

ANNEX 20

PUBLIC

Subject: [ICC-01/21-01/25 - Confidential] Order in relation to 'Defence Observations pursuant to Rule 122(3) and Defence Request pursuant to Rule 124(1)' (ICC-01/21-01/25-379-Conf-Exp)

Date: 17 Feb 2026, 11:31:05

From: Pre-Trial Chamber I Communications <[REDACTED]>
<[REDACTED]>

To: <[REDACTED]>, Office of the Director DJSS <[REDACTED]>

Copy: Massidda, Paolina <[REDACTED]>, <[REDACTED]>, OTP
<[REDACTED]>, Philippines Team <[REDACTED]>, Associate Legal
Officer-Court Officer <[REDACTED]>, V50
LRV Team OPCV <[REDACTED]>, Pre-Trial Chamber I
Communications <[REDACTED]>

Dear Counsel,

Dear colleagues,

The Chamber notes the 'Defence Observations pursuant to Rule 122(3) and Defence Request pursuant to Rule 124(1)' (ICC-01/21-01/25-379-Conf-Exp) (the 'Defence's Observations') and, more specifically, the request that the Chamber permit Mr Duterte to exercise his right to waive attendance at the confirmation hearing pursuant to rule 124(1) of the Rules of Procedure and Evidence (the 'Rules').

At the outset, the Chamber notes that the Defence's Observations are classified as confidential *ex parte*, only available to the Prosecution and the principal counsel for the Office of Public Counsel for Victims, thereby excluding the other common legal representatives for victims Joel Butuyan ('Mr Butuyan') and Gilbert Andres ('Mr Andres'). The Chamber also notes the reasons provided therein for such classification. However, as noted by the Defence, its request for disqualification of Mr Butuyan and Mr Andres is still pending and remains to be adjudicated by the Chamber. As such, there is no valid ground for the Defence to exclude Mr Butuyan and Mr Andres from the notification of its filings. Accordingly, the Chamber orders the Registry to immediately reclassify filing ICC-01/21-01/25-379-Conf-Exp as confidential, ensuring notification to all parties and participants, including all common legal representatives for victims.

With regard to the Defence's request to permit Mr Duterte to exercise his right to waive attendance at the confirmation hearing, the Chamber notes that, in order for it to decide whether the confirmation hearing may be held in the absence of Mr Duterte, pursuant to the clear wording of rule 124(1) of the Rules the Chamber shall receive a written request that must be personally executed by the suspect intending to waive his or her right to be present at the confirmation of charges hearing. In addition, pursuant to rule 124(2) of the Rules, based on such request, the Chamber must be able to satisfy itself that Mr Duterte understands that he has the right to be present at the confirmation hearing and the consequences of waiving this right.

Therefore, noting that the Defence indicated that Mr Duterte, 'prior to the hearing, will provide a written waiver, as deemed appropriate for all hearings where attendance is waived', without however providing a written request complying with the requirements of rule 124(1) of the Rules, the Chamber hereby orders the Defence to file such written request pursuant to the above instructions by no later than 18 February 2026.

Thank you and kind regards,

On behalf of Pre-Trial Chamber I