

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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

Date: 24 July 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 Document

**Public Redacted Version of the “Victims’ Response to the ‘Defence Request to Postpone the Decision on the Challenge with respect to Jurisdiction’”
(ICC-01/21-01/25-212-Conf)**

Source: Office of Public Counsel for Victims

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

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☐ 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

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REGISTRY

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M. Zavala Giler, Osvaldo

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☐ Detention Section

☐ Victims Participation and
Reparations Section

☐ Other

I. INTRODUCTION

1. The Principal Counsel of the Office of Public Counsel for Victims (the “OPCV” or the “Office”), appointed to represent the collective interests of potential victims until the mandate of the team of common legal representatives takes effect,¹ herewith files her response to the “Defence Request to Postpone the Decision on the Challenge with respect to Jurisdiction”² (the “Request” and the “Jurisdictional Challenge”).

2. The Request should be dismissed as it lacks any proper procedural foundation, it is at best premature, and it is, in any event, irreconcilable with the interests of victims.

3. The reasons advanced by the Defence evince a separate matter that has no bearing on the question of the Court’s jurisdiction over the crimes committed in the Republic of the Philippines during the so-called ‘*war on drugs*’, for which the Pre-Trial Chamber (the “Camber”) has issued a warrant of arrest for Mr Rodrigo Roa Duterte (“Mr Duterte”) as one of the persons allegedly responsible for their commission. As such, the Jurisdictional Challenge profoundly touches upon the interests of victims and should be adjudicated promptly in the absence of a formal withdrawal of said Challenge by the Defence.

4. The [REDACTED] raised by the Defence regarding [REDACTED] matter that has no bearing on the legal question of jurisdiction over the crimes allegedly committed in the Republic of the Philippines. Furthermore, the matter is at this stage speculative and premature as the Defence [REDACTED] before it could or would eventually bring the issue properly before the Chamber. In other words, the Chamber is currently not seized of any concrete application [REDACTED]. Consequently, there exists no legal basis for the Chamber to suspend, interrupt, adjourn or otherwise postpone its consideration of the Jurisdictional Challenge.

¹ See the “Order on the conduct of confirmation proceedings” (Pre-Trial Chamber I), [No. ICC-01/21-01/25-114](#), 17 April 2025, paras. 68-69.

² See the “Defence Request to Postpone the Decision on the Challenge with respect to Jurisdiction”, [No. ICC-01/21-01/25-205](#), 22 July 2025 (the “Request”).

5. The Jurisdictional Challenge has been fully briefed and is duly before the Chamber. Article 57(1) and (2)(a) of the Rome Statute (the “Statute”) requires that the Chamber ‘rule’ on the matter. The Chamber’s ruling will not only affect Mr Duterte, but equally so, the victims of the crimes committed during the so-called ‘*war on drugs*’ in the Philippines. Victims have a right to legal certainty with respect to the Court’s jurisdiction over said crimes. It would not be in the interests of justice to effectively abort the current deliberations only to re-litigate the matter at a later stage or if and when another suspect is brought before the Court. As previously underscored by the Defence, adjudicating the challenge at the earliest opportunity will further “*prevent the unnecessary expenditure of resources incurred*”.³

II. PROCEDURAL BACKGROUND

6. On 30 August 2011, the Republic of the Philippines acceded to the Rome Statute becoming the 117th State Party to the International Criminal Court (the “ICC”).⁴

7. On 8 February 2018, the Prosecutor opened a preliminary examination in the Situation in the Republic of the Philippines in relation to the crimes allegedly committed in the country since at least 1 July 2016 in the context of the so called “*war on drugs*” campaign launched by the Government.⁵

8. On 17 March 2018, the Republic of the Philippines withdrew from the Statute (effective on 17 March 2019).⁶

9. On 10 February 2025, the Prosecutor filed an application for a warrant of arrest for Mr Duterte as an alleged indirect co-perpetrator pursuant to article 25(3)(a) of the

³ See the “Defence Challenge with Respect to Jurisdiction”, [No. ICC-01/21-01/25-121](#), 1 May 2025 (the “Jurisdictional Challenge”), para. 2.

⁴ See ASP Press Release, [The Philippines becomes the 117th State to join the Rome Statute system](#), 30 August 2011.

⁵ See the [Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, on opening Preliminary Examinations into the situations in the Philippines and in Venezuela](#), 8 February 2018.

⁶ See ICC Press Release, [President of the Assembly of States Parties regrets withdrawal from the Rome Statute by the Philippines](#), 18 March 2019.

Statute for three crimes against humanity allegedly committed in the Philippines between 1 November 2011 and 16 March 2019.⁷

10. On 7 March 2025, the Chamber issued a warrant of arrest for Mr Duterte.⁸

11. On 12 March 2025, Mr Duterte was surrendered to the ICC.⁹

12. On 1 May 2025, the Defence filed the Jurisdictional Challenge.¹⁰

13. On 22 July 2025, the Defence filed the Request.¹¹

14. On 23 July 2025, the Prosecution filed its response to the Request.¹²

III. CLASSIFICATION

15. Pursuant to regulation 23bis (1) and (2) of the Regulations of the Court, the present submissions are classified as confidential, because they refer to the content of documents bearing the same classification. A public redacted version will be filed simultaneously.

IV. SUBMISSIONS

16. The Defence submitted the Jurisdictional Challenge on 1 May 2025 “[f]or the sake of judicial efficiency”.¹³ It averred that said challenge “should be resolved as a preliminary matter”, since “such an approach will prevent the unnecessary expenditure of resources incurred”.¹⁴

⁷ See the “Public redacted version of ‘Prosecution’s urgent application under article 58 for a warrant of arrest against Rodrigo Roa DUTERTE’”, 10 February 2025, ICC-01/21-80-US-Exp, [No. ICC-01/21-01/25-80-Red](#), 13 March 2025.

⁸ See the “Warrant of Arrest for Mr Rodrigo Roa Duterte” (Pre-Trial Chamber I), [No. ICC-01/21-01/25-83](#), 7 March 2025.

⁹ See ICC Press Release, [Rodrigo Roa Duterte in ICC custody](#), 12 March 2025.

¹⁰ See the Jurisdictional Challenge, *supra* note 3, para. 2.

¹¹ See the Defence Request, *supra* note 2.

¹² See the “Public Redacted Version of ‘Prosecution’s response to “Defence Request to Postpone the Decision on the Challenge with respect to Jurisdiction”’”, No. ICC-01/21-01/25-210-Red, 23 July 2025, para. 2.

¹³ *Idem*, para. 2.

¹⁴ *Ibid.*

17. Substantively, the Defence argued that *“the preconditions for the exercise of jurisdiction under Article 12 in the Situation of the Philippines were not met at the time the Pre-Trial Chamber authorised the opening of an investigation on 15 September 2021”* because *“the Republic of the Philippines was no longer a State Party to the Rome Statute at that critical point in time.”*¹⁵ As a consequence, the case against Mr Duterte lacks legal foundation and should be nullified forthwith.¹⁶

18. The Jurisdictional Challenge was primarily based on the legal consequence of the State’s withdrawal from the Statute, and therefore concerns generally the Situation in the Republic of the Philippines. The Prosecution and the OPCV submitted their respective observations on 9 June 2025 and the matter is currently under consideration before the Chamber. ‘Expenditure of resources’ has already occurred with respect to the adjudication of the matter. The [REDACTED] the Defence is raising at the current juncture do not affect the issue at stake. First, the Defence’s communications [REDACTED] are unrelated to the Jurisdictional Challenge, not formally before the Chamber and in their own right premature. Moreover, the Defence has not even provided a tentative or concrete timeline for the ‘postponement’, i.e. a *de facto* adjournment of deliberations or indefinite temporary stay of the proceedings.

19. As the Chamber recently held, *“suspending the adjudication of a request is not a remedy per se, and it is not provided for in the Court’s legal framework.”*¹⁷ In this regard, Trial Chamber VI in the *Ntaganda* case found the Defence’s assertions that the latter intended to submit a request for disqualification – once it had obtained relevant material in support – to be unsubstantiated and premature and rejected the request to adjourn the proceedings accordingly.¹⁸ The Request is no different. The only legally available remedy for the Defence would be to withdraw its Jurisdictional Challenge. The Defence has not done so.

¹⁵ *Idem*, para. 116.

¹⁶ *Idem*, para. 117.

¹⁷ See the “Decision on the ‘Urgent Defence Request to Suspend Adjudication on the Defence Request for Interim Release”, [No. ICC-01/01-01/25](#), 23 July 2025, para. 8.

¹⁸ See the “Decision on Defence request for temporary stay of proceedings”, [No. ICC-01/04-02/06-2335](#) (Trial Chamber VI), 18 April 2019.

20. Not only is there no legal basis to grant the requested relief of ‘postponing the adjudication’ of a request submitted by the moving party, additionally, there are competing interests at stake in relation to the adjudication of the Jurisdictional Challenge. Again, in the *Ntaganda* case, the Trial Chamber considered that the Defence’s motion concerned a temporary adjournment rather than a ‘stay of proceedings’ and, importantly, held that an *“adjournment is a ‘discretionary remedy arising from the Chamber’s power under Article 64 of the Statute to control the conduct of proceedings in a fair and expeditious manner.’”*¹⁹

21. For the victims, the Jurisdictional Challenge concerns the Situation in the Republic of the Philippines as a whole. It is not limited to the case against Mr Duterte as the ruling will necessarily have an effect on further cases within the Situation. Hence, the interests of victims, and ultimately, the interests of justice demand that the Chamber dispose of the matter without interruption, delay or indefinite suspension. In this regard, the Principal Counsel seconds the Prosecution’s submission that *“a prompt ruling on jurisdiction can only promote the efficiency and expeditiousness of the proceedings.”*²⁰

22. The importance of questions of jurisdiction for victims is underscored by the fact that they have a statutory right to submit observations on the matter as unequivocally stated in the Statute. This fact alone emphasizes victims’ vested interest in knowing the outcome of any challenge to the jurisdiction of the Court. Justice demands that such rulings are not subject to undue delay. Curtailing victims’ rights on the basis of a mere possibility that the Defence may raise [REDACTED] would not only be unprecedented and legally unsound, but ultimately prejudicial to the victims exercising their statutory rights before this Court, setting a dangerous precedent in this regard.

¹⁹ *Idem*, para. 11 (emphasis added).

²⁰ See the “Public Redacted Version of ‘Prosecution’s response to “Defence Request to Postpone the Decision on the Challenge with respect to Jurisdiction””, [No. ICC-01/21-01/25-210-Red](#), 23 July 2025, para. 2.

V. CONCLUSION

23. For the foregoing reasons, the Principal Counsel respectfully requests the Chamber to dismiss the Request.

A handwritten signature in black ink, reading "Paolina Massidda". The signature is written in a cursive style with a horizontal line underneath the name.

Paolina Massidda
Principal Counsel

Dated this 24th July 2025

At The Hague, The Netherlands