

**Original: English**No. **ICC-01/21-01/25**Date: **20 February 2026****PRE-TRIAL CHAMBER I****Before:****Judge Iulia Antoanella Motoc, Presiding
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**

Decision on Mr Duterte's request to waive the right to attend the hearing on the confirmation of charges

Decision to be notified, in accordance with Regulation 31 of the *Regulations of the Court*, to:

The Office of the Prosecutor

Counsel for the Defence

Legal Representatives of the Victims

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

Registrar

Mr Osvaldo Zavala Giler

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

PRE-TRIAL CHAMBER I of the International Criminal Court issues the present decision on Mr Duterte's request to waive the right to attend the hearing on the confirmation of charges.

1. On 16 February 2026, pursuant to the Chamber's order,¹ the Defence submitted the 'Defence Observations pursuant to Rule 122(3) and Defence Request pursuant to Rule 124(1)',² where it submitted *inter alia* that, pursuant to rule 124(1) of the Rules of Procedure and Evidence (the 'Rules'), 'Mr Duterte requests to waive his right to be present at the hearing on the confirmation of charges', scheduled to commence on 23 February 2026.³ The Prosecution and the Common Legal Representatives of Victims (the 'CLRV') opposed such request on 17 and 18 February 2026, respectively.⁴

2. On 18 February 2026, pursuant to the Chamber's order,⁵ the Defence submitted Mr Duterte's written request, signed by him, to waive his right to be present at the confirmation of charges hearing.⁶

3. On 19 February 2026, the Prosecution submitted a further response, opposing the Request.⁷ The Chamber acknowledges the Prosecution's Second Response, but notes that it essentially amounts to a mere repetition of its First Response as to the fact that, according to the Prosecution, there is no reasonable cause for Mr Duterte not to appear in person in court at the confirmation of charges hearing. Therefore, the Chamber will disregard the Prosecution's Second Response.

4. The Chamber recalls that, pursuant to article 61(2)(a) of the Rome Statute (the 'Statute'), '[t]he Pre-Trial Chamber may [...] hold a hearing in the absence of the person charged to confirm the charges on which the Prosecutor intends to seek trial when the person has [...] [w]aived his or her right to be present'. In this regard, rules 124(1) and (2) of the Rules add

¹ Decision on the 'Defence Request for an Indefinite Adjournment' and Mr Duterte's fitness to take part in the pre-trial proceedings, ICC-01/21-01/25-356-Conf (public redacted version notified on the same day, ICC-01/21-01/25-356-Red), 26 January 2026, para. 55.

² ICC-01/21-01/25-379-Conf.

³ See Order setting the schedule and directions for the confirmation of charges hearing and convening the annual hearing on detention, ICC-01/21-01/25-359, 27 January 2026 (the 'Scheduling Order').

⁴ 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), ICC-01/21-01/25-382-Conf ('Prosecution's First Response'), paras 11-12; Victims' Response to the Defence Observations pursuant to Rule 122(3) and Defence Request pursuant to Rule 124(1), ICC-01/21-01/25-384-Conf, paras 4, 13-18.

⁵ Email from the Chamber on 17 February 2026 at 11:31.

⁶ Request by Mr Rodrigo Roa Duterte to Waive the Right to Attend the Hearing on the Confirmation of the Charges, ICC-01/21-01/25-383-AnxA (the 'Request') annexed to Notification of a Request to Waive the Right to Attend the Hearing on the Confirmation of the Charges, ICC-01/21-01/25-383.

⁷ Prosecution Response to Defence 'Notification of a Request to Waive the Right to Attend the Hearing on the Confirmation of the Charges' (ICC-01/21-01/25-383), ICC-01/21-01/25-386-Conf (public redacted version notified on the same day, ICC-01/21-01/25-386-Red) ('Prosecution's Second Response').

that, if a suspect ‘wishes to waive the right to be present at the hearing on confirmation of charges, he or she shall submit a written request to the Pre-Trial Chamber’, and that ‘[a] confirmation hearing pursuant to article 61, paragraph 2 (a), shall only be held when the Pre-Trial Chamber is satisfied that the person concerned understands the right to be present at the hearing and the consequences of waiving this right’.

5. Whilst the Defence’s submissions in connection to Mr Duterte’s Request are speculative, have no impact on the Court proceedings and are irrelevant, particularly for the assessment of the Request in light of the abovementioned applicable provisions,⁸ in the Chamber’s view the information included in the Request, signed by Mr Duterte, is sufficient to fulfil the requirements provided for in such provisions. In particular, the Chamber notes that, as required by rule 124(2) of the Rules, Mr Duterte states that he understands he has the right to be present at the confirmation hearing and the consequences of waiving this right, which have been ‘thoroughly explained to [him] by [his] Counsel’. Moreover, the Chamber, while acknowledging the objections of the Prosecution and the CLRV, considers that, in the present circumstances of the case, it is appropriate to proceed with the hearing on the confirmation of charges in the absence of Mr Duterte.

6. Therefore, the Chamber decides that the hearing on the confirmation of charges shall be held in the absence of Mr Duterte pursuant to article 61(2)(a) of the Statute. This applies to all sessions of the hearing on the confirmation of charges as set out in the Scheduling Order.

7. The Chamber clarifies that, should Mr Duterte also wish to waive his right to attend the annual hearing on detention, convened on 27 February 2026 at 14:00,⁹ he shall provide a separate waiver strictly limited to the matter of his attendance to that hearing.

⁸ See ICC-01/21-01/25-383, paras 3-5.

⁹ Scheduling Order, paras 12-13, 17.

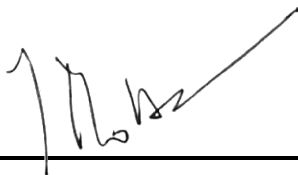
FOR THESE REASONS, THE CHAMBER HEREBY

GRANTS the Request;

DECIDES that the hearing on the confirmation of charges will be held in the absence of Mr Duterte; and

ORDERS the Defence, the Prosecution and the CLRV to either indicate whether filings ICC-01/21-01/25-379-Conf, ICC-01/21-01/25-382-Conf and ICC-01/21-01/25-384-Conf can be reclassified as public, or file public redacted versions thereof, by no later than 20 February 2026 at 16:00.

Done in English. A French translation will follow. The English version remains authoritative.



Judge Iulia Antoanella Motoc, Presiding



**Judge Reine Adélaïde Sophie Alapini-
Gansou**



Judge María del Socorro Flores Liera

Dated this Friday, 20 February 2026

At The Hague, The Netherlands