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**Cour
Pénale
Internationale**

**International
Criminal
Court**



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

Date: 27 August 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

CONFIDENTIAL

**Defence Observations on the Registry's Report concerning
Group C Applications for Victim Participation in Pre-Trial Proceedings**

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**

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☒ **Counsel Support Section**

☒ **Victims and Witnesses Unit**

☐ **Detention Section**

☒ **Victims Participation and
Reparations Section**

☐ **Other**

1. The Defence for Mr Duterte hereby presents its observations on the Registry report of 20 August 2025 ("the Report") concerning the so-called Group C applications for victim participation in the pre-trial proceedings.¹ It will be recalled that Group C applications emanated from alleged victims concerning whom the Registry could not make a clear determination.²

The scope of the case

2. The Defence notes that the Registry fixes the parameters of victimisation by reference to the "WoD"; namely, the so-called war on drugs. This is a nebulous concept. The Defence submits that the scope of the case is more appropriately defined by the common criminal plan alleged by the Prosecution and/or the supposed objectives of Mr Duterte's purported criminality. The common criminal plan, the illegal inducement and the prohibited aiding and abetting imputed to Mr Duterte concerned the "neutralisation" of "alleged criminals in the Philippines (including those perceived or alleged to be associated with drug use, sale or production) through violent crimes including murder".³ Accordingly, the Chamber must find support for the contention that the primary victim concerned either was, or was perceived to be, a criminal. Failure to satisfy this preliminary threshold does not distinguish the victimization alleged from other unrelated random acts of police violence and should disqualify participation.

¹ Registry Report on Group C Applications for Victim Participation in Pre-Trial Proceedings, [ICC-01/21-01/25-239-Conf-Red](#), 20 August 2025 ("Report"). The present observations are filed as "Confidential" pursuant to [Regulation 23bis\(2\)](#) of the Regulations of the Court as they refer to submissions of the same classification.

² Registry Transmission of Group C Applications for Victim Participation in Pre-Trial Proceedings, [ICC-01/21-01/25-237-Conf-Red](#), 20 August 2025 ("Registry Transmission of Group C Applications").

³ Corrected Version of "Prosecution's Pre-Confirmation Brief", 18 July 2025, ICC-01/21-01/25- 201-Conf, [ICC-01/21-01/25-201-Conf-Corr](#), 24 July 2025, p. 7; Document Containing the Charges, [ICC-01/21-01/25-178-Conf](#), 4 July 2025, para. 4.

3. Thereafter, the Defence suggests that for participation in the case to be allowed, the applicant must satisfy an additional threshold and show that the harm alleged is attributable to the 49 crimes of murder or attempted murder charged in the Document Containing the Charges ("DCC"). With this in mind, the Defence is particularly mindful of the Registry's comment that "less than 5% of these forms [Group C Applications] appear to be related to the incidents listed in the DCC".⁴ This percentage would include two of the ten sampled Applications.⁵

The redactions

4. ICC precedent has steadfastly stipulated that the scope of redactions applied to victims' applications should not be excessive and "cannot exceed what is strictly necessary in light of the applicant's security situation and must allow for a meaningful exercise by the Prosecution and the Defence of their right to reply to the application for participation".⁶
5. The number of redactions applied to the ten samples of Group C Applications are extreme and grossly offend the proportionality principle reflected in the last sentence of Article 68(1) of the Rome Statute.⁷ Indeed, the redactions have been so liberally applied – even to police statements, death certificates and medical certificates – that they do not permit the Defence to make any meaningful

⁴ [Report](#), para. 23.

⁵ *Id.*, paras. 32, 35 and fn. 40; Annex to the Report, [ICC-01/21-01/25-239-Conf-Anx](#).

⁶ *Kony and al.*, Decision on legal representation, appointment of counsel for the defence, protective measures and time-limit for submission of observations on applications for participation a/0010/06, a/0064/06 to a/0070/06, a/0081/06 to a/0104/06 and a/0111/06 to a/0127/06, [ICC-02/04-01/05-134](#), 1 February 2014 ("*Kony and al.* Decision"), para. 22; *Situation en République démocratique du Congo*, Décision autorisant le dépôt d'observations sur les demandes de participation à la procédure a/0004/06 à a/0009/06, a/0016/06 à a/0063/06 et a/0071/06, [ICC-01/04-228](#), 22 September 2006, p. 5.

⁷ See e.g., *Lubanga*, Judgment on the appeal of Mr. Thomas Lubanga Dyilo against the decision of Pre-Trial Chamber I entitled "First Decision on the Prosecution Requests and Amended Requests for Redactions under Rule 81", [ICC-01/04-01/06 \(OA 5\)](#), 14 December 2006, para. 34; *Kony and al. Decision*, para. 24.

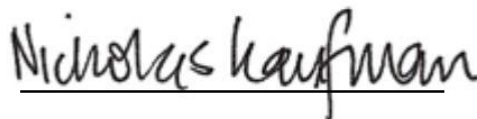
assessment of whether the applicants concerned have suffered personal harm as a result of the crimes imputed to Mr Duterte. Just by way of example, the Defence refers to the Application emanating from a/50073/25 which, apart from a perfunctory mention of shootings and policemen, is so heavily redacted that it is unintelligible.⁸ More concerning, a/50073/25's form is alleged to be one of the two applications that relate to one of the incidents contained in the DCC.⁹

Nexus between the applicant and the victim

6. The Defence further notes that it is not able to provide observations on an application filed by a person acting on behalf of an alleged victim, where there is no indication of the relationship between that alleged victim and the applicant. The Defence submits that such applications should be rejected on this basis alone.

Prejudicial quotes

7. Finally, the Defence regrets the Registry's provision of selective quotes from applications that were not transmitted.¹⁰ These quotes, contained in more than three pages of the Report, are isolated from their context and their prejudicial effect far outweigh their legal value.



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Dated this 27th day of August 2025

At The Hague, the Netherlands

⁸ Registry Transmission of Group C Applications, [Annex 5](#), p. 18.

⁹ Annex to the Report, [ICC-01/21-01/25-239-Conf-Anx.](#)

¹⁰ [Report](#), para. 37.