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No.: ICC-01/21

Date: 22 September 2022

PRE-TRIAL CHAMBER I

Before: Judge Péter Kovács, Presiding Judge
Judge Reine Adélaïde Sophie Alapini-Gansou
Judge María del Socorro Flores Liera

SITUATION IN THE REPUBLIC OF THE PHILIPPINES

Public

**With Confidential and Public Redacted Annex I, Confidential *EX PARTE*
Annex II only available to the Registry and Confidential Annex III**

Registry Report on Article 18(2) Victim Representations

Source: Registry

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

The Office of the Prosecutor

Karim A. A. Khan

Nazhat Shameem Khan

Colin Black

Counsel for the Defence

Legal Representatives of Victims

Victims' Representatives

States Representatives

Amicus Curiae

REGISTRY

Registrar

Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Philipp Ambach

Other

I. Introduction

1. The Registry submits its report on victims' representations pursuant to Pre-Trial Chamber I's "Order inviting observations and victims' views and concerns", issued on 14 July 2022 ("Chamber" and "Order", respectively).¹

II. Procedural History

2. On 24 May 2021, the Office of the Prosecutor ("OTP") of the International Criminal Court ("ICC") requested judicial authorisation to commence an investigation into the Situation in the Philippines, in relation to crimes within the jurisdiction of the Court allegedly committed on the territory of the Republic of Philippines ("Philippines") between 1 November 2011 and 16 March 2019 in the context of the so-called "War on Drugs" ("WoD") campaign, as well as any other crimes which are sufficiently linked to these events ("OTP First Request"). On 14 June 2021, the OTP First Request was made public.²
3. On 27 August 2021, the Registry transmitted 204 victim representations to Pre-Trial Chamber I³ together with a report thereon, pursuant to article 15(3) of the Rome Statute ("Article 15 representations").⁴ The Article 15 representations, introduced on behalf of approximately 1,530 individual victims and 1,050 families,⁵ overwhelmingly supported the opening of the investigation.⁶ The victims also raised a series of issues in their representations, including concerns about the effectiveness of the

¹ Pre-Trial Chamber I, "Order inviting observations and victims' views and concerns", 14 July 2022, ICC-01/21-47.

² Office of the Prosecutor, "Public redacted version of 'Request for authorisation of an investigation pursuant to article 15(3)', 24 May 2021, ICC-01/21-7-SECRET-Exp", 14 June 2021, ICC-01/21-7-Red.

³ Registry, "Registry Transmission of Victims' Representations", 27 August 2021, ICC-01/21-10.

⁴ Registry, "Registry Report on Victims' Representations" ("Registry Report"), 27 August 2021, ICC-01/21-11.

⁵ Registry Report, Annex I, para 24.

⁶ Registry Report, Annex I, paras 2 and 43.

Philippine judicial system and the ability and willingness to investigate the WoD-related crimes.⁷

4. On 15 September 2021, the Chamber authorised the commencement of the investigation into the Situation in the Philippines (“Situation”), in relation to “crimes within the jurisdiction of the Court allegedly committed on the territory of the Philippines between 1 November 2011 and 16 March 2019 in the context of the WoD campaign”.⁸
5. On 10 November 2021, the OTP notified the Chamber that the Philippines had requested, pursuant to article 18(2) of the Rome Statute (“Statute”), that the Prosecutor defers to the Philippines the investigation of nationals or others within its jurisdiction (“Deferral Request”).⁹
6. On 24 June 2022, the OTP requested, pursuant to article 18(2) of the Statute, to resume the investigation into the Situation in the Philippines (“OTP Second Request”).¹⁰ The Prosecutor submitted that following an analysis of the information provided by the Philippines between 22 December 2021 and 31 March 2022 in support of the Deferral Request,¹¹ he is of the view that the Philippines had not demonstrated that it has investigated or is investigating its nationals or others within its jurisdiction within the meaning of article 18(2) of the Statute.¹²
7. On 14 July 2022, the Chamber issued the Order in which it, notably:
 - i) invited the Philippines to provide observations on the OTP Second Request by 8 September 2022 at the latest; ii) invited victims and their legal representatives to submit their views and concerns on the OTP Second Request by 8 September 2022, at the latest; and iii) instructed the Victims

⁷ Registry Report, Annex I, para. 13(c).

⁸ Pre-Trial Chamber I, “Decision on the Prosecutor’s request for authorisation of an investigation pursuant to Article 15(3) of the Statute”, 15 September 2021, ICC-01/21-12.

⁹ Office of the Prosecutor, “Notification of the Republic of the Philippines’ deferral request under article 18(2)”, 18 November 2021, ICC-01/21-14.

¹⁰ Office of the Prosecutor, “Prosecution’s request to resume the investigation into the situation in the Philippines pursuant to article 18(2)”, 24 June 2022, ICC-01/21-46.

¹¹ Request, paras. 10-11.

¹² Request, para. 2.

Participation and Reparations Section (“VPRS”) of the Registry to liaise with victims and their legal representatives, if any, to collect any additional or different views or concerns related to the OTP Second Request, and to transmit them to the Chamber, together with a report thereon, by 22 September 2022 at the latest.¹³

8. On 8 September 2022, the Philippine Government submitted its Observation on the OTP Second Request.¹⁴
9. On 22 September 2022, the Registry transmitted to the Chamber 8 victims’ representations.¹⁵

III. Classification

10. Pursuant to regulation 23*bis*(1) of the Regulations of the Court (“RoC”), Annexes I and III to the present document are classified as “confidential”, since they contain sensitive information on the Registry’s *modus operandi*. A public redacted version of Annex I is also submitted. Finally, Annex II to the present document is classified as “confidential *ex parte*”, only available to the Registry”, because it contains confidential information that may lead to the identification of potential victims concerned by the Situation.

IV. Applicable Law

11. The Registry submits the present document in accordance with articles 15(3) and 68(1) of the Statute, rules 16(1) and 85 of the Rules of procedure and evidence (“Rules”), regulation 23*bis*(1) of the RoC and regulation 102 of the Regulations of the Registry.

¹³ Order, paras. 14-15 and p. 7.

¹⁴ Republic of the Philippines, “Philippine Government’s Observation on the Office of the Prosecutor’s Request”, dated 8 September 2022 and registered on 9 September 2022, ICC-01/21-51.

¹⁵ Registry, “Registry Transmission of Victims’ Representations”, 22 September 2022, ICC-01/21-53.

V. Submissions

12. The Registry hereby transmits its report on victim representations pursuant to Article 18(2) (Annex I), its assessment of the representations transmitted (Annex II), and an explanation of the criteria applied when conducting the legal assessment of the representations under rule 85 of the Rules (Annex III).


p. p. Marc Dubuisson, Director, Division of Judicial Services

On behalf of
Peter Lewis, Registrar

Dated this 22 September 2022

At The Hague, The Netherlands