



Original: English

No. ICC-01/21-01/25

Date: 21 March 2025

PRE-TRIAL CHAMBER I

Before:

**Judge Iulia Antoanella Motoc, Presiding
Judge Reine Adélaïde Sophie Alapini-Gansou
Judge María del Socorro Flores Liera**

SITUATION IN THE REPUBLIC OF THE PHILIPPINES

IN THE CASE OF *THE PROSECUTOR* v. *RODRIGO ROA DUTERTE*

Public

Order seeking observations on matters related to the conduct of confirmation proceedings

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

☒ The Office of the Prosecutor

☒ 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

☐ Amicus Curiae

REGISTRY

Registrar

Mr Osvaldo Zavala Giler

☐ Counsel Support Section

☒ Victims and Witnesses Unit

☐ Detention Section

☒ Victims Participation
and Reparations Section

☐ Other

PRE-TRIAL CHAMBER I of the International Criminal Court issues the present order to seek observations on matters related to the conduct of confirmation proceedings.

I. Procedural history

1. On 7 March 2025, the Chamber issued a warrant of arrest for Rodrigo Roa Duterte ('Mr Duterte') pursuant to article 58 of the Rome Statute (the 'Statute').¹
2. On 12 March 2025, Mr Duterte was surrendered to the Court and made his first appearance before the Chamber on 14 March 2025.²
3. On 18 March 2025, the Registry notified the Chamber of the appointment of Nicholas Kaufman as Lead Counsel for Mr Duterte in these proceedings.³

II. Disclosure and related matters

4. With a view to ensuring that the disclosure process begins as soon as possible, and particularly in light of the suspect's right to be 'informed of the evidence on which the Prosecution intends to rely' at the confirmation hearing '[w]ithin a reasonable time' before its commencement under article 61(3)(b) of the Statute, the Chamber wishes to receive detailed observations from the Prosecution on the questions set forth below with regard to disclosure and related matters, including the time needed to effectuate the disclosure and/or submit related requests to the Chamber. The Prosecution is therefore instructed to provide the Chamber with the following information, by no later than Friday, 4 April 2025:

- a) Within the category of documentary evidence, what is the overall number of written pieces of evidence the Prosecution intends to rely upon at the confirmation hearing? How many pages does this amount to? What is the original language of such evidence and/or in what language will it be made available?
- b) Does the Prosecution intend to rely upon other non-written pieces of documentary evidence, such as photographs, videos, or audio recordings? If so, what is the total

¹ Warrant of Arrest for Mr Rodrigo Roa Duterte, ICC-01/21-01/25-83. See also Prosecution's urgent application under article 58 for a warrant of arrest against Rodrigo Roa DUTERTE, ICC-01/21-80-US-Exp (public redacted version notified on 13 March 2025, ICC-01/21-01/25-80-Red) with public Annexes A-B, D-E and under seal *ex parte* Annex C.

² Decision convening a hearing for the first appearance of Mr Rodrigo Roa Duterte, ICC-01/21-01/25-90. See also Transcript of hearing, ICC-01/21-01/25-T-002-ENG.

³ Notification of the appointment of Mr. Nicholas Kaufman as Counsel for Mr Rodrigo Roa Duterte, ICC-01/21-01/25-92-Conf-Exp (public redacted version notified on 19 March 2025, ICC-01/21-01/25-92-Red) with public Annexes I-III.

length/duration and original language of such pieces of evidence and will transcripts and/or translations be made available?

- c) How many and which pieces of evidence can be immediately disclosed without redactions? How many pages, or in case of video and audio recordings, what duration does this evidence amount to?
- d) What is the estimated overall amount of (potentially) exculpatory evidence that the Prosecution intends to disclose as soon as practicable pursuant to article 67(2) of the Statute? How many pages, or in case of video and audio recordings, what duration does this evidence amount to? Does the (potentially) exculpatory evidence require redactions?
- e) How many persons, if any, does the Prosecution intend to call as witnesses to testify *viva voce* at the confirmation hearing?
- f) How many witness statements does the Prosecution intend to provide, for the purposes of the confirmation hearing, pursuant to rule 76 of the Rules of Procedure and Evidence (the 'Rules')? Does the Prosecution intend to provide such statements in their entirety or in the form of summaries, pursuant to articles 61(5) and 68(5) of the Statute?
- g) What is the language of the materials the Prosecution intends to rely upon at the confirmation hearing? If applicable, have those statements been translated into a language that the suspect fully understands and speaks, as required in rule 76(3) of the Rules? If this had not yet been done, what is the Prosecution's estimate regarding the time needed to provide such translations?
- h) Does the Prosecution intend to submit requests to withhold the identity of any potential witnesses and, if so, of how many persons? Have security assessments already been prepared for such witnesses, and, if not yet, when are they estimated to be finalised?
- i) Does the Prosecution intend to request protective measures for potential witnesses, victims or other persons at risk prior to disclosure of the names of these relevant persons and/or of certain documents, pursuant to rules 87 and 88 of the Rules? Has the Prosecution already held consultations with the Victims and Witnesses Unit (the 'VWU') regarding protective measures for witnesses, victims or other persons at risk? How many potential witnesses have been referred to the VWU for protection

purposes, including relocation? Does the Prosecution intend to refer other potential witnesses to the VWU for protection purposes before the confirmation hearing? What is the Prosecution's estimate regarding the time needed for such measures to be put in place?

- j) Does the Prosecution possess or control any books, documents, photographs or other tangible objects that are subject to inspection as material to the preparation of the Defence under rule 77 of the Rules? If so, what is the estimated overall amount of such material?
- k) Are any of the Prosecution's pieces of evidence, in particular (potentially) exculpatory evidence or evidence considered as material for the preparation of the Defence, affected by confidentiality agreements in accordance with articles 54(3)(e), 72 and 93 of the Statute? In the affirmative, has the Prosecution undertaken, or will the Prosecution undertake, steps to obtain the consent of the information provider(s) regarding the disclosure of such material?
- l) Does the Prosecution intend to submit requests in relation to unique investigative opportunities under article 56 of the Statute? If so, will such requests impact on the disclosure process and the commencement of the confirmation hearing?
- m) Is the Prosecution continuing the investigation regarding Mr Duterte and, if so, how would this impact on the disclosure process?
- n) Does the Prosecution intend, or is the Prosecution able, to implement a thematic disclosure process, i.e. provide separate disclosure packages containing only the relevant evidentiary items, classified as incriminating, exonerating, or falling under rule 77 of the Rules, in relation to specific themes or time frames such as contextual elements, specific alleged incidents or time periods, or modes of liability? If so, the Prosecution shall also submit a proposal detailing its disclosure themes.
- o) Bearing in mind the scheduled date for the confirmation hearing and the need for the Defence to have sufficient time to prepare, what does the Prosecution anticipate to be the earliest date it will be able to complete disclosure?

5. The Chamber is aware that Mr Duterte's position as to whether to object to the charges, challenge the Prosecution's evidence and, in particular, present evidence pursuant to article 61(6) of the Statute will depend, to a large extent, on the disclosure of evidence by the Prosecution and the provision of the document containing the charges. Nonetheless, the

Chamber considers it a matter of fairness of the proceedings to invite the Defence to provide, to the extent possible at this stage, (i) observations on the information to be submitted by the Prosecution in accordance with this decision; and (ii) information on the following questions, by no later than Friday, 11 April 2025:

- a) Does Mr Duterte anticipate invoking any ground for excluding criminal responsibility and/or raise the existence of an alibi?
- b) Does Mr Duterte anticipate the need to conduct investigations before the confirmation hearing?
- c) Does Mr Duterte anticipate presenting evidence at the confirmation hearing? In the affirmative, what is the prospective overall amount and types of evidence that Mr Duterte intends to rely upon?
- d) Does Mr Duterte anticipate calling witnesses to testify at the confirmation hearing?
- e) Does Mr Duterte intend to rely on written testimonial evidence at the confirmation hearing? In the affirmative, in what format does Mr Duterte intend to provide such evidence?
- f) Does Mr Duterte possess or control any books, documents, photographs or other tangible objects that the Prosecution is entitled to inspect as material intended for use by Mr Duterte as evidence under rule 78 of the Rules?

III. Participation of victims

6. The Registry is instructed to file observations in relation to victims' applications for participation in the present case by no later than Wednesday, 2 April 2025, including on (i) the admission process for applicants seeking to participate in the proceedings; (ii) application forms for participation; (iii) applicants' proof of identity documents; (iv) and legal representation in the present proceedings. Responses to the Registry's observations, if any, shall be filed by no later than Friday, 11 April 2025.

FOR THESE REASONS, THE CHAMBER HEREBY

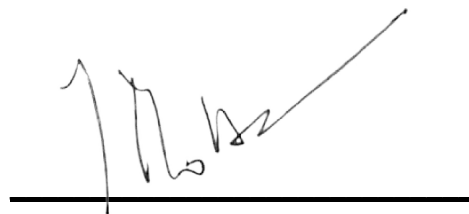
ORDERS the Prosecution to provide the Chamber with the information specified at paragraph 4 above, by no later than Friday, 4 April 2025;

ORDERS the Defence to provide the Chamber with observations on the information to be submitted by the Prosecution and the questions specified at paragraph 5 above, by no later than Friday, 11 April 2025;

ORDERS the Registry to file observations in relation to participation of victims as specified in paragraph 6 above, by no later than Wednesday, 2 April 2025; and

ORDERS the Prosecution and the Defence to file a response to the Registry's observations in relation to participation of victims, if any, by no later than Friday, 11 April 2025.

Done in English. A French translation will follow. The English version remains authoritative.



Judge Iulia Antoanella Motoc, Presiding



**Judge Reine Adélaïde Sophie Alapini-
Gansou**



Judge María del Socorro Flores Liera

Dated this Friday, 21 March 2025

At The Hague, The Netherlands