

Mr. Josep Borrell
High Representative/Vice-President of the European Commission

3rd December 2021

Re: the Human Rights violations in the Philippines and the ICC investigation of the potential crimes against humanity committed under R. Duterte's administration

Dear Mr. Borrell,

We, the undersigned members of the European Parliament, are writing to you to express our deep concern regarding the degradation of the human rights situation in the Philippines, since the arrival to power of Rodrigo Duterte in 2016 as President, and to call on the European Union to support the International Criminal Court in its recent ruling to investigate the Philippines for possible Crimes against Humanity of murder committed in President Duterte's War on Drugs.

There is a massive violation of the human rights in the Philippines and a clear pattern of systematic persecution against human rights defenders materialized through the phenomenon of *Red-Tagging*, which consists in the stigmatization and systematic public labeling as “*terrorists*” by the state security forces of people who express criticism of or disagree with the current policies. Moreover, this practice is being emboldened by the Anti-Terror Law which was adopted by the Philippine Congress on 3 July 2020, in the midst of the COVID-19 pandemic, that broadly and vaguely defines the concept of “terrorism” and thus allows the government to prosecute any expression contrary to its official position. As this law poses to criminalize the exercise of basic human rights and the enjoyment of fundamental freedoms of the people, it is now subject to scrutiny by the Philippine Supreme Court after more than 30 Petitions have been filed questioning its legality and constitutionality, and will go down history as the most controversial law since the Declaration of Martial Law by then Dictator Ferdinand Marcos in 1972.

According to the UN High Commissioner for Human Rights, Michelle Bachelet, in her latest report on the Philippines that was delivered on 7 October 2021 during the 48th session of the Human Rights Council, there are “*continuing and severe human rights violations and abuses across the country, including killings by members of the security forces and law enforcement in counter-narcotics and counter-insurgency operations – often in circumstances that indicate basic human rights standards have been ignored.*”¹

¹ <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=27623&LangID=E>

As you may remember, Rodrigo Duterte was elected in 2016 largely thanks to the promise of ending the phenomenon of trafficking and the unbridled consumption of drugs in the country. He then waged his so called “War on Drugs”, which quickly turned into a massive persecution against the poorest and most vulnerable, in urban and rural areas. As of December 2020, the Philippine Drug Enforcement Agency confirmed that there were 5,942 suspects who were killed in official drug operations by law enforcement agents.² But human rights organizations have a higher estimate, reaching as many as 30,000 incidents of summary executions of suspected drug users or peddlers.

The gravity of these events led the former Prosecutor of the International Criminal Court (ICC), Ms. Fatou Bensouda, to carry out a preliminary examination of the situation in the Philippines as of February 8, 2018. Her conclusions, presented on April 12, 2021, establish that there is a “reasonable basis” to consider that crimes against humanity of murder were committed in the framework of President Duterte’s War on Drugs. Acting on Bensouda’s report, the Pre-Trial Chamber I of the ICC, on 15 September 2021, granted her request to commence an investigation in relation to the crimes against humanity of murder allegedly committed in the Philippines between 1 November 2011 and 16 March 2019 in the context of the War on Drugs³. Despite the fact that the Philippines withdrew from the ICC in March 2018, the Court retains jurisdiction and thus remains competent to commence the investigation, and even trial, given that the events occurred prior to the country’s exit from the International Judicial System, in accordance with the Rome Statute. As a consequence, R. Duterte immediately reported that he would not cooperate with the Court and would veto the possibility for those designated by the ICC to enter the country, going as far as threatening to arrest the officials of the Court once they set foot in the Philippines.

The significance of the foregoing circumstances cannot be underscored especially in view of the upcoming National Elections in May 2022 where Duterte’s daughter, Sara Duterte-Carpio, is poised to run for President, and worse, in tandem with Ferdinand Marcos, Jr., the son of the late Dictator, Ferdinand Marcos, Sr. This set-up was made precisely not only to continue the anti-people and anti-poor policies of Rodrigo Duterte but to pre-empt any investigation by the ICC, thus paving the way for a system of massive human rights violations with a culture of impunity.

We call on the EU to stand by on its core values of respect for human rights, freedom, democracy, equality and the rule of law, and denounce the massive human rights violations committed in the Philippines and to support mechanisms for accountability for the perpetrators of these violations and for reparation of damages for the victims.

We urge the EU to support the ICC for an effective conduct of its investigation on the Philippines, and to assist in any way the victims of the War on Drugs and their legal representatives that they may be able to participate fully and without fear in the said investigation. Finally, we request an international observation mission, by the European Parliament, to guarantee that, in the conduct of the presidential elections in May 2022 in the Philippines, the principles and the demand for free, transparent and fair elections are duly respected.

² Gov’t drug war death toll now at 5,942 - PDEA, Philippine Daily Inquirer, 01 December 2020:

<https://newsinfo.inquirer.net/1366760/govt-drug-war-death-toll-now-at-5942-pdea-2>

³ <https://www.icc-cpi.int/Pages/item.aspx?name=PR1610>

Looking forward to your prompt response,

MEP Ernest Urtasun (Greens/EFA)
MEP Javi Lopez (S&D)
MEP Hannah Neumann (Greens/EFA)
MEP Marie Toussaint (Greens/EFA)
MEP Mounir Satouri (Greens/EFA)
MEP Ignazio Corrao (Greens/EFA)
MEP Marianne Vind (S&D)
MEP Margrete Auken (Greens/EFA)
MEP Idoia Villanueva Ruiz (The Left)
MEP Javier Nart (RENEW)
MEP Nikolaj Villumsen (Greens/EFA)
MEP Salima Yenbou (Greens/EFA)
MEP Niklas Nienaß (Greens/EFA)
MEP Malin Björk (The Left)
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MEP Diana Riba i Giner (Greens/EFA)
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