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No.: ICC-01/21

Date: 22 May 2023

**THE APPEALS CHAMBER**

**Before:** Judge Marc Perrin de Brichambaut, Presiding Judge  
Judge Piotr Hofmański  
Judge Luz del Carmen Ibáñez Carranza  
Judge Solomy Balungi Bossa  
Judge Gocha Lordkipanidze

**SITUATION IN THE REPUBLIC OF THE PHILIPPINES**

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

**Registry Report on Article 18(2) Victims' Representations  
in Appeals Proceedings**

**Source: Registry**

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

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The Republic of the Philippines

**Amicus Curiae****REGISTRY**

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**Registrar**

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**Counsel Support Section****Victims and Witnesses Unit****Detention Section****Victims Participation and Reparations  
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## **I. Introduction**

1. The Registry submits its report on victims' representations pursuant to the Appeals Chamber's "Decision on requests for victims' involvement and access to filings", issued on 21 March 2023 ("Chamber" and "Decision", respectively).<sup>1</sup>

## **II. Procedural History**

2. On 24 May 2021, the Office of the Prosecutor ("OTP") requested judicial authorisation pursuant to article 15(3) of the Rome Statute ("Statute") to commence an 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 Republic of Philippines ("Philippines") between 1 November 2011 and 16 March 2019 in the context of the so-called "War on Drugs" ("WoD") campaign, and other crimes sufficiently linked to these events. This request was made public on 14 June 2021.<sup>2</sup>
3. On 27 August 2021, the Registry transmitted to Pre-Trial Chamber I 204 victim representations,<sup>3</sup> together with a report thereon ("Article 15(3) Report").<sup>4</sup> The Article 15(3) victim representations, introduced on behalf of approximately 1,530 individual victims and 1,050 families, overwhelmingly supported the opening of the investigation into the Situation.<sup>5</sup>

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<sup>1</sup> Appeals Chamber, "Decision on requests for victims' involvement and access to filings", 21 March 2023, ICC-01/21-66.

<sup>2</sup> 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.

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

<sup>4</sup> Registry, "Registry Report on Victims' Representations", 27 August 2021, ICC-01/21-11.

<sup>5</sup> Id., Annex I, paras 2 and 43.

4. On 15 September 2021, Pre-Trial Chamber I authorised the commencement of the investigation into the 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.<sup>6</sup>
5. On 10 November 2021, the OTP notified Pre-Trial Chamber I that the Philippines had requested, pursuant to article 18(2) of the Statute, that the Prosecutor defers to the Philippines the investigation of nationals or others within its jurisdiction (“Deferral Request”).<sup>7</sup>
6. On 24 June 2022, the OTP requested, pursuant to article 18(2) of the Statute, to resume the investigation into the Situation.<sup>8</sup>
7. On 22 September 2022, the Registry transmitted to Pre-Trial Chamber I eight victims’ representations submitted on behalf of 293 individual victims and 366 families,<sup>9</sup> together with a report thereon (“Article 18(2) Report”).<sup>10</sup> The Article 18(2) victim representations unanimously supported the resumption of the investigation by the ICC Prosecutor.<sup>11</sup>
8. On 26 January 2023, Pre-Trial Chamber I authorised the OTP to resume its investigation into the Situation (“Article 18(2) Decision”).<sup>12</sup>

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<sup>6</sup> 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.

<sup>7</sup> Office of the Prosecutor, “Notification of the Republic of the Philippines’ deferral request under article 18(2)”, 18 November 2021, ICC-01/21-14.

<sup>8</sup> 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.

<sup>9</sup> Registry, “Registry Transmission of Victims’ Representations”, 22 September 2022, ICC-01/21-53.

<sup>10</sup> Registry, “Report on Article 18(2) Victim Representations”, 22 September 2022, ICC-01/21-55.

<sup>11</sup> *Id.*, Annex I, para. 2.

<sup>12</sup> Pre-Trial Chamber I, “Public Redacted Version of ‘Authorisation pursuant to article 18(2) of the Statute to resume the investigation’”, 26 January 2023, ICC-01/21-56-Red.

9. On 3 February 2023, the Philippines filed its notice of appeal against the Article 18(2) Decision in which it also requested suspensive effect of said decision (“Philippines’ appeal”).<sup>13</sup>
10. On 24 February 2023, the Registry transmitted to the Chamber a request from victims to present their views and concerns on the Philippines’ appeal (“Victims’ Request”).<sup>14</sup>
11. On 24 February 2023, the Office for Public Counsel for Victims (“OPCV”) filed a request to appear before the Appeals Chamber to represent the general interest of the victims under regulation 81(4) of the Regulations of the Court (“RoC” and “OPCV Request” respectively).<sup>15</sup>
12. On 2 March 2023, the Philippines filed its “Response to requests to participate before the Appeals Chamber”, requesting the Chamber to dismiss both the Victims’ and the OPCV Requests.<sup>16</sup>
13. On 13 March 2023, the Republic of the Philippines filed its appeal brief.<sup>17</sup>
14. On 21 March 2023, the Chamber issued the Decision by which it *inter alia* instructed the VPRS: i) to collect and transmit to the Chamber representations from any interested victims and victim groups, with the assistance of their lawyers if they so wish, on the issue of whether, in their

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<sup>13</sup> The Republic of the Philippines, “Philippine Government’s Notice of Appeal against the Pre-Trial Chamber I’s ‘Authorisation pursuant to article 18(2) of the Statute to resume the investigation’ (ICC-01/21-56) with Application for Suspensive Effect”, dated 3 February 2023 and notified on 6 February 2023, ICC-01/21-57.

<sup>14</sup> Registry, “Registry Transmission of an ‘Application to present victims’ views and concerns in the appeal of the Republic of the Philippines against the Pre-Trial Chamber I’s ‘Authorisation pursuant to article 18(2) of the Statute to resume the investigation’”, 24 February 2023, ICC-01/21-62-Conf-Exp. A public redacted version was notified on the same date, ICC-01/21-62-Red.

<sup>15</sup> OPCV, “Request to appear before the Appeals Chamber pursuant to regulation 81(4)(b) of the Regulations of the Court”, 24 February 2023, ICC-01/21-63.

<sup>16</sup> The Republic of the Philippines, “Response to requests to participate before the Appeals Chamber”, 2 March 2023, ICC-01/21-64.

<sup>17</sup> The Republic of the Philippines, “Philippine Government’s Appeal Brief against ‘Authorisation pursuant to article 18(2) of the Statute to resume the investigation’”, 13 March 2023, ICC-01/21-65.

view, the Article 18(2) Decision allowing for the resumption of the investigation by the ICC Prosecutor should be confirmed, amended or reversed on appeal; and ii) to prepare and submit, by 22 May 2023, a report on the victim representations received. The Chamber also authorized the OPCV to submit, by 18 April 2023, written observations on the Republic of the Philippines' appeal brief in relation to the general interests of victims.<sup>18</sup>

15. On 27 March 2023, the Appeals Chamber rejected the Philippines' request for suspensive effect of the Article 18(2) Decision.<sup>19</sup>

16. On 14 April 2023, the OTP filed its response to the Philippines Government's Appeal Brief.<sup>20</sup>

17. On 18 April 2023, the OPCV submitted its observations on the Philippines Government Appeal against the Article 18(2) Decision.<sup>21</sup>

18. On 22 May 2023, the Registry transmitted to the Chamber five victims' representations containing views and concerns on whether the Article 18(2) Decision allowing for the resumption of the investigation by the ICC Prosecutor should be confirmed, amended or reversed on appeal.<sup>22</sup>

### III. Classification

19. Pursuant to regulation 23*bis*(1) of the RoC, Annexes I to III of the present document are classified as "confidential *ex parte*, only available to the

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<sup>18</sup> Decision, p. 3 and paras 18-19 and 24.

<sup>19</sup> Appeals Chamber, "Decision on request for suspensive effect of Pre-Trial Chamber I's 'Authorisation pursuant to article 18(2) of the Statute to resume the investigation' of 26 January 2023 (ICC-01/21-56)", 27 March 2023, ICC-01/21-67.

<sup>20</sup> OTP, "Prosecution's Response to the Philippines Government's Request for Leave to Reply", 14 April 2023, ICC-01/21-70.

<sup>21</sup> OPCV, "Observations on behalf of victims on the Philippines Government Appeal against the Decision authorising the resumption of the investigation", 18 April 2023, ICC-01/21-71.

<sup>22</sup> Registry, "Registry Transmission of Victims' Representations", 22 May 2023, ICC-01/21-74.


Registry”, as they contain sensitive information on the Registry’s *modus operandi* or information that may lead to the identification of victims concerned by the Situation. A public redacted version of Annex I is concomitantly submitted.

#### IV. Applicable Law

20. The Registry submits the present document in accordance with articles 15(3), 18(2) 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.

#### V. Submissions

21. 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).

  
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Marc Dubuisson, Director, Division of Judicial Services  
on behalf of  
Osvaldo Zavala Giler, Registrar

Dated this 22 May 2023

At The Hague, The Netherlands