

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

No.: **ICC-01/21-01/25**

Date: **14 May 2025**

PRE-TRIAL CHAMBER I

Before: Judge Iulia Antoanella Motoc, Presiding Judge
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

Public Redacted Version of “Prosecution’s application under regulation 35 to extend the deadlines for the disclosure of [REDACTED] witnesses and the deadline for any applications pursuant to rule 81(4)”, 9 May 2025, ICC-01/21-01/25-129-Conf

Source: Office of the Prosecutor

Document 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
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I. INTRODUCTION

1. The Prosecution respectfully requests Pre-Trial Chamber I (the “Chamber”) to extend the deadline to disclose the materials from witnesses [REDACTED] that are cited in the Warrant of Arrest for Mr Duterte.¹ For the reasons set out below, the Prosecution submits that there is good cause, pursuant to regulation 35(2) of the Regulations of the Court (the “Regulations”), to extend the disclosure deadline for this material until no later than the date set to complete the disclosure process, 1 July 2025. Further, the Prosecution requests that the final deadline to apply to the Chamber to withhold the identity of witnesses pursuant to rule 81(4) of the Rules of Procedure and Evidence (the “Rules”) is extended until 20 June 2025, and submits there is also good cause for such an extension.

2. In relation to the remaining materials subject to the original 21 March 2025 disclosure deadline, from witnesses [REDACTED], the Prosecution confirms that it will no longer need to apply for authorisation for non-disclosure of these witnesses, but will instead disclose their material, with standard redactions, on the same day as this filing.

II. CONFIDENTIALITY

3. Pursuant to regulation 23*bis*(1) of the Regulations, this request is filed as confidential, since it contains sensitive information pertaining to witness security. A public redacted version of this request will be filed as soon as practicable.

III. PROCEDURAL HISTORY

4. On 14 March 2025, during the initial appearance of Mr Duterte,² the Chamber ordered the Prosecution to disclose the materials cited in the Warrant of Arrest by 21 March 2025 (the “Arrest Warrant Materials”).

5. On 19 March 2025, the Prosecution submitted an application under regulation 35(2) of the Regulations, to extend the disclosure deadline for the Arrest Warrant Materials related to [REDACTED] witnesses (the “[REDACTED] Witnesses”), including the [REDACTED] Witnesses subject to this request, to allow time to assess the need for measures to protect their

¹ Warrant of Arrest for Mr Rodrigo Roa Duterte, ICC-01/21-83 (“Warrant of Arrest”).

² Initial Appearance for Mr Rodrigo Roa Duterte, ICC-01/21-01/25-T-0002-ENG-ET, p. 11, lines 2-4.

safety prior to disclosure.³ The Defence did not oppose this application.⁴

6. On 20 March 2025, the Chamber, by email communication, granted the Prosecution's request and extended the disclosure deadline for the Arrest Warrant Materials related to the [REDACTED] Witnesses until 9 May 2025.⁵

7. On 17 April 2025, the Chamber issued its Order on the conduct of the confirmation proceedings (the "Order"), which instructed the Prosecution to complete the disclosure process by no later than 1 July 2025 (the "General Disclosure Deadline").⁶

8. In the Order, the Chamber further instructed the Prosecution to submit any requests to authorise the use of non-standard redactions, or to otherwise withhold witness identities or materials, by 9 May 2025 for the [REDACTED] Witnesses, and 23 May 2025 for all additional witnesses.⁷

9. On the same day as this request, the Prosecution will disclose to the Defence, with standard redactions, the Arrest Warrant Materials relating to [REDACTED].

IV. PROSECUTION'S SUBMISSIONS

10. Under regulation 35(2) of the Regulations, the Chamber "may extend or reduce a time limit if good cause is shown." The Appeals Chamber has held that: "[a] cause is good, if founded upon reasons associated with a person's capacity to conform to the applicable procedural rule or regulation or the directions of the Court. Incapability to do so must be for sound reasons, such as would objectively provide justification for the inability of a party to comply with his/her obligations."⁸ Good cause to extend a disclosure deadline has previously been found in circumstances where the disclosure of a witness's identifying information creates an objective risk to their personal safety and well-being.⁹

1. *There is good cause to extend the disclosure deadline in relation to the Arrest*

³ Prosecution's application under regulation 35 to extend the disclosure deadline for the arrest warrant materials of [REDACTED] witnesses, ICC-01/21-01/25-93-Conf.

⁴ E-mail from the Defence, 20 March 2025, at 00:38.

⁵ E-mail from the Chamber, [ICC-01/21-01/25 - Confidential] Decision on the Prosecution's application under regulation 35 of the Regulations of the Court, 20 March 2025, at 17:52.

⁶ Order on the conduct of confirmation proceedings, ICC-01/21-01/25-144 ("Order"), para. 24.

⁷ Order, para 11.

⁸ *Prosecutor v. Katanga and Ngudjolo Chui*, ICC-01/04-01/07-653, para. 5.

⁹ *See, e.g., Prosecutor v. Al Hassan Ag Aboul Aziz Ag Mohamed Ag Mahmoud*, ICC-01/12-01/18-558, paras. 10-11.

Warrant Materials of the [REDACTED] Witnesses

11. The Prosecution does not presently assess that it will be required to submit requests to the Chamber for the non-disclosure of the identities of the [REDACTED] Witnesses, pursuant to rule 81(4) of the Rules. Nevertheless, the Prosecution, consistent with its duties under article 68(1) of the Rome Statute (“Statute”) and rule 87 of the Rules, and in consultation with its Security and Protection Unit (“SPU”), assesses that the immediate disclosure of their identities would give rise to an objective risk to their safety.

12. [REDACTED]. [REDACTED]. The Prosecution is proceeding on the basis that adequate protective measures can soon be put in place, which will allow for the standard disclosure of the [REDACTED] Witnesses’ identities and materials at the earliest opportunity, and no later than 1 July 2025.

13. The Prosecution therefore respectfully requests that the Chamber further extend the deadline for disclosure of the [REDACTED] Witnesses’ Arrest Warrant Materials until the General Disclosure Deadline of 1 July 2025.

A. There is good cause to extend the final deadline for applications to withhold witness identities pursuant to rule 81(4)

14. The Prosecution also requests that the Chamber extend the deadline for all applications to withhold the identity of witnesses, pursuant to rule 81(4), until 20 June 2025. The Prosecution presently anticipates being in a position to disclose the identities of all existing witnesses by 1 July 2025.¹⁰ Accordingly, the Prosecution assesses that it is unlikely to be necessary to make applications to withhold the identity of witnesses by the current 23 May 2025 deadline.

15. [REDACTED]. [REDACTED].

16. For this reason, and in the interests of judicial economy, the Prosecution respectfully requests that the deadline for all applications pursuant to rule 81(4) is extended until 20 June 2025. Should the Prosecution assess that a non-disclosure application is necessary, a single deadline would also allow for the Chamber to decide on all applications concurrently, with full appreciation of the impact of any such potential applications.

¹⁰ This includes the [REDACTED] Witnesses subject to this request, as well as the [REDACTED] witnesses specifically subject to the deadline of 23 May 2023 ([REDACTED]).

B. The requested deadline extensions are reasonable and consistent with Mr Duterte's and witnesses' rights

17. The Prosecution submits that both of the requested extensions are reasonable and consistent with Mr Duterte's rights under article 67(1), and the rights of witnesses under article 68(1) of the Statute. First, in relation to the disclosure deadline for the Arrest Warrant Materials of the [REDACTED] Witnesses, the Prosecution seeks only a relatively short extension until 1 July 2025. This would be consistent with, and indeed earlier than, the final deadline for disclosure set in recent cases;¹¹ and, in any case, well within the minimum 30 day notice period required by rule 121(3) of the Rules. Second, in relation to the request for an extension of time to make applications to withhold witness identities pursuant to rule 81(4) of the Rules, the requested deadline would be consistent with those ordered during the pre-trial phase in recent cases.¹²

18. Consistent with the Chamber's Order, the Prosecution is making every effort to conduct its investigative activities in a way that will not affect the disclosure process or the conduct of the confirmation of charges proceedings,¹³ and will continue to expeditiously discharge its disclosure obligations as soon as practicable and on a rolling basis, and not only on the disclosure deadlines issued by the Chamber.¹⁴

V. REQUESTED RELIEF

19. For the reasons outlined above, the Prosecution respectfully requests that the Chamber extend the disclosure deadline for the Arrest Warrant Material relating to the [REDACTED] Witnesses until 1 July 2025, and the final deadline for applications to withhold the identity of witnesses, until 20 June 2025.

¹¹ See, e.g., *Prosecutor v. Mahamat Said Abdel Kani*, ICC-01/14-01/21-112, paras. 15, 18.

¹² See, e.g., *Prosecutor v. Maxime Jeoffroy Eli Mokom Gawaka*, ICC-01/14-01/22-62, para. 37 and *Prosecutor v. Mahamat Said Abdel Kani*, ICC-01/14-01/21-112, paras. 18, 21, where the deadline for non-disclosure applications in each case was 10 days before the final deadline for disclosure. See also *Prosecutor v. Bosco Ntaganda*, ICC-01/04-02/06-64, para. 24, where the deadline for disclosure and applications for redactions or protective measures were concurrent for evidence collected during the ongoing investigation.

¹³ Order, para. 9.

¹⁴ Order, para. 23.



Karim A. A. Khan KC, Prosecutor

Dated this 14th day of May 2025

At The Hague, the Netherlands