

Annex 1

Public redacted

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Introduction

1. On 17 April 2025, Pre-Trial Chamber I (“Chamber”) issued the “Order on the conduct of confirmation proceedings” (“Order”)¹ in the case *The Prosecutor v. Rodrigo Roa Duterte* (“Duterte case”, or “Case”), *inter alia*, ordering the Registry “to immediately take action to organise [the] common legal representation [of victims]”.² Further noting 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”,³ the Chamber ordered 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”.⁴
2. In accordance with the Order, the Registry hereby submits the following report (“Report”), which is structured as follows:
 1. Methodology of the consultations;
 2. Information collected;
 3. Registry observations;
 4. Registry recommendations.

1) Methodology of the consultations

3. In the section below, the Registry describes the activities carried out since the issuance of the warrant of arrest for Mr Duterte (“Warrant of Arrest”)⁵ and the Order; and sets out the sources and types of information collected by the Registry

¹ Pre-Trial Chamber I, “Order on the conduct of confirmation proceedings”, 17 April 2025, ICC-01/21-01/25-114.

² Order, para. 66.

³ Order, para. 66. See Registry, “Registry Submissions on Matters Related to the Participation of Victims, ICC-01/21-01/25-101-Conf-Exp, paras. 24-26. A public redacted version was notified on the same day, ICC-01/21-01/25-101-Red.

⁴ Order, para. 66.

⁵ Pre-Trial Chamber I, “Warrant of Arrest for Mr Rodrigo Roa Duterte”, 7 March 2025, ICC-01/21-83. The warrant of arrest was reclassified as public on 11 March 2025.

to respond to the Chamber's requests. These include consultations with [REDACTED]⁶ and legal representatives (altogether "Stakeholders").

a. Scope of the consultations

4. Since the issuance of the Warrant of Arrest, the Victims Participation and Reparations Section ("VPRS") has undertaken several activities [REDACTED].
5. [REDACTED].^{7 8}
6. [REDACTED].^{9 10}

b. Consultation [REDACTED]

7. [REDACTED].¹¹

i. [REDACTED]

8. [REDACTED].^{12 13}
9. [REDACTED].
10. [REDACTED].

ii. Desk review of application forms

11. To date, the Registry has received 303 applications for participation in the *Duterte* case.¹⁴

⁶ [REDACTED].

⁷ [REDACTED].

⁸ [REDACTED].

⁹ [REDACTED].

¹⁰ [REDACTED].

¹¹ [REDACTED].

¹² [REDACTED].

¹³ [REDACTED]

¹⁴ This number includes all applications for participation received as of 15 August 2025, whether or not they fall within the scope of the Case (excluding duplicates and applications for reparations only). [REDACTED]. Verifications to identify duplicate applications were not completed at the time of the Report.

12. The victims' views on legal representation were collected through a series of questions included in their applications for participation and reparations in the proceedings.¹⁵ These questions invited victims to indicate (1) their preferences as regards legal representation,¹⁶ and (2) their capacity to finance their legal representation.¹⁷
13. In light of the uncertainty surrounding which group of victims will ultimately be admitted to participate,¹⁸ the Registry has compiled and presents below the views expressed by two groups of victims, based on the "A-B-C" system for the transmission of applications ordered by the Chamber:¹⁹ (1) applicants who clearly fall within the scope of the Case – i.e. whose applications relate [REDACTED] ("Group A Applicants"); and (2) a sample of [REDACTED] applicants whose applications relate to [REDACTED] ("Group C Applicants").²⁰

c. Consultations [REDACTED]

14. For the VPRS, it was essential to consult with [REDACTED]. Their input was therefore considered complementary to [REDACTED]. The VPRS sought to gather as wide a range of views as possible in order to ensure a comprehensive understanding of the situation.
15. [REDACTED].

¹⁵ See the [Standard Application Form](#) (Accessed 17 August 2025). The Household form replicates the same questions regarding legal representation.

¹⁶ Questions 15. I, III, IV and V.

¹⁷ Question 15. II.

¹⁸ See Group C Report, paras. 32-34.

¹⁹ This sample differs from the sample of Group C applications that is being transmitted to the Chamber in a separate filing. Pursuant to the Order, the Registry applies the "A-B-C" approach in its transmissions of applications to the Chamber. It therefore transmits applications according to the following classification: Group A consists of applications assessed by the VPRS as clearly falling within the scope of the Case ("Group A"); Group B consists of applications assessed by the VPRS as falling clearly outside the scope of the Case; and Group C consists of applications for which the VPRS is not able to establish whether they fall within or not the scope of the Case ("Group C").

²⁰ In light of the high number of applications received close to the date of the Report, the VPRS was not able to register all information from victims preliminarily assessed as Group C. [REDACTED].

16. [REDACTED].^{21 22}

d. Communications with lawyers who expressed an interest to represent victims

17. Since the opening of the investigation in the Situation in the Philippines, and at a more accelerated pace since the arrest of Mr Duterte, staff of the VPRS and the Counsel Support Section (“CSS”) held several meetings with counsel [REDACTED] that manifested their interest in the legal representation of victims at the ICC. During these meetings, Registry staff answered counsel’s questions on *inter alia* the process for appointing legal representatives of victims at the ICC, the resources available under the ICC Legal Aid at different stages of the proceedings, and the different positions within a legal team.

18. [REDACTED].^{23 24}

2) Information collected

a. Legal representatives identified to date

i. [REDACTED]

19. [REDACTED].²⁵

ii. Legal representatives identified by victims in the application forms

²¹ [REDACTED].

²² [REDACTED].

²³ [REDACTED].

²⁴ [REDACTED].

²⁵ [REDACTED].

20. In their application forms, victims [REDACTED] are given the opportunity to indicate whether they have chosen a lawyer to represent them before the ICC.²⁶ In addition, the application form provides the option, for the unrepresented applicants, to request the Registry's assistance in selecting a lawyer from the List of Counsel,²⁷ or to be represented by a lawyer from the OPCV.²⁸
21. The Registry sets out below the choice expressed by applicants, based on a preliminary assessment of their application form against the scope of the Case:

Group A Applicants

22. Out of [REDACTED] Group A Applicants,²⁹

- [REDACTED] applicants appoint [REDACTED] as their legal representative(s).³⁰
- [REDACTED] applicants did not choose a counsel. The VPRS notes that [REDACTED] of these applications were submitted to the Registry by [REDACTED], whose representative subsequently communicated to the VPRS that all victims [REDACTED] as their legal representatives.³¹ The [REDACTED] applicant indicated, by ticking the relevant boxes in the application form, that they would like to be represented by a lawyer from the OPCV and to choose a lawyer from the ICC List of Counsel.

Group C Applicants

²⁶ Question 15. I of the Standard Application Form.

²⁷ Question 15. V. b) of the Standard Application Form. The same question is mirrored in the Household form.

²⁸ Question 15. V. a) of the Standard Application Form. The same question is mirrored in the Household form.

²⁹ At the time of this submission, the registration and legal processing of all application forms received were still ongoing, and the complete verification of duplicates was not finalized. The number of applications assessed by the VPRS as Group A may evolve by the deadline to transmit Group A and B Applications (i.e. 27 August 2025).

³⁰ This includes one applicant who had not expressed a choice for a lawyer in the application form, but who subsequently expressed to the VPRS, through a person assisting, a preference for the lawyers recommended by [REDACTED].

³¹ [REDACTED].

23. Out of [REDACTED] Group C Applicants,

- [REDACTED] applicants appoint [REDACTED]³² as legal representative(s);³³
- [REDACTED] applicants appoint [REDACTED]³⁴ as legal representative(s);
- [REDACTED] applicants have expressed a wish to be represented by the OPCV. Out of these, [REDACTED] have also asked to choose a lawyer from the List of Counsel; and
- [REDACTED] applicants do not appoint any legal representative. Among these,
 - [REDACTED] applications [REDACTED],³⁵ choose to be represented by [REDACTED].³⁶
 - [REDACTED] applicant indicated being open to choosing a lawyer from [REDACTED];
 - [REDACTED] applicants indicated that they would “listen to” or be “ok with” a legal representative that [REDACTED] would recommend.

iii. Legal representatives identified by [REDACTED]

24. In their questionnaires, the following lawyers were identified by [REDACTED]:

- [REDACTED];
- [REDACTED];
- The OPCV.³⁷

25. In this regard, in a correspondence dated 21 July 2025, [REDACTED], informed the Registry of the endorsement of the OPCV as lead counsel for victims, based on the following: (1) OPCV’s expertise “in dealing with international cases involving

³² [REDACTED].

³³ One applicant, who had not expressed a choice for a lawyer in the application form, subsequently expressed to the VPRS a preference for the lawyers recommended by [REDACTED].

³⁴ [REDACTED].

³⁵ This includes 11 applicants who [REDACTED] have submitted more than one form.

³⁶ See *supra*, fn 33.

³⁷ [REDACTED] indicated that the victims would be open to receive additional guidance on suitable lawyers from the List of Counsel and more information on the capacities of the OPCV (in particular, whether counsel from the OPCV are trauma-informed, speak local languages, and can establish a relationship of trust with victims).

crime against humanity” and with confidentiality concerns, and its cost-effectiveness, (2) “the LRV that are now wanting to represent [victims before the ICC] were non-existent during the times [victims] need[ed] lawyers to help them seek justice [in the domestic justice system]”, as well as concerns related to the [REDACTED]; (3) workable protocols to ensure regular and secure communications between the OPCV and the victims [REDACTED], and to address “culture and language barrier”; (4) the victims’ principal concerns over transparency and capacity, which, according to [REDACTED], trumps considerations of shared language and cultural aspects. In the event that the OPCV would not be able to undertake the mandate of legal representation fully, a lawyer proposed by [REDACTED] could work alongside the OPCV to represent victims [REDACTED]”.³⁸

26. Lastly, [REDACTED]³⁹ informed the Registry that [REDACTED] however, its intention to represent victims in the proceedings at the ICC is unclear - it did not communicate to the Registry a clear intention to do so, nor named a lawyer on the List of Counsel. [REDACTED].

27. In addition, the Registry received [REDACTED] proposals for the common legal representation of victims in the *Duterte* case:⁴⁰

- A correspondence dated 21 July 2025 (“Joint Proposal”), [REDACTED],⁴¹ inform the Registry *inter alia* of their joint endorsement of “the lead counsel of the LRV team” in the persons of [REDACTED].

³⁸ [REDACTED].

³⁹ [REDACTED].

⁴⁰ The Registry notes that prior to the arrest of Mr Duterte, in February 2023, it received a Power of Attorney appointing [REDACTED] to represent [REDACTED] victims “in any and all proceedings at the International Criminal Court in relation to the situation of the Republic of the Philippines”. Furthermore, in December 2024, the Registry received a letter from the above-mentioned lawyer and [REDACTED], expressing interest to be jointly appointed as co-counsel within the legal aid budget for one appointed counsel, “in the event of a prosecution in the context of the Situation in the Republic of the Philippines”. Said expression of interest letter further indicated that should these lawyers be appointed, they would be supported by junior lawyers and legal staff [REDACTED].

⁴¹ [REDACTED].

- A correspondence dated 22 July 2025 signed by [REDACTED],⁴² in which [REDACTED] informs the Registry of the following:
 - [REDACTED].
 - Acknowledging the Joint Proposal, [REDACTED] further maintained [REDACTED] wish for the [REDACTED] above-mentioned lawyers to be part of the legal team, with [REDACTED] in the proposed respective capacities described above, while “specific terms of reference may be drawn regarding the roles and functions of the LRV, subject to agreement by the LRV members [REDACTED]”.
 - [REDACTED].

iv. Information received from the lawyers

28. [REDACTED], in a joint communication,⁴³ and the OPCV,⁴⁴ in the person of its Principal Counsel, have confirmed to the VPRS their availability to represent victims in the Case, and provided additional information, available in Annex II, on the potential team composition as well as on the presence of any potential conflict of interest related to their possible appointment as CLRVs.

b. Characteristics and qualities victims consider necessary for their legal representation

i. Views expressed by the victims

29. [REDACTED]. The VPRS sought to gather and convey the views and concerns of victims [REDACTED] as expressed through their application forms (Group A and Group C Applicants) [REDACTED] have expressed the following:

Proximity to victims

⁴² [REDACTED].

⁴³ Annex II, [REDACTED].

⁴⁴ Annex II, [REDACTED].

30. [REDACTED], the majority of victims informed the Registry that they wish to be represented by a Filipino lawyer. The victims [REDACTED] also emphasised the importance of choosing legal representative(s) who are approachable, take the time to engage meaningfully with them, and possess a sound understanding of the local context and the culture.
31. Victims have also expressed the importance of appointing legal representative(s) who are able to communicate with them in their local language and who will take the time to meet with them and listen to their concerns. They have specifically requested that lawyers be accessible, available, and approachable and “take the time to check up on them”.

Competence and Commitment

32. [REDACTED] victims indicated that they want their lawyer(s) to be skilled and competent, to have experience and sufficient knowledge of the WoD context, the case before the ICC and the issue(s) victims face. Victims want their legal representative(s) to have strong communication skills, to update them regularly on the Case before the ICC and be able to explain to them, [REDACTED], what is happening in the courtroom. [REDACTED].
33. In particular, [REDACTED] victims want their lawyer(s) to be engaged [REDACTED]. They are asking for legal representatives who are not afraid, are trustworthy and cannot be influenced or corrupted.

Soft skills

34. [REDACTED] have stressed the importance of having legal representative(s) who are kind, considerate and supportive [REDACTED]. Moreover, the victims would like to be represented by someone reliable, and who treats them with respect and consideration. [REDACTED].

[REDACTED]

35. [REDACTED].

ii. Views provided by [REDACTED]

36. The following views have been provided [REDACTED]:

Proximity with victims.

37. [REDACTED] stressed the importance of having legal representative(s) who are close to the victims, and who have the ability to speak their language⁴⁵ and to listen to them. They suggest appointing legal representative(s) who will communicate and engage respectfully and easily with the participating victims, “build[ing] trust through personal interactions” throughout the proceedings.⁴⁶

38. [REDACTED]⁴⁷ have specifically advised appointing a lawyer of Filipino nationality, or at least members of the legal team who are Filipino.⁴⁸ [REDACTED]^{49 50}

39. It was also indicated [REDACTED] that the legal representatives of victims should be available and accessible, able to regularly update and explain [REDACTED] complex legal issues, in a language and using terms that they can understand, and engage directly with them.⁵¹ [REDACTED] specified that the legal representatives should make sure they are accessible to all victims, [REDACTED].⁵²

⁴⁵ [REDACTED].

⁴⁶ [REDACTED].

⁴⁷ [REDACTED].

⁴⁸ [REDACTED].

⁴⁹ [REDACTED].

⁵⁰ [REDACTED].

⁵¹ [REDACTED].

⁵² [REDACTED].

Experience and expertise

40. [REDACTED]⁵³ have mentioned the importance of having legal representatives who are competent, with a good track record and highly knowledgeable in litigating international human rights and humanitarian law and with previous similar experience.⁵⁴
41. [REDACTED], the requested legal representative(s)' experience needs to extend to having previously worked with victims of human rights abuses and violations suffered from victims of the WoD, and for the legal representative(s) to have an understanding of the victims' situation and knowledge of the political, cultural, legal, and social aspects of the WoD.
42. [REDACTED] indicated that the legal representative(s) must be trauma-informed,⁵⁵ particularly when working [REDACTED] in conditions of vulnerability.⁵⁶ Some [REDACTED] further suggested the need for a multi-disciplinary legal team to support the work of the legal representative(s).⁵⁷

Ethics and commitment [REDACTED]

43. [REDACTED] have expressed the importance for the appointed legal representative(s) to be loyal and ethical (other words used included: fair, principled, with integrity, trustworthy, independent and unbiased).⁵⁸ [REDACTED] have emphasised the need for having legal representative(s) who are not driven by personal interests. In this regard, [REDACTED] identified, as a challenge to the representation of victims in the Case, the risk that the legal representative(s) are influenced by political agendas or interests that do not align

⁵³ [REDACTED].

⁵⁴ [REDACTED].

⁵⁵ [REDACTED].

⁵⁶ [REDACTED].

⁵⁷ [REDACTED].

⁵⁸ [REDACTED].

with the victims' own goals and rights.⁵⁹ According to them, legal representation must embody solidarity and shared purpose, not just serve as a transaction; the legal representative(s) should be genuinely committed to the victims' fight for justice and prioritising the victims' interests over their own.⁶⁰

44. [REDACTED] highlighted various other human qualities they see as important in a lawyer or team of lawyers representing victims in the Case, such as empathy, compassion and sensitivity, particularly to gender, cultural and age differences.⁶¹

[REDACTED]

45. [REDACTED].⁶²

46. [REDACTED].⁶³

c. Identification of number of victim groups

i. [REDACTED]

47. [REDACTED].⁶⁴

ii. [REDACTED]

48. [REDACTED].⁶⁵ ⁶⁶

49. [REDACTED].⁶⁷

⁵⁹ [REDACTED].

⁶⁰ [REDACTED].

⁶¹ [REDACTED].

⁶² [REDACTED].

⁶³ [REDACTED].

⁶⁴ [REDACTED].

⁶⁵ [REDACTED].

⁶⁶ [REDACTED].

⁶⁷ [REDACTED].

d. Indigence of victims and availability of legal aid

50. In their application forms, all applicants from Group A and all applicants from the sample of victims from Group C indicated that they are unable to pay for their legal representation. This finding aligns with the results of the [REDACTED]. Likewise, the [REDACTED] confirmed that the victims lack the financial means to afford a legal representative. Moreover, [REDACTED] identified the lack of financial resources as one of the key challenges to effective legal representation in the Case.
51. In light of the above findings, and considering that the majority [REDACTED], the Registry expects that participating victims in the Case will rely exclusively on financial assistance that may be provided by the Court under its legal aid budget for their legal representation.⁶⁸
52. With regard to the scope of legal assistance in the present Case, the Registry has made a provisional assessment of the complexity level, taking into account all applicable parameters as stipulated in the “Legal aid policy of the International Criminal Court” (“LAP”).⁶⁹ As a result, the Registry has assessed the victims team at a complexity level 1 at the pre-trial stage. A re-assessment of the complexity level may be requested by the appointed CLRVs at any point during any stage or may be initiated by the Registrar *proprio motu* if the parameters of the case for the assessment of allocated legal aid resources change in a manner justifying an increase or decrease of legal aid as stipulated under paragraph 46 of the LAP. In this case, the appointed common legal representatives should have the burden to demonstrate that a specific parameter impacts their workload. Therefore, any final assessment of the complexity level will only be made by the Registry following submissions by the appointed LRV and in accordance with paragraph 46 of the LAP.

⁶⁸ [REDACTED].

⁶⁹ Legal aid policy of the International Criminal Court, ICC-ASP/22/9, 22 November 2023, paras. 53-54.

53. In this regard, the Registry notes that at a complexity level 1, the victims team at this stage is composed as follows: Legal Representative, Case Manager and Field Assistant.⁷⁰ This composition results in a monthly expenditure between €20,481.20 (Step 1) and €22,691.20 (Step 4) at the Pre-Trial stage.⁷¹
54. The legal representatives of victims' team would also have resources as envisaged under the programmes specified in the LAP. As specified in the LAP, the resources within a programme are administered by the Registry. In particular, under Programme 1, at complexity level 1 at the pre-trial stage, the team would be allocated resources to conduct field missions with the amount of €10,000 per year, to cover all costs associated with the purpose of facilitating communication with victims on the ground. These resources could also be used, *inter alia*, to engage "non-permanently selected field assistants".⁷²
55. Furthermore, under Programme 2, resources "to cover costs for experts, translation and other miscellaneous expenses other than that assumed by the Court" could be made available to the LRV's team..⁷³ This amount is €10,000 per year, irrespective of the stage of the proceedings and complexity level.⁷⁴
56. Finally, Programme 3 of the LAP, subject to the conditions outlined in the LAP, "covers the reimbursement of travel expenses incurred by counsel and associate counsel to and from The Hague or an area within commuting distance from the Court's premises in The Hague."⁷⁵

⁷⁰ See Table 2 of the LAP. The exact remuneration would depend on the Registry's assessment of the number of years of relevant experience collected for a specific position at the time of the assignment to a team, in line with the indicated years of relevant experience per table 6 and annex II of the Legal Aid Policy.

⁷¹ In accordance with Table 8 of the Annex II of the Legal Aid Policy, the total monthly lump-sum, including 10% compensation for taxes for full-time services for the Legal Representative would vary from €12,405.90 (Step 1) to €13,705.90 (Step 4); for the Case Manager – from €5,682.30 (Step 1) to €6,592.30 (Step 4). In accordance with paragraph 12 of the Annex II of the Legal Aid Policy, monthly remuneration of the field assistant that form part of the permanent team composition is €2,393.

⁷² LAP, para. 86.

⁷³ LAP, para. 89.

⁷⁴ LAP, para. 90.

⁷⁵ LAP, para. 92-94.

57. In the case of several CLRVs being appointed in one case, the total monthly remuneration of one position of “Legal Representative”, as foreseen under the Legal Aid Policy, would be shared among them.
58. Finally, as per the OPCV’s general mandate, the office may be vested by the Chambers, in addition, or as an alternative to external legal representation, with a mandate *inter alia* to represent victim applicants at the confirmation of charges stage and beyond.⁷⁶

⁷⁶ This is in accordance with Regulation 81.4(e) of the Regulations. For unrepresented applicants at pre-trial stage or trial stage, see Pre-Trial Chamber III, *The Prosecutor vs. Jean-Pierre Bemba Gombo*, “Decision on Victim Participation”, dated 12 September 2008 and registered on 13 October 2008, ICC-01/05-01/08-103-tENG-Corr, para. 10 and “Fifth Decision on Victims Issues Concerning Common Legal Representation of Victims”, 16 December 2008, ICC-01/05-01/08-322, para. 14; Pre-Trial Chamber II, *The Prosecutor vs. William Samoei Ruto and Joshua Arap Sang*, “First Decision on Victim’s Participation in the Case”, 30 March 2011, ICC-01/09-01/11-17, para. 23 and p. 13; See also Trial Chamber IV, *The Prosecutor vs. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus*, “Corrigendum to Decision on the Registry Report on six applications to participate in the proceedings”, 28 October 2011, ICC-02/05-03/09-231-Corr, para. 28 and p. 16; Trial Chamber III, *The Prosecutor vs. Jean-Pierre Bemba Gombo*, “Decision on the legal representation of victim applicants at trial”, 19 November 2010, ICC-01/05-01/08-1020, paras. 24-25 and 27; Pre-Trial Chamber II, *Said* case, “Decision on legal representation of victims and related matters”, 9 July 2021, ICC-01/14-01/21-119, p. 12, and para. 30. For victims authorised to participate at pre-trial and trial stage, see Pre-Trial Chamber I, *The Prosecutor v. Laurent Gbagbo*, “Decision on Victims’ Participation and Victims’ Common Legal Representation at the Confirmation of Charges Hearing and in the Related Proceedings”, 4 June 2012, ICC-02/11-01/11-138, paras. 42 to 44 and p. 26; Pre-Trial Chamber II, *The Prosecutor vs. Bosco Ntaganda*, “Decision Concerning the Organisation of Common Legal Representation of Victims”, 2 December 2013, ICC-01/04-02/06-160, para. 25 and p. 11; and Pre-Trial Chamber II, “Second Decision on Victims’ Participation at the Confirmation of Charges Hearing and in the Related Proceedings”, 7 February 2014, ICC-01/04-02/06-251, p. 20; Pre-Trial Chamber I, *The Prosecutor v. Charles Blé Goudé*, “Decision on victims’ participation in the pre-trial proceedings and related issues”, 11 June 2014, ICC-02/11-02/11-83, para. 25 and p. 20; and “Second Decision on victims’ participation in the pre-trial proceedings and related issues”, 1 August 2014, ICC-02/11-02/11-111, para. 15 and p. 15; Pre-Trial Chamber II, *Yekatom and Ngaïssona* case, “Decision on the Legal Representation of Victims”, 23 May 2019, ICC-01/14-01/18-205, para. 16; Pre-Trial Chamber II, *Said* case, “Decision on victim applications for participation in the proceedings and on legal representation of victims”, 6 October 2021, ICC-01/14-01/21-199, paras 52-53.

3) Registry observations

a. Observations on the limitations of the consultations

59. At the time of drafting this Report, the precise scope of the charges against Mr Duterte, and therefore the number of victims who will be authorised to participate, remains unclear. [REDACTED].

60. [REDACTED].⁷⁷

61. [REDACTED]. The Registry notes that the size of a victims' group may substantially affect the organisation of the common legal representation of victims, including the victims' choice of legal representatives and the ability of those legal representatives to effectively represent all victims. Moreover, the size of the victims' group has implications for the resources required to provide effective legal representation.

62. The Registry therefore submits that the present Report and its recommendations have to be considered in combination with the forthcoming Chamber's decisions on the delineation of the parameters that will define with more precision the scope of the Case and thus the group of participating victims.

b. Observations on rule 90 (4) of the Rules

i. Conflict of interest and divergent interests of victims

⁷⁷ [REDACTED].

63. In recent years, the Registry has consistently recommended to Chambers that in the absence of any conflict of interest⁷⁸ or substantially “distinct interests”⁷⁹ between participating victims that would justify their separate representation, it may be appropriate that all participating victims are represented by one CLRV.⁸⁰
64. The Registry sought to identify whether, in the present Case, the victims appear to have any conflicting or substantially distinct interests among themselves, pursuant to rule 90(4) of the Rules that would justify separate representation before the Court, or whether any other factor exists that would necessitate and justify common legal representation of victims [REDACTED].
65. While it is acknowledged that a range of interests may coexist within any group of participating victims, the Registry must identify interests that are so substantially divergent that they warrant separate legal representation.

ii. Registry's conclusion on the grouping of victims of the Case

66. Based on the aforementioned consultations, during which questions were asked to identify any conflicting or divergent interest between victims that would warrant

⁷⁸ Although Article 16(1) of the Code of Professional Conduct for Counsel (“Code”) states that “Counsel shall exercise all care to ensure that no conflict of interest arises”, no definition of conflict of interest is provided under said Code, the approach adopted thus far before the Court is that: “[i]n case the common legal representative receives conflicting instructions from one or more groups of victims, he or she shall endeavour to represent both positions fairly and equally before the Chamber. In case the conflicting instructions are irreconcilable with representation by one common legal representative, and thus amount to a conflict of interest, the common legal representative shall inform the Chamber immediately, who will take appropriate measures [...]”. Trial Chamber II, *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, “Order on the organisation of common legal representation of victims”, 22 July 2009, ICC-01/04-01/07-1328, para. 16. Moreover, Trial Chamber IV stated that “[...] a conflict of interest may arise when the situation or the specificity of the victims is so different that their interests are irreconcilable”. *The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus*, “Decision on common legal representation”, 25 May 2012, ICC-02/05-03/09-337, para. 42.

⁷⁹ For guidance on what constitutes the “distinct interest” of the victims, the Registry notes that rule 90(4) of the Rules makes reference to the criteria set out in article 68(1) of the Rome Statute that includes, inter alia, “the nature of the crime, in particular, but not limited to, where the crime involves sexual or gender violence [...]”.

⁸⁰ See, for example, Registry, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Registry, Public redacted version of “Annex I to the Registry’s Second Report on Legal Representation of Victims”, 28 January 2019, ICC-01/12-01/18-209-AnxI-Red, para. 13.

separate groups, and in light of the information currently available to the Registry, it believes that all victims can be represented by the same CLR team in this particular Case.

67. [REDACTED].

c. [REDACTED]

68. [REDACTED].⁸¹

69. [REDACTED].

4) Registry recommendations

a. Recommendations on the appointment of legal representatives of victims

Option 1 – participation limited to applicants [REDACTED] as common legal representatives of victims

70. The Registry notes the readiness and willingness of [REDACTED] represent victims in the confirmation proceedings in the Duterte case, as stated in the Joint Proposal and reaffirmed in a subsequent communication submitted as Annex II. Mindful of the fundamental tenet of rule 90(1) of the Rules regarding the victims' free choice of counsel, the Registry notes that [REDACTED] lawyers have been chosen by [REDACTED] and are supported by [REDACTED].

71. The Registry further notes that the Joint Proposal, and the subsequent communication from [REDACTED] reflect the [REDACTED].

72. Moreover, the Joint Proposal responds to a number of other key needs expressed by the victims, [REDACTED] also seem to be well placed to understand the issues related to the [REDACTED].

⁸¹ [REDACTED].

*Option 2: broader scope of the case: [REDACTED] appointed as CLRVs, potentially integrating a counsel from the OPCV*⁸²

73. [REDACTED], the Chamber may consider integrating the views of some applicants in Group C, who expressed their wish to be represented by the OPCV. [REDACTED] said that victims may also consider being represented by counsel from the OPCV or have OPCV involved in the legal representation of victims.
74. Additionally, the Chamber may consider that integrating a member of the OPCV within the legal team⁸³ will reinforce the capacity of the team, notably in terms of experience litigating in ICC proceedings.

b. Recommendations on the monitoring of Common Legal Representatives

75. Through the consultations held in the context of the present report, it transpired, *inter alia*, that victims expect counsel to regularly seek their views and concerns on matters raised in the Case, inform their clients of procedural developments and provide them with explanations, in a language they can understand, so they can feel that they are actively participating in proceedings.
76. The Registry is of the view that whichever model the Chamber may decide to adopt for the legal representation of victims in the instant Case, the system would benefit from a constant assessment of the actual victims' level of access, trust and confidence in their counsel.⁸⁴

⁸² [REDACTED].

⁸³ The Registry notes that the Chamber may also consider integrating a member of the OPCV in another position within the legal team. See precedent from cases in the Situation in Kenya. Trial Chamber V, *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*, "Decision on victims' representation and participation, 3 October 2012, ICC-01/09-01/11-460, paras. 41-45; *The Prosecutor v. Francis Kirimi Muthaura and Uhuru Muigai Kenyatta*, "Decision on victims' representation and participation", 3 October 2012, ICC-01/09-02/11-498, paras. 40-44.

⁸⁴ As Trial Chamber VI has held, "If there is no relationship of trust between the CLR and the participating victims or no effective communication between them, it is difficult to envisage how their views and concerns can be effectively represented in a meaningful manner". Trial Chamber VI, *The Prosecutor v. Mahamat Said Abdel Kani*, "Decision on matters relating to the participation of victims during the trial", 13 April 2022, ICC-01/14-01/21-278, para. 31.

77. Should the Chamber wish to be regularly updated on whether there is sufficient communication between counsel and their clients, it may order the Registry to liaise with the CLRVs and file regular updates to the Chamber (for example, every four months, should the Case continue in the trial phase) on, *inter alia*, the recent activities of the CLRVs and any views and/or concerns expressed by the participating victims to the CLRVs.⁸⁵

78. In addition, the Chamber could request the Registry to implement additional measures to assess and, if necessary, recommend adjustments to the common legal representation scheme, including the following :⁸⁶

- in consultation with, and with the assistance of the CLRs, The Registry could seek victims' views on their participation after the decision on the confirmation of charges.⁸⁷ This consultation would allow the Registry to evaluate victims' overall satisfaction with their legal representation and the effectiveness of their communication about the developments in the Case,⁸⁸ and to propose any amendment to the scheme for the next phase of proceedings, if applicable;
- establishing a reporting system through which the Registry systematically (i) records any incident or concern in relation to the legal representation of victims that comes to its attention; (ii) performs an objective assessment of

⁸⁵ Such regular reports have been ordered by Chambers in other cases, such as *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*. See Trial Chamber VI' Decision on victims' participation in trial proceedings Trial Chamber V, "Second Decision on Victims' Participation in Trial Proceedings (Group A)", 11 December 2020, ICC-01/14-01/18-765, para. 9.

⁸⁶ These have already been proposed by the Registry to Trial Chamber VI in the context of the *Said* case and the *Mokom* case. See Registry, *The Prosecutor v. Mahamat Said Abdel Kani*, "Registry Report in Relation to the Legal Representation of Victims in Trial Proceedings", 21 July 2022, ICC-01/14-01/21-424", paras. 24-31. The Registry notes that the scheme proposed in this context was for monitoring legal representation during trial proceedings and Registry, See also *The Prosecutor v. Maxime Jeoffroy Eli Mokom Gawaka*, "Public redacted version of Annex to the Registry Report on Legal Representation of Victims", 7 October 2022, ICC-01/14-01/22-98-Anx-Red, paras. 81-84.

⁸⁷ The Registry will decide in due time on the appropriate timing to carry out the consultations, taking into account the security conditions in the field and the availability of resources. These consultations may include other relevant stakeholders, [REDACTED].

⁸⁸ [REDACTED].

the incident or concern;⁸⁹ and (iii) channels it to the Chamber, as appropriate, after consulting with the legal representative(s).

79. In order to implement the above mentioned scheme, the Registry would prepare and disseminate, in coordination with the CLRVs, to all participating victims information notes on victim counsel's duties and what victims can expect from their legal representative as per the Court's framework, and on the above consultation scheme, including guidance on how to contact the Registry.

⁸⁹ Different factors are taken into account to assess incidents. This includes, for example, who is affected, the seriousness of the incident/event, its frequency, as well as other contextual factors. The Registry may seek additional information at this juncture of anybody involved including the legal representative(s) concerned, observing rules of confidentiality, safety and security.