

ANNEX 8

PUBLIC

From: Pre-Trial Chamber I Communications
Sent: Friday, March 14, 2025 1:45 PM
To: [REDACTED]; Pre-Trial Chamber I Communications
Cc: [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]
Subject: URGENT: Decision on the request by Mr Duterte to postpone the initial appearance
Importance: High

To be transmitted (including in hardcopy) to Mr Medialdea and Mr Duterte

Dear Counsel,

As with the previous request made in relation to the initial appearance, given the timing of the request, to ensure that you, Mr Duterte, and any other members of Mr Duterte's defence team, are appraised of the Chamber's decision, the below decision is conveyed to you by email. It will be filed into the case record by way of a Registry filing at a later stage.

Decision on the request by Mr Duterte to postpone the initial appearance

1. On 12 March 2025, Rodrigo Roa Duterte ('Mr Duterte') was surrendered to the International Criminal Court (the 'Court' or 'ICC'). Following an extensive medical check, Mr Duterte met, upon his arrival at the ICC Detention Centre, with representatives of the Registry who discussed, *inter alia*, with him the issue of legal representation.
2. On 13 March 2025, the Detention Section of the Registry reported to the Chamber concerning the intake of Mr Duterte at the ICC Detention Centre.
3. Subsequently, on 13 March 2025, the Counsel Support Section of the Registry (the 'CSS') submitted the 'Notification of the representation of Mr Rodrigo Roa Duterte during his initial appearance' (ICC-01/21-01/25-88), annexing two documents signed by Mr Duterte designating Mr Medialdea as his counsel for the purposes of the initial appearance.
4. Subsequently, on 13 March 2025, Pre-Trial Chamber I (the 'Chamber') issued the 'Decision convening a hearing for the first appearance of Mr Rodrigo Roa Duterte', scheduling the initial appearance, as foreseen in article 60(1) of the Rome Statute (the 'Statute') for 14 March 2025.
5. On 14 March 2025, Mr Medialdea, identifying himself as 'Counsel for Rodrigo Roa Duterte' submitted, by way of email (email of Salvador C Medialdea to Pre-Trial Chamber I of 14 March 2025, at 7h17), a request to postpone the initial appearance to 17 March 2025 (the 'First Request').
6. On 14 March 2025, the Chamber rejected the First Request.
7. Subsequently, on 14 March 2025, the Chamber was transmitted a scan of a handwritten piece of paper, sent to the Registry by Mr Medialdea, on which – as the Chamber understands – Mr Duterte has written that he wishes to appoint Mr Nicholas Kaufman as his lead counsel in the ICC proceedings, and

that he is requesting for the postponement of the initial appearance ‘to allow [him] to confer with [his] lead counsel’ (the ‘Second Request’).

Preliminary consideration

8. The Chamber notes that since the Chamber scheduled the initial appearance for 14 March 2025, taking into account the information available to it at the time, the request to postpone this hearing is essentially a request for reconsideration. In this regard, the Chamber recalls that, as also noted previously in the *Situation in the Republic of the Philippines*, ‘the existing jurisprudence sets a high threshold for a Chamber to reconsider its prior decisions: reconsideration is exceptional and should only take place if a clear error of reasoning has been demonstrated or if it is necessary to do so to prevent an injustice. New facts and arguments arising since the decision was rendered may be relevant to this assessment’ (*Situation in the Republic of the Philippines*, Decision on the Prosecutor’s Second request for extension of page limit for article 15(3) Request, 11 May 2021, ICC-01/21-6, para. 9).
9. However, mindful that this is the a handwritten request and given the subject matter, the Chamber will assess the Request on its merits.

The Chamber’s analysis

10. At the outset, the Chamber again recalls that it is an important right for a suspect detained on a criminal charge, as embodied in the various human rights instruments, to be brought ‘promptly’ before a judge. The purpose of an initial appearance is precisely to ensure that a suspect is brought before a judge as soon as feasible.
11. The further recalls that it explained in its decision on the First Request that the nature of an initial appearance is nonetheless very limited. The Chamber will confirm the identity of the suspect and in addition, as set out in article 60(1) of the Statute and Rule 121(1) of the Rules of Procedure and Evidence, the Chamber will ‘satisfy itself that the person has been informed of the crimes which he or she is alleged to have committed, and of his or her rights under this Statute’, and ‘set the date on which it intends to hold a hearing to confirm the charges’. As noted before, ‘[d]uring the hearing, the charges will be read to Mr Duterte and the Chamber will recall for him his rights as a suspect. The Chamber further recalls that no substantive legal arguments are to be raised during the initial appearance. As will be explained during the hearing, any submissions such as those referred to by counsel in point 7 of the Request, are to be made by way of written filing, and submitted only after the initial appearance.’
12. As to the arguments raised in the Request, the Chamber notes that the information before it does not support them. As reported by CSS, ‘Registry representatives visited Mr Duterte in in relation to his initial appearance before Pre-Trial Chamber I where he indicated that he wishes to be assisted at said appearance by Mr Medialdea.’ (ICC-01/21-01/25-88, para. 8). In addition, Mr Duterte ‘confirmed orally, to the Registry representatives, that he wishes to have the assistance of the Office of Public Counsel for the Defence for the purposes of the initial appearance in addition to Mr Medialdea.’ (ICC-01/21-01/25-88, para. 8). The Chamber further notes that CSS has submitted two documents signed by Mr Duterte indicating that he wishes Mr Medialdea to be ‘one of [his] counsel in the ICC proceedings’ and that he wishes Mr Medialdea to be appointed to assist him during the initial appearance.
13. At this stage, notwithstanding Mr Duterte’s handwritten indication, any desired appointment of Mr Kaufman as lead counsel is not yet affectuated by the Registry. Therefore, and recalling the limited purpose of the initial hearing, the Chamber considers that Mr Duterte can effectively and appropriately be represented by the counsel he appointed yesterday for the purposes of his representation during the initial appearance.
14. In light of the foregoing, the Chamber considers that there is no reason to postpone the initial appearance.

THE CHAMBER, THEREFORE**REJECTS** the request by Mr Duterte to postpone the initial appearance.

Pre-Trial Chamber I
14 March 2025, The Hague

From: [REDACTED] <[REDACTED]>
Sent: 14 March 2025 13:16**To:** Pre-Trial Chamber I Communications <[REDACTED]>

Cc: [REDACTED] <[REDACTED]>; [REDACTED]
 <[REDACTED]>; [REDACTED] <[REDACTED]>; [REDACTED]
 <[REDACTED]>; [REDACTED] <[REDACTED]>; [REDACTED]
 <[REDACTED]>; [REDACTED] <[REDACTED]>

Subject: Letter received from Mr Duterte -**- URGENT -**

Dear Pre-Trial Chamber I,

The Registry hereby transmits a letter from Mr Duterte (received via Counsel Medialdea) appointing Mr Kaufman as his lead Counsel in proceedings.

In light of the letter received, the Registry will undertake its independent verification of the letter at the earliest possible opportunity and inform the Pre-Trial Chamber accordingly.

Kind regards,

[REDACTED]
 [REDACTED]
 [REDACTED]

Registry - Greffe

International Criminal Court – Court pénale internationale

[REDACTED] - [REDACTED]