

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

*Original: English*

*No.: ICC-01/21*  
Date: 03 February 2023

**THE APPEALS CHAMBER**

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

**SITUATION IN THE REPUBLIC OF THE PHILIPPINES**

**Public Document**

**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**

**Source:** The Republic of the Philippines

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

**The Office of the Prosecutor**

Mr Karim A. A. Khan

Mr Colin Black

**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**

The Office of the Solicitor General

**Amicus Curiae**

**REGISTRY**

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**Registrar**

M. Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

## I. INTRODUCTION

1. On 26 January 2023, the Pre-Trial Chamber I rendered its decision authorising the Prosecution to resume the investigation into the situation in the Republic of the Philippines pursuant to Article 18(2) of the Statute (“PTC I Decision”).<sup>1</sup>

2. On 27 January 2023, the Embassy of the Republic of the Philippines to the Kingdom of the Netherlands received a copy of aforesaid Decision from the Registry of the International Criminal Court (“Registry”).

3. Pursuant to Rule 154(1) of the Rules of Procedure and Evidence, an appeal against a decision concerning jurisdiction and admissibility as provided for under Article 82(1)(a) of the Rome Statute (“Statute”) may be filed with the Registry not later than five days from the date on which the party filing the appeal is notified of the decision.

4. Regulation 64(1) of the Regulations of the Court requires the appellant to file a notice of appeal, stating thus:

- (a) The name and number of the case or situation;
- (b) The title and date of the decision being appealed;
- (c) Whether the appeal is directed against the whole decision or part thereof;
- (d) The specific provision of the Statute pursuant to which the appeal is filed;
- (e) The relief sought.

## II. NOTICE OF APPEAL

5. Pursuant to Article 18(4), Article 82(1)(a) of the Statute, Rule 154(1) of the Rules of Procedure and Evidence, and Regulation 64(1) of the Regulations of the Court, the Philippine Government, in *Situation in the Republic of the Philippines*, ICC-01/21, hereby gives notice of appeal against the PTC I Decision dated 26 January 2023.

6. The Appeal is directed against the whole decision.

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<sup>1</sup> Pre-Trial Chamber I, “Authorisation pursuant to article 18(2) of the Statute to resume the investigation,” 26 January 2023, ICC-01-21-56-Conf 26-01-2023 (hereinafter, PTC I Decision).

7. In authorizing the OTP's request to resume investigation into the Philippine situation, the Pre-Trial Chamber I held that: (a) the GovPh can no longer re-litigate the issue of gravity as this has already been "considered and rejected for the purposes of the Article 15 Decision;"<sup>2</sup> (b) it has jurisdiction over the Philippine situation;<sup>3</sup> and (3) "the various domestic initiatives and proceedings relied on by the Philippines do not amount to tangible, concrete and progressive investigative steps being carried out with a view to conducting criminal proceedings, in a way that would sufficiently mirror the Court's investigation as authorised in the Article 15 Decision."<sup>4</sup>

8. The Philippine Government disagrees with, and hereby rejects, the Pre-Trial Chamber I's conclusions above mentioned.

9. The relief being sought is a reversal of the decision and the denial of the OTP's request to resume investigation regarding the *Situation in the Republic of the Philippines*.

### III. REQUEST FOR SUSPENSIVE EFFECT

10. Article 82(3) of the Statute provides that an appeal shall not of itself have suspensive effect unless the Appeals Chamber so orders, upon request, in accordance with the Rules of Procedure and Evidence. Rule 156 (5) of the Rules of Procedure and Evidence provides that the party appealing may make said request when filing the appeal. The Philippine government thus hereby requests that the implementation of the PTC I Decision be suspended pending final resolution of this Appeal.

### IV. RELIEF SOUGHT

11. Accordingly, the Philippine Government requests the Appeals Chamber to:
- a. Accept this appeal against the PTC I Decision pursuant to Article 18(4), Article 82(1)(a) of the Statute, Rule 154(1) of the Rules of Procedure and Evidence, and Regulation 64(1) of the Regulations of the Court;
  - b. Grant suspensive effect to this appeal pursuant to Article 82(3) of the Statute.

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<sup>2</sup> PTC I Decision, para. 25.

<sup>3</sup> PTC I Decision, para. 26.

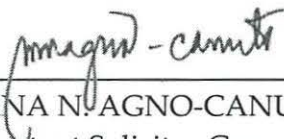
<sup>4</sup> PTC I Decision, para. 96.

The whole respectfully submitted.



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MENARDO I. GUEVARRA  
Solicitor General



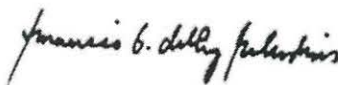
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MYRNA N. AGNO-CANUTO  
Assistant Solicitor General



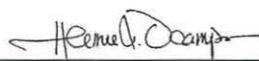
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HENRY S. ANGELES  
Assistant Solicitor General



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MARISSA B. DELA CRUZ-GALANDINES  
Assistant Solicitor General



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HERMES L. OCAMPO  
Assistant Solicitor General



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MA. CIELO G. SE-RONDAIN  
Assistant Solicitor General

THE OFFICE OF THE SOLICITOR GENERAL

On behalf of  
The Republic of the Philippines

Dated this 03 February 2023

At The Hague, Netherlands