

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

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

Date: **8 December 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

Prosecution's Clarification on the Proposed Scope of the Charges

Source: Office of the Prosecutor

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**

☐ **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

☐ **Counsel Support Section**

M. Osvaldo Zavala Giler

☐ **Victims and Witnesses Unit**

☐ **Detention Section**

☐ **Victims Participation and Reparations
Section**

☐ **Other**

I. INTRODUCTION

1. On 4 July 2025, pursuant to Pre-Trial Chamber I's order,¹ the Prosecution filed its Document Containing the Charges ("DCC").² On 18 July 2025, the Prosecution filed its Pre-Confirmation Brief ("PCB").³ On 3 December 2025, Pre-Trial Chamber I ordered the Prosecution to clarify whether the scope of charges sought to be confirmed is limited to the specific incidents and murder victims listed in the DCC and the PCB, or whether such incidents and victims are intended as a non-exhaustive list meant to provide examples of the conduct underlying the charges.⁴ The Prosecution hereby confirms that the specific incidents and murder victims listed in the DCC and PCB are intended as a non-exhaustive list.

II. CONFIDENTIALITY

2. Pursuant to regulation 23bis(2) of the Regulations of the Court, this document is filed as confidential, because it refers to filings with the same classification.

III. APPLICABLE LAW

3. The Appeals Chamber has held that charges before the Court must be described sufficiently so as to permit the trial chamber, parties and participants "to determine with certainty which sets of historical events, in the course of which crimes under the jurisdiction of the Court are alleged to have been committed form part of the charges, and which do not"⁵ and that "[i]t is not necessarily the case that such determination is possible only where the charging documents list all criminal acts underlying each charge exhaustively."⁶ The Appeals Chamber also found that "[d]epending on the circumstances of the case, the charges may be described in a less specific manner, for instance, by specifying a period of time during which and an area where criminal acts were allegedly committed by an identifiable group of perpetrators against an identifiable group of victims."⁷ The Appeals Chamber further noted that "other criminal acts not mentioned in the document containing the charges may still fall within the – broadly described – facts and circumstances of the charges"⁸ and that this determination will depend,

¹ Order on the conduct of confirmation proceedings, [ICC-01/21-01/25-114](#), paras. 28-33.

² Document Containing the Charges, [ICC-01/21-01/25-178-Conf](#) ("DCC").

³ Pre-Confirmation Brief, [ICC-01/21-01/25-201-Conf-Corr](#).

⁴ Via email at 11:43am.

⁵ *Ntaganda Appeals Judgment*, [ICC-01/04-02/06-2666-Red](#) ("*Ntaganda Appeals Judgment*"), para. 326, citing to *Bemba Dissenting Opinion to Appeal Judgment*, [ICC-01/05-01/08-3636-Anx1-Red](#) ("*Bemba Dissenting Opinion to Appeal Judgment*"), para. 27.

⁶ [Ntaganda Appeals Judgment](#), para. 326.

⁷ [Ntaganda Appeals Judgment](#), para. 326

⁸ [Ntaganda Appeals Judgment](#), para. 326, citing to [Bemba Dissenting Opinion to Appeal Judgment](#), para. 28.

inter alia, “on the scale of criminality and the mode of individual criminal responsibility alleged.”⁹

IV. PROSECUTION’S CLARIFICATION

4. The Prosecution’s DCC describes a widespread and systematic attack against the civilian population in the Philippines which occurred from 1 November 2011 to 16 March 2019 and encompassed multiple acts contrary to article 7(1) of the Rome Statute, which included hundreds of murders during Mr Duterte’s Mayoral period and thousands of murders during Mr Duterte’s Presidency.¹⁰ The DCC then sets out three thematically-defined counts (being: crimes in and around Davao City during Mr Duterte’s Mayoral period; crimes targeting so-called ‘High-Value Targets’ during Mr Duterte’s Presidency; and crimes perpetrated during *barangay* clearance operations during Mr Duterte’s Presidency).¹¹ These three counts comprise 49 incidents involving 78 victims of murder and attempted murder.¹² As Mayor and President (as applicable) Mr Duterte is not alleged to be responsible as a direct perpetrator of the charged crimes, but rather pursuant to articles 25(3)(a)(indirect co-perpetration), and/or 25(3)(b)(ordering and/or inducing), and/or 25(3)(c)(aiding and abetting).

5. Given the circumstances of this case, including the alleged scale of criminality and modes of liability, the Prosecution clarifies that the 49 incidents are a non-exhaustive list of examples of the conduct underlying the charges. Similarly, the 78 victims referenced in the DCC are a non-exhaustive list of victims in this case.

6. Should the Pre-Trial Chamber confirm the charges in this case, then subject to ensuring appropriate notice is provided to the Defence,¹³ and consistent with the Court’s legal framework¹⁴ and its jurisprudence, the Prosecution may present evidence of additional

⁹ [Ntaganda Appeals Judgment](#), para. 326. See also *Ntaganda Trial Judgment*, [ICC-01/04-02/06-2359](#), paras. 38-41, in particular para. 41 which states: “Further, the Chamber may consider whether a specific type of criminal act (e.g. murder as a crime against humanity) is committed in narrowly confined temporal and geographical space and/or other parameters. These charges can be framed by these parameters and need not be framed at the level of individual criminal acts, as long as they fall within the specific parameters of the charge as confirmed by the pre-trial chamber.”

¹⁰ [DCC](#), paras. 17-24.

¹¹ [DCC](#), paras. 26-77.

¹² [DCC](#), paras. 26-77.

¹³ See e.g. *Lubanga Appeals Judgment*, [ICC-01/04-01/06-3121](#), para. 124; [Ntaganda Appeals Judgment](#), para. 325.

¹⁴ See Regulation 52 of the Regulations of the Court; article 74(2) and article 67(1)(a) of the Rome Statute.

incidents,¹⁵ and related victims,¹⁶ provided these fall within the parameters of any confirmed charges.

V. CONCLUSION

7. The Prosecution hereby clarifies that the 49 incidents and 78 victims referenced in its DCC and PCB are intended as a non-exhaustive list.

A handwritten signature in black ink, appearing to read 'Mandiaye Niang', is written over a horizontal line.

Mame Mandiaye Niang, Deputy Prosecutor

Dated this 8th day of December 2025

At The Hague, the Netherlands

¹⁵ See e.g. [Ntaganda Appeals Judgment](#), paras. 326-327; [Ntaganda Trial Judgment](#), paras. 38-41; *Said* Notification Decision, [ICC-01/14-01/21-282](#), para. 15; *Said* Amendment Decision, [ICC-01/14-01/21-396](#) (“*Said* Amendment Decision”), paras. 22-23. See also *Mladić* Appeals Judgment, [MICT-13-56-A](#), para. 36.

¹⁶ See e.g. *Abd-Al-Rahman* Amendment Decision, [ICC-02/05-01/20-626](#), paras. 18, 20, 22-24; [Said Amendment Decision](#), para. 22.