



Original: English

No. ICC-01/21-01/25

Date: 25 June 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

Decision on the ‘Defence Request for Leave to Reply to the Prosecution’s Response to the Defence Challenge on Jurisdiction (ICC-01/21-01/25-146)’

Decision 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 decision on the 23 June 2025 ‘Defence Request for Leave to Reply to the Prosecution’s Response to the Defence Challenge on Jurisdiction (ICC-01/21-01/25-146)’.¹

1. On 1 May 2025, the Defence filed the ‘Defence Challenge with Respect to Jurisdiction’.²
2. On 9 June 2025, the Prosecution opposed the Jurisdictional Challenge.³
3. On 19 June 2025, pursuant to the Prosecution’s requests,⁴ the Chamber ordered the reclassification of a number of filings relevant to the Prosecution’s Response,⁵ which the Registry completed on 23 June 2025.
4. On 23 June 2025, within the time limit imparted by the Chamber,⁶ the Defence filed the Request seeking leave to reply to the Prosecution’s Response in respect of two arguments, submitting that (i) ‘newly revealed facts, which could not have been anticipated, are presently elicited to support the Prosecution’s rebuttal of the Defence’s submission that a preliminary examination cannot be deemed a “matter before the Court” for the purpose of Article 127(2) of the Rome Statute’ (the ‘First Argument’); and (ii) ‘[t]he Defence also seeks leave to reply to the Prosecution’s argument at paragraph 38 of the Response that “[t]he object and purpose of the Statute supports the interpretation that the territorial State or State of the suspect’s nationality need not be a State Party when the Court’s jurisdiction is exercised”’ because ‘[t]he abovementioned argument, framed in terms of the “fight against impunity”, could not have been foreseen, quite simply, because of its irrelevance to a jurisdictional challenge’ (the ‘Second Argument’).
5. On 25 June 2025, the Prosecution responded to the Request, submitting that it (i) does not object to the Defence’s request to reply to the First Argument; but (ii) opposes the Request insofar that it relates to the Second Argument because the Defence ‘does not identify any new

¹ ICC-01/21-01/25-158-Conf (a public redacted version was notified on the same day, ICC-01/21-01/25-158-Red) (the ‘Request’).

² ICC-01/21-01/25-121 (the ‘Jurisdictional Challenge’).

³ Prosecution response to ‘Defence Challenge with Respect to Jurisdiction’, ICC-01/21-01/25-146-Conf-Corr (a public redacted version was notified on the same day, ICC-01/21-01/25-146-Red-Corr); Notice of proposed annex to “Prosecution response to ‘Defence Challenge with Respect to Jurisdiction’”, ICC-01/21-01/25-147-Conf with confidential Annex A (ICC-01/21-01/25-147-Conf-AnxA-Corr) (together, the ‘Prosecution’s Response’).

⁴ Emails from the Prosecution on 30 May 2025 at 14:24, 4 June 2025 at 15:27 and 10 June 2025 at 15:32 and 13 June 2025 at 15:39.

⁵ Email from the Chamber, ‘[ICC-01/21-01/25 - Confidential] Order regarding the reclassification of filings and related matters’, at 11:23.

⁶ Email from the Chamber, ‘[ICC-01/21-01/25 – Confidential] Order on the extension of time limits’, on 20 June at 12:44.

issues arising from this argument that it could not have reasonably anticipated' in the Jurisdictional Challenge.⁷

6. Recalling regulation 24(5) of the Regulations of the Court, and noting that the Prosecution's First Argument regarding the nature of preliminary examinations is made by reference to a number of filings that were unavailable to the Defence at the time of the Jurisdictional Challenge, the Chamber considers that this argument raises new issues which the Defence could not have reasonably anticipated. Whereas the remainder of the Request does not concern an issue that could not have been reasonably anticipated, the Chamber considers that, in light of the importance and the complex nature of the issues regarding the Jurisdictional Challenge as a whole, the Defence's reply on the Second Argument may also be of assistance in its determination. Accordingly, the Chamber grants the Request, and the Defence shall submit a reply to the Prosecution's Response limited to the First and Second Arguments mentioned at paragraph 4 above.

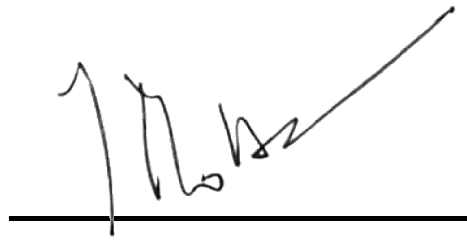
⁷ Prosecution's response to "Defence Request for Leave to Reply to the Prosecution's Response to the Defence Challenge on Jurisdiction (ICC-01/21-01/25-146)", ICC-01/21-01/25-163.

FOR THESE REASONS, THE CHAMBER HEREBY

GRANTS the Request; and

ORDERS the Defence to submit a reply, which shall not exceed 10 pages, to the Prosecution's Response limited to the arguments identified at paragraph 4 of this decision, by no later than Wednesday, 2 July 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 Wednesday, 25 June 2025

At The Hague, The Netherlands