

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **15 June 2026**

TRIAL CHAMBER III

Before: Judge Joanna Korner, Presiding Judge
Judge Keebong Paek
Judge Nicolas Guillou

SITUATION IN THE REPUBLIC OF THE PHILIPPINES

IN THE CASE OF THE PROSECUTOR v. RODRIGO ROA DUTERTE

PUBLIC

Defence Response to the “Prosecution’s Observations regarding the Directions on the Conduct of Proceedings”, ICC-01/21-01/25-456

Source: Defence for Mr Rodrigo Roa Duterte

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

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Duterte Defence Team

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☐ Unrepresented Victims

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I. INTRODUCTION

1. Pursuant to the order issued by Trial Chamber III (“Chamber”) during the Status Conference on 27 May 2026,¹ the Prosecution filed its observations regarding the Conduct of Proceedings.² The Prosecution indicated that the Defence disagreed with a number of proposed deadlines regarding the submission of applications pursuant to Rule 68.³
2. As instructed by the Chamber,⁴ the Defence for Mr Rodrigo Roa Duterte files the present response to clarify its position for the Chamber’s consideration in issuing its directions on the conduct of proceedings in this case (“Directions”).

II. PROCEDURAL HISTORY

3. During the Status Conference on 27 May 2026, the Chamber indicated that it intended to follow the same conduct of proceedings model adopted in the *Al-Rahman* case,⁵ which was itself based on the model in the Chamber’s Practice Manual. The Chamber ordered anyone wishing to suggest amendments to the *Al-Rahman* Directions to do so by 5 June 2026.⁶
4. On 4 June 2026, the Prosecution sought Defence agreement with proposed deadlines for the submission of applications pursuant to Rule 68, which it intended to suggest for the Chamber’s consideration.⁷

¹ First Status Conference, [ICC-01/21-01/25-T-009-Red-ENG WT](#), 27 May 2026 (“[Status Conference](#)”), p. 48, lines 16-19 (“[i]t’s intended that it will very much be the same model as that in the *Al-Rahman* case, which also models the model one in the Chamber’s Manual. But if anybody wants to suggest amendments to it, they must do so by Friday, 5 June”). All references to “Rule” and “Regulation” in the present submission are to the [Rules of Procedure and Evidence](#) and the [Regulations of the Court](#), respectively, unless otherwise indicated.

² Prosecution’s Observations regarding the Directions on the Conduct of Proceedings, [ICC-01/21-01/25-456](#), 5 June 2026 (“[Prosecution Observations](#)”).

³ [Prosecution Observations](#), para. 6.

⁴ Email, Trial Chamber III to the Defence, “Re: Observations on the Conduct of Proceedings”, 11 June 2026, 11:48 (“Chamber Email Order”).

⁵ *Al-Rahman*, Directions on the conduct of proceedings, [ICC-02/05-01/20-478](#), 4 October 2021 (“[Al-Rahman Directions](#)”).

⁶ [Status Conference](#), p. 48, lines 18-19.

⁷ Email, Prosecution to Defence, “ICC-01/21-01/25: Proposed deadlines for rule 68 applications”, 4 June 2026, 16:06.

5. On 5 June 2026, the Defence informed the Prosecution that it did not agree with the proposed deadlines and offered an alternative proposal,⁸ which was not accepted by the Prosecution.
6. The same day, the Prosecution and the Defence filed their respective observations on the Directions.⁹ The Prosecution Observations proposed the following:

The Prosecution requests that applications pursuant to rules 68(2) of the Rules be filed on a rolling basis, with all 68(2) applications filed by no later than 30 September 2026. The Prosecution further requests that applications pursuant to rule 68(3) of the Rules be filed on a rolling basis, with a deadline of no later than 30 September for any witnesses proposed to testify in 2026, and a deadline of no later than 30 October 2026 for the remainder.¹⁰

7. On 11 June 2026, the Chamber instructed the Defence to file in writing its submissions on the Prosecution's proposed timetable for Rule 68 applications.¹¹

III. SUBMISSIONS

8. Absent any variation of the applicable deadlines, the Defence is required to respond to Rule 68 applications within 10 days.¹² The Chamber has encouraged the use of Rule 68,¹³ and it is expected that applications pursuant to Rule 68(3) will be submitted for the majority of the Prosecution's testifying witnesses, if not the vast majority. The prior statements and interviews accompanying Rule 68 applications will likely often run to hundreds of pages,¹⁴ with associated exhibits of similar lengths.¹⁵ In the diligent exercise of its duties, the Defence will need to examine the content of all prior statements, interviews and associated exhibits in order to make an informed and helpful response to a Rule 68(3) application. The Prosecution's proposal risks putting the Defence in a position where it will be required to respond to a wave of lengthy Rule 68

⁸ Email, Defence to Prosecution, "Re: ICC-01/21-01/25: Proposed deadlines for rule 68 applications", 5 June 2026, 11:23 ("Defence Email").

⁹ [Prosecution Observations](#). See also Defence Submissions on the Directions on the Conduct of Proceedings, [ICC-01/21-01/25-455](#), 5 June 2026.

¹⁰ [Prosecution Observations](#), para. 3.

¹¹ Chamber Email Order.

¹² [Regulations of the Court](#), Regulation 34(b).

¹³ [Status Conference](#), p. 13, lines 20-21.

¹⁴ See e.g. P-0001's interviews with the Prosecution (approximately 1083 pages); P-0003's interviews with the Prosecution (approximately 591 pages); P-0008's interviews with the Prosecution (approximately 439 pages); P-0026's interviews with the Prosecution (approximately 1200 pages); P-1036's interviews with the Prosecution (approximately 490 pages); P-1160's interviews with the Prosecution (approximately 960 pages).

¹⁵ See P-0001's notebooks spanning over 500 pages: [PHL-OTP-0008-2003-R02](#) and [PHL-OTP-0008-2337-R02](#).

applications within 10 days, one month before the scheduled start of trial on 30 November 2026. This would undoubtedly pose difficulties.

9. For this reason, the Defence suggested a compromise between the Prosecution's proposal and the *Al-Rahman* Directions, which would allow Defence responses to Rule 68(3) to be meaningful, while not unnecessarily overwhelming its other trial preparation. In the *Al-Rahman* case, the Prosecution was directed to file all applications pursuant to Rule 68 by the same deadline as its Final List of Witnesses.¹⁶ As a compromise, the Defence proposes that Rule 68 applications in the present case should be filed by the Prosecution on a rolling basis, by (i) no later than 31 August 2026 for witnesses who will appear on the Prosecution's provisional list of witnesses, and (ii) no later than 30 October 2026 for additional witnesses who are added to the Prosecution's Final List of Witnesses.
10. Importantly, the Defence also proposes that its responses to Rule 68(3) applications should be filed no less than 45 days before the scheduled testimony of the witnesses, as was the procedure adopted in the *Yekatom and Ngaïssona* case.¹⁷ This will not affect the Prosecution's presentation of evidence nor the order of witness appearances, as the proposed deadline will inherently depend on the hearing schedule. It will further contribute to an expeditious and effective trial as all disputed issues surrounding the Rule 68 applications will be adjudicated based on a contemporaneous assessment of the evidence and circumstances, thereby limiting the need for last-minute oral submissions which could affect the timing of the start of the witness' testimony.

IV. CONCLUSION AND RELIEF SOUGHT

11. The Defence respectfully requests that the Trial Chamber consider the present submissions while preparing the Directions on the Conduct of Proceedings in this case.



Peter Haynes, KC
Counsel for Mr Rodrigo Roa Duterte

Dated this 15th day of June 2026
At The Hague, the Netherlands

¹⁶ [Al-Rahman Directions](#), para. 47.

¹⁷ *Yekatom and Ngaïssona*, Decision on the Prosecution Extension Request and Initial Guidance on Rule 68 of the Rules, [ICC-01/14-01/18-685](#), 16 October 2020, para. 19.