

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

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

Date: **24 April 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*

Public

**Public Redacted Version of “Prosecution’s Request for Reclassification of
‘Defence Response to Prosecution Request ICC-01/21-01/25-406-Conf-Exp’”, 2 April
2026, ICC-01/21-01/25-411-Conf-Exp**

Source: Office of the Prosecutor

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

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☒ Legal Representatives of the Victims

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(Participation/Reparation)

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I. INTRODUCTION

1. The Prosecution respectfully requests that the Chamber order the reclassification of the “Defence Response to Prosecution Request ICC-01/21-01/25-406-Conf-Exp” (the “Defence Response”)¹ to public. The Defence’s purported reason for the redactions – to preserve the “dignity” of the six lawyers at issue in the filing – is insufficient to depart from the principle that proceedings before the International Criminal Court (the “Court”) should be public. It is also unclear how confirming to the public that these lawyers do not work for the Defence team would negatively impact their “dignity”, to the extent that it is even a consideration. The Defence previously took the position that the Defence Response [REDACTED] and has provided no explanation for its sudden change in position. Finally, the redacted information should be made public in order to assuage the fears of potential witnesses and victims and to ensure there is no chilling effect on the Prosecution’s ongoing investigations.

II. CONFIDENTIALITY

2. This filing is classified as confidential *ex parte* Prosecution and Defence only pursuant to regulation 23bis (1) and (2) of the Regulations of the Court, as it includes sensitive information regarding [REDACTED] and cites to information contained in a filing of the same classification.

III. BACKGROUND

3. As previously submitted, statements and actions of Mr Duterte’s Defence Counsel have created the impression that six lawyers (Salvador Medialdea, Salvador Panelo, Martin Delgra, Silvestre Bello, Afredo Lim and Cesar Dulay) are members of Mr Duterte’s Defence team.²

4. In order to meet its obligations under article 68 of the Rome Statute, and to ensure there was no chilling effect on its investigations, the Prosecution filed its “Request for Clarification regarding Defence Counsel”, in which it asked Defence Counsel to confirm, on the record, that

¹ Confidential *ex parte* Prosecution and Defence only, Defence Response to Prosecution Request ICC-01/21-01/25-406-Conf-Exp, 5 March 2026, ICC-01/21-01/25-407-Conf-Exp (public redacted version filed on 26 March 2026, [ICC-01/21-01/25-407-Red](#)) (the “Defence Response”).

² Confidential *ex parte* Prosecution, Defence and Registry only, Prosecution’s Request for Clarification regarding Defence Counsel, 6 March 2026, ICC-01/21-01/25-406-Conf-Exp (confidential redacted version and public redacted version filed on the same date, ICC-01/21-01/25-406-Conf-Red and [ICC-01/21-01/25-406-Red](#), public lesser redacted version filed on 10 March 2026, [ICC-01/21-01/25-406-Red2](#)) (the “Prosecution’s Request”), paras 1-3

the six lawyers, *inter alia*, “are not members of Mr Duterte’s defence team in his case before the Court”.³

5. The Defence filed the Defence Response in which it “affirm[ed], confirm[ed], assur[ed] and guarante[ed]” that the six lawyers “are not members of Mr Duterte’s defence team in this case”.⁴ However, later, in the public redacted version of the Defence Response, the Defence redacted this information from the public.

6. The Prosecution has attempted to resolve this issue through *inter partes* communication. The Prosecution emailed the Defence on 30 March 2026 to ask that the Defence request reclassification of the filing as public as there is no basis for the redactions applied.⁵ The Prosecution advised the Defence that it would prefer to resolve this matter *inter partes*, but would engage the Chamber if necessary.⁶

7. The Defence responded the same day advising that “the redaction applied is merely to protect the dignity of those lawyers and does not impact on anything of concern unless, of course, it is your intent to humiliate them - which I am sure it is not.”⁷ The Defence further stated that the “purpose” of the Prosecution’s Request had been fulfilled as it had been made clear that confidential materials were not made available to the six lawyers.⁸ Finally, the Defence argued that the Prosecution’s “initial premise” that the lawyers were members of the Defence team was “wholly incorrect and unwarranted” and cited to a transcript from the confirmation hearing in which Defence Counsel introduced the six lawyers who were “attending and supporting us today”.⁹ The Defence thereby refused to request reclassification of the Defence Response to public.

IV. SUBMISSIONS

8. The Defence’s stated reason for the redactions – to spare the six lawyers alleged humiliation by confirming to the public that they are not, in fact, members of Mr Duterte’s Defence team – is not a justification to derogate from the well-established principle that

³ Prosecution’s Request, paras 3, 9.

⁴ Defence Response.

⁵ Email from Prosecution to Defence, 30 March 2026 at 10:59 a.m.

⁶ Email from Prosecution to Defence, 30 March 2026 at 10:59 a.m.

⁷ Email from Defence to Prosecution, 30 March 2026 at 12:45 p.m.

⁸ Email from Defence to Prosecution, 30 March 2026 at 12:45 p.m.

⁹ Email from Defence to Prosecution, 30 March 2026 at 12:45 p.m., citing, T-0004, 23 February 2026, p. 3, line 1.

proceedings before the Court are public.¹⁰ First, the Defence’s argument is unfounded. No explanation is given as to why the truth (that they are not part of Mr Duterte’s Defence team) being public would in some way be humiliating or compromise their dignity. Further, while the principle of publicity of proceedings is not absolute,¹¹ it should not be departed from to allegedly preserve the self-image of six individuals who the Defence has “affirm[ed], confirm[ed], assur[ed] and guarante[ed]” are unrelated to this case.¹²

9. Moreover, the Defence previously agreed that [REDACTED]. In an email to the Chamber on 9 March 2026, the Defence “[REDACTED].”¹³ For the avoidance of doubt, this [REDACTED]. The Defence has provided no reason for its change in position.

10. Finally, it is necessary that this information is made public in order to assuage the fears of potential witnesses and victims and to ensure there is no chilling effect on the Prosecution’s investigations. As previously noted, the six lawyers are closely connected to Mr Duterte, with some having been appointed to high-level governmental positions during his Presidency, throughout which, the Prosecution alleges that Mr Duterte committed Counts 2 and 3 of the charged crimes.¹⁴ [REDACTED]. It is therefore important that it be made clear to the public – which includes potential witnesses and victims – that the six lawyers are not members of Mr Duterte’s Defence team.

11. The Prosecution notes with concern the Defence’s intention to keep this information from the public. The Prosecution finds it difficult to accept that the Defence’s position on this matter is truly concerned with “protect[ing] the dignity” of the six lawyers. In the Defence Response, Counsel recommended “that the Senior Trial Lawyer should abide by adage ‘not to believe everything he reads in the papers’”. As previously communicated by the Prosecution, media reports, including an interview by Defence counsel, give the clear impression that the six lawyers are part of the Defence team.¹⁵ If this is not the case, then Counsel should publicly state this. It is regrettable that the Prosecution is forced to litigate such conduct.

¹⁰ Decision on the Defence’s observations pursuant to rule 122(3) of the Rules of Procedure and Evidence, 20 February 2026, [ICC-01/21-01/25-388](#) (the “Decision on Defence Rule 122(3) Observations”), para. 4.

¹¹ Decision on Defence Rule 122(3) Observations, para. 4.

¹² Defence Response.

¹³ [ICC-01/21-01/25 [CONF]: Request for Reclassification] Email from Defence to Chamber, 9 March 2026 at 1:21 p.m. (emphasis included in the original).

¹⁴ Prosecution’s Request, para. 7.

¹⁵ Prosecution’s Request, paras 1-3.

V. REQUESTED RELIEF

12. For the above reasons, the Prosecution respectfully requests that the Chamber order the reclassification of the Defence Response to public.

A handwritten signature in black ink, appearing to read 'Mandiaye Niang', written over a horizontal line.

Mame Mandiaye Niang, Deputy Prosecutor

Dated this 24th day of April 2026

At The Hague, the Netherlands