ to which the Defence responded in its submissions on the matter on 8 April 2025.⁷

II. Disclosure regime

6. The Chamber, noting articles 61 and 67 of the Statute, and rules 76, 77, 81, 121, and 126 of the Rules of Procedure and Evidence (the 'Rules'), adopts the following disclosure regime for the present case.

¹ Warrant of Arrest for Mr Rodrigo Roa Duterte, ICC-01/21-01/25-83. See also Prosecution's urgent application under article 58 for a warrant of arrest against Rodrigo Roa DUTERTE, ICC-01/21-80-US-Exp (public redacted version notified on 13 March 2025, ICC-01/21-01/25-80-Red) with public Annexes A-B, D-E and under seal *ex parte* Annex C (the 'Prosecution's Arrest Warrant Application').

² Decision convening a hearing for the first appearance of Mr Rodrigo Roa Duterte, ICC-01/21-01/25-90. See also Transcript of hearing, ICC-01/21-01/25-T-002-ENG.

³ Order seeking observations on matters related to the conduct of confirmation proceedings, ICC-01/21-01/25-94 (the '21 March 2025 Order').

⁴ Registry Submissions on Matters Related to the Participation of Victims, ICC-01/21-01/25-101-Conf-Exp (public redacted version notified on the same day, ICC-01/21-01/25-101-Red) with confidential Annex I and confidential *ex parte* Registry only Annex II (the 'Registry's Victims Observations').

⁵ Defence Observations on Registry Filing ICC-01/21-01/25-101-Red, ICC-01/21-01/25-105 (the 'Defence's Victims Observations').

⁶ Prosecution's Response to the Order seeking observations on matters related to the conduct of confirmation proceedings, ICC-01/21-01/25-104-Conf (public redacted version notified on 15 April 2025, ICC-01/21-01/25-104-Red) with confidential Annex A (the 'Prosecution's Disclosure Submissions').

⁷ Defence Observations pursuant to Order ICC-01/21-01/25-94, ICC-01/21-01/25-108 (the 'Defence's Disclosure Submissions').

A. Volume of disclosure and investigations

7. The Chamber reiterates that the confirmation of charges procedure is of a limited scope and should not devolve into a mini-trial.⁸ Noting the Prosecution's 'general overview of the extent and nature of its current evidence collection' and the volume of the evidentiary material the Prosecution intends to disclose,⁹ the Chamber also reiterates that, as established in numerous decisions issued in other cases,¹⁰ the Prosecution should only disclose evidence that is of true relevance to the case and capable of supporting a particular factual allegation underlying the requisite legal elements.

8. The disclosure of a considerable volume of evidence for which it is difficult or impossible to comprehend the usefulness and relevance for the case merely puts the Defence in a position where it cannot genuinely exercise its rights. The Chamber further recalls in relation to rule 77 of the Rules that the Appeals Chamber has found that 'the term "material to the preparation of the defence"' should be understood as referring to all objects that are relevant for the preparation of the defence'.¹¹ In addition, it is recalled that the Prosecution must select the rule 77 items fulfilling the relevant criteria bearing in mind that its responsibility in this regard cannot be discharged by making everything that is in its possession or control available to the Defence.¹²

9. In addition, the Chamber notes that the Prosecution 'is continuing its investigation regarding Mr [Duterte]' and 'intends to review and disclose any new evidence collected during this investigation on a rolling basis'.¹³ The Chamber recalls that, while the Prosecution is entitled to continue investigating at this stage of the proceedings, neither the disclosure process nor the confirmation of charges hearing may be made conditional on the completion of additional investigations. For this reason, the Prosecution shall conduct its investigative activities in a way that will not affect the disclosure process or the conduct of the confirmation of charges proceedings and hearing. It shall immediately inform the Chamber

⁸ See e.g. Pre-Trial Chamber II, *The Prosecutor v. Maxime Jeoffroy Eli Mokom Gawaka*, Order on the conduct of the confirmation of charges proceedings, 27 June 2022, ICC-01/14-01/22-62, para. 28 (the 'Mokom Conduct Proceedings Order').

⁹ Prosecution's Disclosure Submissions, paras 4-5, 7, 9, 12-13, 21-23.

¹⁰ See e.g. Mokom Conduct Proceedings Order, para. 28.

¹¹ Appeals Chamber, *The Prosecutor v. Thomas Lubanga Dyilo*, Judgment on the appeal of Mr. Lubanga Dyilo against the Oral Decision of Trial Chamber I of 18 January 2008, 11 July 2008, ICC-01/04-01/06-1433, para. 2.

¹² See e.g. Mokom Conduct Proceedings Order, para. 29.

¹³ Prosecution's Disclosure Submissions, para. 26.

and, to the extent possible, the parties and participants in the event that any such activities would nevertheless risk having such effects.

B. Protocols

10. The Chamber notes that the disclosure process in this case has started¹⁴ and will continue taking place through the NUIX system. Accordingly, the Chamber adopts the currently applicable version of the Unified Technical protocol for the provision of evidence, witness and victims information in electronic form ('E-Court Protocol')¹⁵ and orders the Registry to immediately file it, together with any adaptations that may be necessary in the circumstances of the present case, into the record of the case.

11. The Chamber finds that the system regarding exceptions to disclosure in the form of redaction of information (the 'Redaction Protocol') does not require to be adjusted in the present case, and adopts it as set out in the Chambers Practice Manual in respect of exceptions to disclosure by the Prosecution, which remain subject to judicial control, under rule 81(2) and (4) of the Rules.¹⁶ Should the Prosecution wish to submit requests for redactions not falling into such standard categories, non-disclosure of witnesses' identities or non-disclosure of entire items of evidence, any such requests are to be submitted no later than 23 May 2025, and the Prosecution must conclude the risk assessments and implementation of measures to protect witnesses and persons at risk by the same date. Specifically as to applications to withhold the identity of witnesses, the Chamber (i) recalls that the Prosecution shall submit such applications regarding a number of witnesses by no later than 9 May 2025;¹⁷ and, (ii) noting that the Prosecution identified additional witnesses 'that will require further protective measures prior to the disclosure of their identities',¹⁸ hereby instructs that such applications regarding these additional witnesses be submitted by no later than 23 May 2025.

12. As to the Protocol on the handling of confidential information during investigations and contact between a party or participant and witnesses of the opposing party or of a participant,

¹⁴ See Prosecution's First Communication of the Disclosure of Evidence, 24 March 2025, ICC-01/21-01/25-95 with confidential Annex A.

¹⁵ See Annex to Registry, *The Prosecutor v. Joseph Kony*, Registry Submission of a revised E-court protocol, 20 January 2025, ICC-02/04-01/05-547.

¹⁶ Chambers Practice Manual, Eighth Edition, 2024, paras 98-100.

¹⁷ Email from the Chamber, '[ICC-01/21-01/25 - Confidential] Decision on the Prosecution's application under regulation 35 of the Regulations of the Court', at 16:52; 'Public redacted version of "Prosecution's application under regulation 35 to extend the disclosure deadline for the arrest warrant materials of [REDACTED] witnesses"', 19 March 2025, ICC-01/21-01/25-93-Conf', 15 April 2025, ICC-01/21-01/25-93-Red.

¹⁸ Prosecution's Disclosure Submissions, para. 17.

as annexed to the Chambers Practice Manual,¹⁹ the Chamber adopted it for the purposes of the present proceedings on 20 March 2025, and the parties shall therefore comply with it.²⁰

C. Thematic disclosure

13. The Prosecution submits that it intends to classify its disclosure packages ‘as INCRIM, PEXO or R77, and within these packages, [...] identify INCRIM, PEXO and R77 evidence’; additionally, ‘the Prosecution is considering further options for thematic disclosure, based on, for example, any search terms received from the Defence’.²¹

14. The Chamber welcomes this approach. The Chamber finds that a thematic organisation of disclosure can significantly assist the Defence in its preparations. In the exercise of its discretion pursuant to article 61(3) of the Statute and rule 121(2) of the Rules,²² the Chamber considers it appropriate to issue the following directions.

15. The Prosecution shall disclose evidence by categorising it in accordance with the following themes: (i) contextual elements; (ii) each alleged crime, including, when possible, each ‘incident’ or group of ‘incidents’,²³ and/or any other criterion deemed relevant (e.g. location, time-frame etc.); and (iii) each alleged mode of liability. The Prosecution may submit observations on the abovementioned themes by no later than 30 April 2025, to which the Defence may respond by no later than 2 May 2025.

16. The Prosecution shall provide separate disclosure packages containing only the relevant evidentiary items, grouped and classified as incriminating, exonerating, or falling under rule 77 of the Rules in relation to each theme. The Prosecution shall not duplicate the disclosure of particular items of evidence and it shall include evidentiary items in the disclosure package to which they are most directly related. According to rule 121(2)(c) of the Rules, each disclosure package shall be accompanied by a filing filed in the record of the case setting out the particular theme and enumerating the items of evidence disclosed. The Chamber further directs the Prosecution not to disclose evidentiary items labelled as ‘miscellaneous’: instead,

¹⁹ Chambers Practice Manual, Eighth Edition, 2024, Annex.

²⁰ Email from the Chamber, ‘[ICC-01/21-01/25 - Confidential] Decision on the Prosecution’s application under regulation 35 of the Regulations of the Court’, at 16:52.

²¹ Prosecution’s Disclosure Submissions, para. 27.

²² See e.g. Pre-Trial Chamber III, *The Prosecutor v. Joseph Kony*, Decision Setting the Disclosure Regime, 12 December 2024, ICC-02/04-01/05-537, para. 19 (the ‘Kony Disclosure Regime Decision’).

²³ Prosecution’s Arrest Warrant Application, paras 68-76.

the Prosecution shall ensure that such items fall under the aforementioned themes and that they comply with the remainder of the instructions set out in the present decision.²⁴

17. The Chamber recalls that, in view of the principle of publicity, the evidence disclosed shall, in principle, be classified as public, unless a reason exists to classify it otherwise. It is incumbent upon the parties to indicate the level of classification when submitting the evidence for disclosure, and to provide the factual and legal basis for any proposal to use a level of classification other than public.

D. Disclosure notes

18. The Prosecution shall provide disclosure notes for all disclosed items, that is items containing incriminating, exonerating, and rule 77 information.²⁵ Such notes serve the aim of identifying the relevant section for the purposes of disclosure, especially in relation to mixed evidentiary items (that is items containing various types of information, namely incriminating, exonerating, and/or rule 77 material) and (lengthy) evidentiary items that are only relevant in part to the present case.

19. In specific terms, the Prosecution shall, in a dedicated metadata field, separately identify each instance containing incriminating, exonerating and/or rule 77 information included in each item of evidence by using the codes INCRIM, PEXO, and/or R-77. In doing so, the Prosecution shall, as applicable, specify for each such instance: (i) the relevant page or paragraph numbers for statements, transcripts, and any other documentary material; (ii) the relevant time intervals for audio and video material (together with the page and line numbers of any transcripts); and (iii) a concise description of the contents of visual material.

E. Witnesses

20. Throughout the disclosure process, the Prosecution shall ensure that the ‘Related to witness’ metadata field in the NUIX system is populated, when applicable, for each evidentiary item disclosed, thereby ensuring that the Defence and the Chamber can easily access to (i) the total number of witnesses in relation to whom material has been disclosed; and (ii) all the evidentiary items disclosed in relation to each such witness.

²⁴ See e.g. Kony Disclosure Regime Decision, paras 21-22.

²⁵ See e.g. Kony Disclosure Regime Decision, para. 23.

21. Noting that the Prosecution ‘presently intends to call a maximum of two witnesses to testify *viva voce* at the confirmation hearing’,²⁶ the Chamber instructs the Prosecution to submit any requests to that effect including: (i) a list of its proposed *viva voce* witnesses; (ii) a summary of the witnesses’ evidence and the aspects of the Prosecution’s case this evidence is said to support; and (iii) the reasons in support of the request, bearing in mind that ‘[u]se of live evidence at the confirmation hearing should be exceptional and should be subject to specific authorisation by the Pre-Trial Chamber’ and that ‘[t]he parties must satisfactorily demonstrate that the proposed oral testimony cannot be properly substituted by a written statement or other documentary evidence’.²⁷ The request shall be submitted by no later than the date of the completion of the disclosure process as set out below.

22. The Prosecution shall also submit any requests pursuant to rules 87 and/or 88 of the Rules, including with regard to the witnesses it intends to call to testify *viva voce*,²⁸ accompanied by the completed security assessments for the witnesses in question, by the same time limit. The Chamber shall subsequently set out any further directions in this respect.

F. Time limit

23. Noting that the Prosecution ‘intends to complete the review and disclosure of evidence currently in its possession by no later than thirty days before the confirmation hearing’,²⁹ the Chamber recalls that article 61(3) of the Statute refers to ‘a reasonable time before the hearing’ and that the related time limit specified in rule 121(3) of the Rules is only indicative of the minimum notice period a party may avail itself of to comply with its disclosure obligations.³⁰ This time limit allows the Defence to prepare adequately for the confirmation hearing in accordance with article 67(1)(b) of the Statute. Thus, the Prosecution shall expeditiously discharge its disclosure obligations as soon as practicable on a rolling basis and not only on the date when the deadline indicated by the statutory documents, as amended in this order, expires.

24. In view of the foregoing, the Prosecution shall complete the disclosure process by no later than 1 July 2025. This includes all the evidence it intends to rely upon at the confirmation of charges hearing, including the totality of the witness statements and their

²⁶ Prosecution’s Disclosure Submissions, para. 14.

²⁷ Chambers Practice Manual, Eighth Edition, 2024, para. 44.

²⁸ Prosecution’s Disclosure Submissions, para. 19.

²⁹ Prosecution’s Disclosure Submissions, para. 28.

³⁰ See e.g. Kony Disclosure Regime Decision, para. 42.

translations, the exculpatory material that it has identified thus far, and the material falling under rule 77 of the Rules. Any items of evidence submitted after that date will not be taken into account for the purposes of the confirmation of charges hearing.

25. This finding is without prejudice to the Prosecution's ongoing duty to provide the Defence with any exonerating evidence identified after the aforementioned time limit in accordance with article 67(2) of the Statute, without detracting from the Prosecution's obligation to identify and disclose all the exculpatory material within the evidence already in its control and possession. This obligation shall not affect the existing time limits of the proceedings, including the timeline for the disclosure process as outlined above.

G. Defence information and *inter partes* consultations

26. While mindful of the impact the Prosecution's disclosure may have on the Defence's strategy in the present case,³¹ the Chamber orders the Defence to provide the information specified in the 21 March 2025 Order by no later than 24 July 2025.

27. Should any disagreements on the implementation of the Chamber's instructions regarding disclosure arise, the parties shall liaise with a view to solving such matters *inter partes*. The Chamber calls upon the professionalism and good faith of the parties to ensure that the disclosure process is completed in a timely and orderly manner. The parties may only seize the Chamber where an agreement cannot be reached with regard to a specific matter after exhausting inter partes consultations.

III. Document containing the charges and pre-confirmation brief

28. The Chamber, noting article 61(3)(a) of the Statute, rule 121(3) of the Rules and regulations 38(3)(g) and 52 of the Regulations of the Court (the 'Regulations'), issues the following directives regarding the Document containing the charges ('DCC').

29. First, the Chamber notes that regulation 52(1) of the Regulations, as amended on 21 October 2024, provides that:

The document containing the charges referred to in article 61 shall contain only:

- (a) The full name of the person and any other relevant identifying information;
- (b) A statement of the facts, including the time and place of the alleged crimes, which provides a sufficient legal and factual basis to bring the person or persons to trial, including relevant facts for the exercise of jurisdiction by the Court;

³¹ Defence's Disclosure Submissions, para. 3.

(c) A legal characterisation of the facts to accord both with the crimes under articles 6, 7, 8 or 8 *bis* and the precise form of participation under articles 25 and 28.

30. As a result of the addition of the words ‘contain only’ in the *chapeau* of regulation 52(1) of the Regulations and the insertion of sub-regulation 2 in the same provision, a DCC must be limited to the essential factual and legal elements of the charges that the Prosecution is requesting the Chamber to confirm as the basis for a potential trial against a suspect.

31. In order for the DCC to be fully informative for the Defence in its preparation and the Chamber for the drafting of the decision pursuant to article 61(7) of the Statute, the Prosecution shall therefore submit a DCC setting out the relevant factual and legal elements in relation to (1) the alleged contextual elements; (2) each alleged crime and alleged instance of an underlying crime; and (3) each alleged mode of liability. For each topic, the Prosecution shall indicate, to the extent applicable, (i) the alleged perpetrators and/or other relevant actors; (ii) the alleged conduct and/or consequences; (iii) the alleged location of the alleged crime or related conduct; (iv) the alleged time-frame(s) of the alleged crime and/or related conduct; (v) the alleged (approximate) number and identity of victims, dependent on the nature of the alleged crime; (vi) the alleged mental state of Mr Duterte and/or other relevant actors; (vii) any other essential factual aspect pertaining to the constitutive legal elements of the proposed charge; and (viii) a legal characterisation.

32. The DCC shall employ a narrative style, with the relevant factual assertions presented in a logical and chronological sequence, and shall not contain factual or legal assertions that either exceed the elements enumerated in the preceding paragraph, or are not relevant to support the legal elements of the crimes the Prosecution is proposing for confirmation.

33. Second, the amended version of regulation 52(2) of the Regulations states that:

[t]he document containing the charges shall not contain any submissions or references to, or analysis of, evidence. All such material in support of the charges shall be presented in a separate pre-confirmation brief to be submitted simultaneously.

34. Consequently, the Prosecution shall, together with the DCC, submit a Pre-confirmation brief (‘PCB’) with a view to setting out its factual and legal argumentation in support of the charges proposed for confirmation, as well as the evidence it relies upon. The purpose of the PCB is to substantiate the specific factual and legal elements of the proposed charges in the DCC.

35. The PCB shall therefore mirror the structure of the DCC by reproducing the same paragraphs included in the DCC in bold font. Each paragraph will be followed by one or

several explanatory paragraphs (not in bold font), setting out at least the following elements: (i) a detailed explanation of the evidence that, in the Prosecution's view, supports each separate assertion (with the relevant items hyperlinked in the corresponding footnote); (ii) any factual or legal assertions that either exceed the elements to be set out in the DCC as specified above, or do not support the legal elements of the crimes the Prosecution is proposing for confirmation, but that are, in the Prosecution's view, nonetheless necessary to be included for it to properly set out its case; and (iii) any legal submissions in connection with the legal characterisation of each alleged instance of an underlying crime, including the relevant contextual elements, and each alleged mode of liability.

36. Lastly, the Chamber observes that, pursuant to rule 121(3) of the Rules, a DCC and a list of evidence shall be provided by 'no later than 30 days before the date of the confirmation hearing'. As this time limit is indicative,³² the Prosecution shall submit the DCC, together with the list of evidence and the PCB, at the latest on 4 July 2025. The DCC shall not exceed 30 pages in accordance with regulation 38(3)(g) of the Regulations, while the PCB shall not exceed 90 pages. Furthermore, the Chamber orders the Prosecution to ensure that the list of evidence to be submitted pursuant to rule 121(3) of the Rules does not exceed 60 pages and only contains the evidentiary items referenced in the PCB.

IV. Confirmation hearing and related time limits

37. The Chamber recalls that the confirmation of charges hearing shall commence on 23 September 2025.³³ A decision defining the specific schedule will be issued in due course.

38. In addition to the time limits set out above, the Chamber adopts the following time limits with a view to facilitating the parties' and participants' preparations for the confirmation of charges hearing and ensuring the orderly conduct of the proceedings before the hearing. This decision is without prejudice to any additional time limits that may be set by the Chamber prior to the commencement of the confirmation of charges hearing.

A. Matters arising from the disclosure process

39. The parties and, to the extent applicable, participants shall bring any matter arising from the disclosure process to the attention of the Chamber by way of a formal filing by no

³² See e.g. Pre-Trial Chamber III, *The Prosecutor v. Joseph Kony*, Decision on the Document Containing the Charges and the 'Victims' Concerns on the Document Containing the Charges, 12 December 2024, ICC-02/04-01/05-538, para. 29.

³³ Transcript of hearing, ICC-01/21-01/25-T-002-ENG, p. 10 lines 8-11.

later than 9 July 2025. Following the expiry of this time limit, the Chamber shall not entertain any matter pertaining to the disclosure process, except if the party or, to the extent applicable, participant establishes that the relevant matter arose only after the expiry of the aforementioned time limit and could not have been reasonably brought to the Chamber's attention prior thereto.

B. Matters arising from the DCC

40. The parties and, to the extent applicable, participants shall bring any challenge to the DCC or any other matter arising from the DCC to the attention of the Chamber by way of a formal filing by no later than 16 July 2025. Following the expiry of this time limit, the Chamber shall not entertain any matter pertaining to the DCC, except if the party or, to the extent applicable, participant establishes that the relevant matter arose only after the expiry of the aforementioned time limit and could not have been reasonably brought to the Chamber's attention prior thereto.

C. Other matters arising from the proceedings preceding the confirmation hearing

41. Any requests pertaining to any matter arising from the proceedings leading up to the confirmation of charges hearing, other than the disclosure process and the DCC, shall be submitted by no later than 24 July 2025, without prejudice to the submission of any objections and observations pursuant to rule 122(3) of the Rule, as set out below.

42. Following the expiry of this time limit, the Chamber shall not entertain any matter arising from the proceedings leading up to the confirmation of charges hearing, except if the party or, to the extent applicable, participant establishes that the relevant matter arose only after the expiry of the aforementioned time limit and could not have been reasonably brought to the Chamber's attention prior thereto. The Chamber will assess, on a case-by-case basis, whether such requests will be adjudicated by way of a separate decision or in its decision on the confirmation of the charges under article 61(7) of the Statute.

D. Amendment of charges and new evidence

43. Rule 121(4) of the Rules provides that, should the Prosecution intend to amend the charges pursuant to article 61(4) of the Statute, it shall do so no later than 15 days before the confirmation of charges hearing. Pursuant to rule 121(5) of the Rules, where the Prosecution intends to present new evidence at the confirmation of charges hearing, it must provide a list of such evidence within the same time limit. Pursuant to rule 121(6) of the Rules, the same

time limit applies also for the Defence, should it intend to present evidence pursuant to article 61(6) of the Statute.

44. As this time limit is indicative,³⁴ in order to allow for adequate preparation by the parties and participants, the Chamber instructs the Prosecution to take any steps pursuant to rule 121(4) and (5) of the Rules by no later than 20 August 2025, and the Defence to take any steps pursuant to rule 121(6) of the Rules by no later than 5 September 2025.

E. Submissions pursuant to rule 121(9) of the Rules

45. Pursuant to rule 121(9) of the Rules, '[t]he Prosecutor and the person may lodge written submissions with the Pre-Trial Chamber, on points of fact and on law, including grounds for excluding criminal responsibility set forth in article 31, paragraph 1, no later than three days before the date of the hearing'.

46. The Chamber emphasises that the written submissions foreseen under rule 121(9) of the Rules should not duplicate the parties' submissions to be presented at the confirmation of charges hearing. Accordingly, rule 121(9) submissions should only be provided in exceptional circumstances. As the relevant time limit is indicative,³⁵ the Chamber orders the Prosecutor and the Defence to provide their submissions pursuant to rule 121(9) of the Rules, if any, by no later than 15 September 2025.

F. Objections and observations pursuant to rule 122(3) of the Rules

47. Rule 122(3) of the Rules provides that, '[b]efore hearing the matter on the merits, the Presiding Judge of the Pre-Trial Chamber shall ask the Prosecution and the person whether they intend to raise objections or make observations concerning an issue related to the proper conduct of the proceedings prior to the confirmation hearing'.

48. It is recalled that rule 122(3) of the Rules provides an opportunity for raising issues or objections that could not have reasonably been brought to the Chamber's attention in the course of the proceedings preceding the confirmation of charges hearing. The parties shall, therefore, refrain from repeating or reformulating previous submissions, raising matters that have already been adjudicated, or raising issues for which a remedy could have been sought previously in accordance with the time limits included in the present decision.

³⁴ See e.g. Pre-Trial Chamber II, *The Prosecutor v. Maxime Jeoffroy Eli Mokom Gawaka*, Second order on the conduct of the confirmation of charges proceedings, 13 February 2023, ICC-01/14-01/22-157, para. 21.

³⁵ See e.g. Pre-Trial Chamber III, *The Prosecutor v. Joseph Kony*, Decision Setting the Date of the Confirmation of Charges Hearing and Related Time Limits, 12 December 2024, ICC-02/04-01/05-539, para. 21.

49. The Chamber instructs the parties to provide any submissions pursuant to rule 122(3) of the Rules in writing by no later than 17 September 2025.

G. Abridged version of the DCC

50. In light of the limited time available during the confirmation of charges hearing, as well as for the purposes of clarity, the Chamber deems it appropriate to instruct the Prosecution to provide an abridged version of the DCC to be read out in public session by the Court Officer at the start of the confirmation of charges hearing in accordance with rule 122(1) of the Rules. The document should be apt to be read out within a reasonable time with the aim of informing the public of the charges brought by the Prosecution against the suspect. The abbreviated version should therefore employ a narrative style and focus on the alleged criminal conduct, with less emphasis to be placed on the corresponding legal qualification. Repetition and unnecessary technical language should be avoided as much as possible.

51. Should the Defence object to having an abridged version of the DCC, as opposed to the full text of the charges, read out at the confirmation of charges hearing, it shall indicate so by no later than 1 September 2025 by way of email communication. Absent any indication from the Defence to this effect, the Prosecution shall submit the abridged version of the DCC to the Chamber by way of email communication by no later than 5 September 2025.

H. Agreement as to facts

52. Pursuant to rule 69 of the Rules, '[t]he Prosecutor and the defence may agree that an alleged fact, which is contained in the charges, the contents of a document, the expected testimony of a witness or other evidence is not contested and, accordingly, a Chamber may consider such alleged fact as being proven, unless the Chamber is of the opinion that a more complete presentation of the alleged facts is required in the interests of justice, in particular the interests of the victims'.

53. The Chamber notes that the possibility of an agreement under rule 69 of the Rules constitutes a procedural tool that allows the parties and the Chamber to narrow the scope of the matters to be addressed and to focus on those in dispute by eliminating the need to discuss the facts covered by the agreement. As such, it is directly instrumental to the overall efficiency and expeditiousness of the proceedings. The parties are therefore instructed to liaise for these purposes and report back to the Chamber by no later than 1 September 2025.

54. The Chamber clarifies that, whilst potentially beneficial in light of its possible use in enhancing the efficiency of the confirmation proceedings, any agreement reached between

the parties on relevant facts is without prejudice to the Chamber's prerogative to order 'a more complete presentation of the alleged facts', whenever such complete presentation 'is required in the interests of justice, in particular the interests of the victims'. The Chamber also recalls that, under article 69(6) of the Statute, it may take judicial notice of facts of common knowledge.

V. Victims' participation and legal representation

A. Principles and procedure governing victims' participation

55. The Chamber establishes the following principles and procedure applicable to victims' participation in these proceedings. In doing so, and having regard to the circumstances of the case, the Chamber limits itself to the general procedure which has been applied in other cases,³⁶ as confirmed by the Appeals Chamber,³⁷ and hereby adopts, pursuant to rule 89 of the Rules, the procedure for admission of victims to participate in the proceedings set out at paragraph 96 of the Chambers Practice Manual.³⁸

56. The Chamber recalls that it will hold the confirmation of charges hearing on 23 September 2025. Noting the timeframe recommended in the Chambers Practice Manual,³⁹ as well as the Registry's suggestion 'that the timing for the submission of the DCC on the case record be taken into account [...] providing sufficient time [...] to collect and submit victim applications after the submission of the DCC',⁴⁰ the Chamber considers it appropriate that the Registry shall transmit the Group A and B applications to the Chamber by no later than 27 August 2025, and the Group C applications to the Chamber and the parties by no later than 20 August 2025. The parties shall make observations, if any, on the Group C applications, by no later than 27 August 2025.

57. The Chamber recalls that the Registry shall assess all victim applications received pursuant to the procedure adopted in this order against the charges alleged in the DCC and the related PCB.

³⁶ See e.g. 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, paras 37-38 (the 'Kony Victims Decision').

³⁷ *The Prosecutor v. Mahamat Said Abdel Kani*, 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 68-80.

³⁸ Chambers Practice Manual, Eighth Edition, 2024, para. 96.

³⁹ Chambers Practice Manual, Eighth Edition, 2024, para. 97.

⁴⁰ Registry's Victims Observations, para. 12.

1) Application forms for participation

58. The Registry seeks the Chamber's approval to use its 'existing joint standard application form for participation and reparations for individuals', as its use 'in other cases over the past years has yielded positive outcomes, enhancing the quantity and quality of the information gathered', and 'streamlined the application process, allowing for comprehensive submissions from victims covering both participation and reparation aspects'.⁴¹ In light of these considerations, the Chamber finds that the standard application and reparation form, for both individuals and organisations pursuant to rule 85 of the Rules,⁴² as referenced in the Chambers Practice Manual⁴³ shall be used in the present case. The Chamber underlines the importance for the Registry to manage applicant victims' expectations with regard to reparations when gathering related information through the abovementioned form.

59. Additionally, where deemed appropriate by the Registry, a 'household form', as submitted in Annex I to the Registry's Victims Observations,⁴⁴ may also be used to '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'.⁴⁵ The Chamber, endorsing the Registry's definition,⁴⁶ emphasises that the 'household form' is to be exclusively used by victim groups within the same household and where all members of the group have experienced similar crimes/harm, and shall not result in the duplication of applications.

2) Documents as proof of identity

60. The Chamber notes the recommendations of the Registry in respect of the documentary requirements for participation and, more specifically, that (i) 'while the Philippines has ongoing initiatives to establish a centralised national identification system, [...] there is a backlog in the distribution of national identity (ID) cards'; (ii) 'most Filipinos do not have national ID cards and, while birth certificates are more common, this cannot be assumed for

⁴¹ Registry's Victims Observations, para. 16.

⁴² While noting the Registry's submission that '[g]iven 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' (Registry's Victims Observations, footnote 21), the Chamber considers it appropriate to also include 'organisations' in the scope of its instruction in anticipation of any potential developments in the case.

⁴³ Chambers Practice Manual, Eighth Edition, 2024, para. 96(i).

⁴⁴ ICC-01/21-01/25-101-Conf-AnxI.

⁴⁵ Registry's Victims Observations, paras 17-18.

⁴⁶ Registry's Victims Observations, para. 17 and footnote 24.

everyone’; and (iii) the Registry ‘anticipates that some applicants will require the option of unofficial identity documents’.⁴⁷

61. The Defence submits that ‘the types of documents that should be accepted by the Pre-Trial Chamber as proof of identity’ should be limited to ‘a national identity card and or a passport containing an up-to-date photograph’ or, ‘[i]n the absence thereof’ to ‘those identification documents accepted in the staggered fashion mandated by the social security system of the Republic of the Philippines’. The Defence thus suggests ‘adopting a more stringent approach’ as ‘[t]he use of varied and insufficiently verified identity documents could lead to misidentification, double-counting, and the inclusion of false victims’. In addition, as to the Registry’s suggestion 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’, the Defence requests the Chamber to ‘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’.⁴⁸

62. The Chamber considers that the Registry has provided sufficient information regarding each document that it proposes to accept as proof of identity for victim applicants, including the issuing entity and samples. This information, together with the procedure for admission of victims to participate in the proceedings adopted above, already ensures the ‘reliability of the identity verification process and significantly reduces the risk of fraud’.⁴⁹ In light of these considerations, the Chamber accepts the documents proposed by the Registry as proof of identity for applicants and those acting on their behalf.⁵⁰

⁴⁷ Registry’s Victims Observations, para. 19.

⁴⁸ Defence’s Victims Observations, paras 2-5.

⁴⁹ Defence’s Victims Observations, para. 2.

⁵⁰ Registry’s Victims Observations, para. 20: ‘(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’.

63. The Registry also recommends to accept as proof of identity, ‘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’.⁵¹ The Chamber, agreeing with the Defence’s suggestion, considers that, should applicants rely on such signed and witnessed declarations or any documents other than those accepted above, the Chamber will decide whether to accept such documents on an *ad hoc* basis, upon receipt of the Registry’s assessment and recommendations.

B. Legal representation

64. The Chamber recalls that, pursuant to article 68(3) of the Statute and rule 90 of the Rules, it must guarantee the victims’ right to present their views and concerns in a manner which is not inconsistent with or prejudicial to the rights of the Defence and that such views and concerns may be presented by legal representatives.

65. The Chamber has taken note of the Registry’s observation that ‘[a] number of lawyers [...] expressed an interest to consult and coordinate with other lawyers and submit a proposal to work as a team representing victims’.⁵² The Chamber considers that the common legal representation of victims strikes an appropriate balance between the resources available to the Court, on the one hand, and the duty to allow victims to participate meaningfully in the proceedings before the Chamber, on the other hand, hence ensuring the effectiveness of the proceedings.⁵³

66. Accordingly, the Registry is ordered to immediately take action to organise such common legal representation. In this regard, the Chamber notes the Registry’s intention to carry out consultations in order to ‘meaningfully assist victims in choosing legal representatives’ and ‘provide the Chamber with valuable information to consider for the purpose of common legal representation’. Based on the Registry’s suggestion,⁵⁴ the Chamber orders the Registry to submit ‘a report on the consultations conducted, the information thus collected, and its potential recommendations on the way forward’ by no later than 20 August 2025. The Prosecution and the Defence shall respond to the Registry’s report, if they so wish, by no later than 27 August 2025.

⁵¹ Registry’s Victims Observations, para. 21.

⁵² Registry’s Victims Observations, para. 23.

⁵³ See for instance Kony Victims Decision, para. 47.

⁵⁴ Registry’s Victims Observations, para. 26.

67. In the meantime, the Chamber considers it necessary and appropriate to devise a temporary and provisional arrangement, as envisaged under regulation 81(4) of the Regulations, for ‘safeguarding the victims’ right to participate in any proceedings affecting their personal interests, and avoiding any gaps in their legal representation’.⁵⁵

68. While mindful of the need to protect the interests of victim applicants even before the appointment of (common) legal representatives, the Chamber finds it premature to allow ‘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 has been decided’.⁵⁶ Indeed, as stated above the Registry still has to conduct consultations on the matter, including with a view to identifying such legal representatives, whose mandate will not take effect until the Chamber’s decision on victims’ applications for participation in these proceedings.⁵⁷

69. Accordingly, the Chamber considers that, for the purposes of the abovementioned provisional arrangement, only the OPCV shall be vested with the role of general support and assistance at this stage of the proceedings. Accordingly, the Chamber assigns the OPCV to represent the collective interests of potential victims until the mandate of the team of common legal representatives takes effect.

⁵⁵ Registry’s Victims Observations, para. 29.

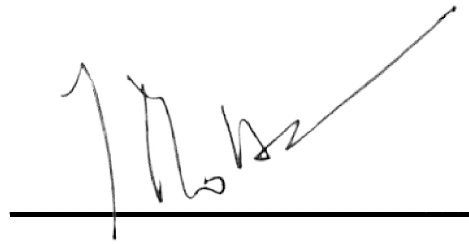
⁵⁶ Registry’s Victims Observations, para. 29(i).

⁵⁷ See also Defence’s Victims Observations, paras 6-8.

FOR THESE REASONS, THE CHAMBER HEREBY

ORDERS the parties and participants to comply with the above instructions and directions.

Done in English. A French translation will follow. The English version remains authoritative.

A handwritten signature in black ink, consisting of stylized, overlapping loops and a long, sweeping diagonal stroke extending upwards and to the right.

Judge Iulia Antoanella Motoc, Presiding

A handwritten signature in black ink, featuring a large, flowing 'A' followed by a horizontal line and a small crossbar.

**Judge Reine Adélaïde Sophie Alapini-
Gansou**

A handwritten signature in black ink, showing a series of vertical strokes and a large, circular loop at the bottom.

Judge María del Socorro Flores Liera

Dated this Thursday, 17 April 2025

At The Hague, The Netherlands