

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/21-01/25
Date: 18 February 2026

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

Confidential

**Victims' Response to the Defence Observations pursuant to Rule 122(3) and
Defence Request pursuant to Rule 124(1)**

Source: Common Legal Representatives of Victims

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
D36 |
| ☒ Legal Representatives of the Victims
V50 | ☐ 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

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I. INTRODUCTION

1. The Common Legal Representatives (the "CLR") herewith file their Response to the "Defence Observations pursuant to Rule 122(3) and Defence Request pursuant to Rule 124(1)" (the "Defence Observations").¹

2. On issue i) of the Defence Observations, while the CLR concur with the Defence that the proceedings should be public as much as possible in order to allow Victims, their families, and the public to follow the confirmation of charges hearing, they underline that not all matters related to the proceedings may appropriately be disclosed to the public in light of the Court's obligation to safeguard the safety, dignity and well-being of victims and witnesses in accordance with article 68(1) of the Rome Statute (the "Statute").

3. The CLR have no observations on the Defence submissions on points ii) and iii)² of its Observations and generally agree with the Prosecution's position on those matters.³

4. On point iv), the CLR firmly oppose Mr Duterte's request to waive his right to be present during the confirmation of charges hearing. The presence of Mr Duterte in the courtroom carries profound significance for the Victims. His appearance before the International Criminal Court is essential to upholding their rights and dignity. Seeing him participate in the process of justice is fundamental for the emotional healing of those affected by the alleged crimes. Mr Duterte should not be allowed to divert attention from the crimes he allegedly committed by not appearing at the

¹ See the "Defence Observations pursuant to Rule 122(3) and Defence Request pursuant to Rule 124(1)", No. ICC-01/21-01/25-379-Conf-Exp, 16 February 2026 (the "Defence Observations"). The Defence Observations – originally classified as *ex parte* Prosecution and Principal Counsel OPCV only – were reclassified as [No. ICC-01/21-01/25-379-Conf](#) pursuant to an Order of the Chamber dated 17 February 2026 at 11:31.

² *Idem*, paras. 5-7 and 8.

³ See the "Prosecution Response to 'Defence Observations pursuant to Rule 122(3) and Defence Request pursuant to Rule 124(1)' (ICC-01/21-01/25-379-Conf-Exp)", [No. ICC-01/21-01/25-382-Conf](#), 17 February 2026, paras. 6-10 (the "Prosecution's Response").

hearing alleging grounds repeatedly ruled to be without merit by the Chamber. Victims are of the opinion that Mr Duterte shall stand before the Judges and confront the charges against him in person and in open court.

5. Therefore, the CLRV respectfully request that the Chamber order Mr Duterte's appearance pursuant to rule 125(4) of the Rules of Procedure and Evidence (the "Rules").

II. PROCEDURAL BACKGROUND

6. On 16 February 2026, the Defence filed its Observations.⁴

7. On 17 February 2026, the Chamber, by e-mail, instructed the Defence to file on the record of the case a written request for waiver personally executed by Mr Duterte by no later than 18 February 2026.⁵

8. On the same day the Prosecution filed its response to the Defence Observations.⁶

III. CONFIDENTIALITY

9. Pursuant to regulation 23*bis* (1) and (2) of the Regulations of the Court, the present submission is classified as confidential following the re-classification of the Defence Observations. However, the CLRV indicate that it can be reclassified as public, as it does not contain confidential information.

⁴ See the Defence Observations, *supra* note 1.

⁵ See the E-mail Order from the Chamber dated 17 February 2026 at 11:31.

⁶ See the Prosecution's Response, *supra* note 3.

IV. SUBMISSIONS

A. On the publicity of the confirmation of charges hearing

10. The CLRV favour the publicity of the proceedings as much as possible in order for the Victims, their families, the communities, and the public at large to follow the procedure in a meaningful and comprehensive manner at this initial, important juncture in the process.

11. Indeed, the confirmation hearing is an important moment in the process not only for the Suspect, but also for the Victims and the international community. Publicity will enable affected communities in The Philippines to understand why and for what Mr Duterte is facing charges before the Court. Many Filipinos only have knowledge – of what they have read or watched about the events during the period of the charges – on mainstream, niche or social media. Significant disinformation about the proceedings before the Court has already characterised the case. It is, therefore, important that the Victims and the public are able to get a fuller and unadulterated picture of the events and reasons underlying the charges.

12. However, the CLRV recall the obligation under article 68(1) of the Statute for the Court to protect the safety dignity and well-being of victims and witnesses. In this regard, they underline the precarious security situation of many Victims who still fear for their lives and that of their relatives if associated with the activities of the Court. Therefore, they trust the Chamber's judgment in determining the appropriate balance between the publicity of the proceedings and the safety and security of victims and witnesses.

B. On the Suspect's attendance at the confirmation of charges hearing

13. The confirmation of charges hearing is normally held in the presence of the Suspect. Rule 124 of the Rules provides for the possibility for the person concerned to waive their right to be present at said hearing. The ultimate decision whether or not to grant such a request, however, rests with the Chamber.

14. In this regard, article 61(2) of the Statute provides that, in case of a waiver by the concerned person to be present at the hearing, "[t]he Chamber *may* [...] hold a hearing in the absence of the person charged [...]"⁷ Likewise, rule 124(1) of the Rules refers to the *wish* of the person concerned.⁸ Therefore, it is not Mr Duterte's choice, but ultimately, the decision of the Chamber whether he shall or not attend the hearing.

15. The CLRV oppose the Defence's request for waiver and submit that Mr Duterte shall attend the confirmation of charges hearing. The only explanation provided by the Defence for asking the waiver is Mr Duterte 'condition'⁹ which the CLRV understand as referring to his alleged health concerns. In this regard, the issue has been settled by the Chamber in ruling the Suspect's fitness to stand proceedings and in providing specific arrangements for the hearing.¹⁰

16. The presence of Mr Duterte in the courtroom carries profound significance for the Victims. His appearance before the International Criminal Court is essential to upholding their rights and dignity. For years, survivors and families of those killed have faced systemic barriers to truth and accountability, leaving their suffering unacknowledged and unresolved. Seeing Mr Duterte in the courtroom is not merely symbolic – it affirms that their losses matter and that even the most powerful individuals are answerable before the law. His presence in the courtroom enables a

⁷ See article 61(2) of the Statute. Emphasis added.

⁸ See rule 124(1) of the Rules.

⁹ See the Defence Observations, *supra* note 1, para. 9.

¹⁰ See the "Decision on the review of Mr Rodrigo Roa Duterte's detention" (Pre-Trial Chamber I), [No. ICC-01/21-01/25-357-Conf](#), 26 January 2026. A public redacted version [No. ICC-01/21-01/25-357-Red](#) was filed the same day.

transparent, evidence-based process that can establish an authoritative record of what occurred, countering impunity and restoring public trust in justice mechanisms when domestic institutions have failed.

17. For Victims, this moment is a necessary step toward recognition, closure, and the assurance that such abuses cannot be repeated without consequence. This recognition alone can be a crucial part of emotional and psychological healing.

V. CONCLUSION

18. For the foregoing reasons, the CLRV respectfully request the Chamber to reject the Defence's request to permit Mr Duterte to waive his attendance at the confirmation of charges hearing and to order his appearance.



Gilbert Andres



Joel Butuyan



Paolina Massidda

Dated this 18th day of February 2026

At The Hague, The Netherlands