

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-01/21-01/25**
Date: **22 September 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

Public Redacted Version of “Corrected version of the “Prosecution Response to ‘Defence Motion Requesting a Judicial Determination on the Prosecution’s Eight Additional Incidents,’” 14 September 2026, ICC-01/21-01/25-504-Conf”, 15 September 2026, ICC-01/21-01/25-504-Conf-Corr

Source: Office of the Prosecutor

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I. INTRODUCTION

1. The Defence once again challenges the Prosecution's ability to provide notice of 'additional' incidents.¹ For the reasons previously advanced by the Prosecution, and for the further reasons set out below, these challenges are unfounded and should be dismissed.

II. CONFIDENTIALITY

2. Pursuant to regulation 23*bis*(2) of the Regulations of the Court, this response is filed as "Confidential" because it is responsive to a filing with the same classification. A public redacted version will be filed as soon as practicable.

III. SUBMISSIONS

3. The Defence's Motion largely duplicates its pending Rule 134(1) Motion.² In the interests of judicial economy, the Prosecution respectfully proposes that the Trial Chamber deal with the two motions together.

4. In responding to the present Motion, the Prosecution thus relies upon and incorporates its Response to the Rule 134(1) Motion in three key respects. *First*, the legal adequacy of the charges under article 74(2) of the Rome Statute and notice under article 67(1)(a) are distinct issues, with notice being a matter for trial.³ *Second*, the question of the form of the charges has already been properly determined by the Pre-Trial Chamber. The charges against Mr Duterte are concretely and sufficiently defined by clear geographic, temporal, and material parameters, and they leave open the possibility for the Prosecution to further identify (and give further notice of) the evidence (including incidents and victims) by which these charges will be proved.⁴ *Third*, the Prosecution has duly given such notice⁵ sufficiently in advance of trial and in accordance with the 31 August 2026 deadline imposed by the Trial Chamber.⁶

¹ [ICC-01/21-01/25-502-Conf](#) ("Motion"). See also [ICC-01/21-01/25-332](#) ("Defence Response to Clarification on Proposed Scope of the Charges"), paras. 4-5, and fn. 7; [Leave to Appeal Decision](#), paras. 8, 10. See also paras. 12-15 (further observing that "the Defence conflates the issue of proper delineation of the charges for the purposes of article 74(2) [...] and the accused's right to be informed in detail of the nature, cause and content of any charge brought against him, pursuant to article 67(1)(a)").

² [ICC-01/21-01/25-487](#) ("Rule 134(1) Motion").

³ [ICC-01/21-01/25-499](#) ("Rule 134(1) Response"), paras. 4-8.

⁴ [Rule 134\(1\) Response](#), paras. 9-15. See also [ICC-01/21-01/25-417-Red](#) ("Confirmation Decision"), paras. 18-24.

⁵ See [ICC-01/21-01/25-490-Conf](#) ("Prosecution Trial Brief"), para. 6 (fn. 21: referring to incidents 50-57), paras. 161-164 (incident 56), 176-180 (incident 57), 234-235 (incident 55), 245-246 (incident 50), 247-249 (incident 51), 250-252 (incident 52), 253-255 (incident 54), 294-295 (incident 53).

⁶ [Rule 134\(1\) Response](#), paras. 16-19. See also [ICC-01/21-01/25-T-009-Red-ENG WT](#), pp. 26:17-28:18, 47:7-11.

5. Consequently, the Defence is incorrect both in asserting that the Prosecution has “effectively sought to amend the charges” and in suggesting that there is any need for the Trial Chamber’s further permission to bring evidence of these additional incidents.⁷ To the contrary, as previously stated, the charges remain the same; any question concerning the sufficiency of notice of particular incidents or victims falling with those charges, under article 67(1)(a), is a question for the end of trial and therefore premature at this stage.⁸ There is no basis for the relief sought by the Defence.⁹

6. The eight ‘additional’ incidents of which the Prosecution has given notice fall squarely within the parameters of the confirmed charges,¹⁰ which, as the Presiding Judge noted, the “Pre-Trial Chamber specifically left [...] open.”¹¹ In arguing that Incidents 50 to 57 concern locations, perpetrators, victims and/or dates that are new, the Defence again conflates the scope of the charges as set out in Counts 2 and 3 with the notice of specific incidents the Prosecution had given notice during the confirmation stage.¹² For example, Incident 53 concerns a murder alleged in [REDACTED], which is not, as the Defence claims, a “new” location,¹³ and falls plainly within the geographic scope of Count 3 as confirmed by the Pre-Trial Chamber: “locations across the Philippines”.¹⁴ If this was not clear to the Defence after the Confirmation Decision, the Pre-Trial Chamber again confirmed that the geographic scope of the charges was specifically defined for each count in its Leave to Appeal Decision: “Count 1: Davao City; Counts 2-3: the territory of the Philippines”.¹⁵

7. Indeed, as expressly noted in the Prosecution’s Trial Brief,¹⁶ each of Incidents 50 to 57 fall within the scope of Counts 2 and 3 as confirmed by the Pre-Trial Chamber: they occurred “in locations across the Philippines”; were perpetrated by members of the National Network;

⁷ *Contra* [Motion](#), paras. 1-2.

⁸ See e.g. [Rule 134\(1\) Response](#), paras. 3, 8, 16. The further Defence arguments seeking to distinguish between notice of “incidents” and “victims” are inapposite, provided that they fall within the scope of the charges confirmed by the Pre-Trial Chamber (as both plainly do), and having regard also to the Trial Chamber’s deadline for notice of incidents imposed on the basis of its case management powers under article 64(6)(f) of the Statute: *contra* [Motion](#), paras. 14-17. As the Prosecution has previously submitted, the Defence cannot now challenge the legal adequacy of the charges confirmed by the Pre-Trial Chamber ‘through the backdoor’, and in any event shows no defect: *compare* e.g. [Motion](#), paras. 18-22, with [Rule 134\(1\) Response](#), paras. 3, 7-15. The supposed ‘practical’ consequences of the framing of the charges are misconceived: *compare* e.g. [Motion](#), para. 23, with [Rule 134\(1\) Response](#), paras. 14-15, 18.

⁹ *Contra* [Motion](#), para. 3.

¹⁰ *Contra* [Motion](#), paras. 26-33.

¹¹ [ICC-01/21-01/25-T-009-Red-ENG WT](#), pp. 26: 17-19, 28:7-8. See also above fn. 4.

¹² [Motion](#), paras. 26-32.

¹³ [Motion](#), para. 28.

¹⁴ [Confirmation Decision](#), p. 47, para. 40, p. 49 (Count 3).

¹⁵ [ICC-01/21-01/25-445](#) (“Leave to Appeal Decision”), para. 10.

¹⁶ [Prosecution Trial Brief](#), para. 6 (fn. 21).

involved victims alleged to be either “High-Value Targets” (Incidents 56 and 57) or “lower-level” criminals (Incidents 50 to 55); and occurred “during DUTERTE’s Presidency between *around* July 2016 and July 2017”¹⁷ (Incidents 56 and 57) or “during DUTERTE’s Presidency between around July 2016 and September 2018” (Incidents 50 to 55).¹⁸ The Defence takes issue with Incident 57 occurring two weeks after [REDACTED] 2017,¹⁹ ignoring the Chamber’s express incorporation of the word “around” and therefore misinterpreting [REDACTED] 2017 as a fixed endpoint.

IV. CONCLUSION

8. For all the reasons above, the Motion should be dismissed.



Mame Mandiaye Niang
Acting Prosecutor

Dated this 22nd day of September 2026

At The Hague, the Netherlands

¹⁷ Emphasis added.

¹⁸ [Confirmation Decision](#), p. 46, para. 34, p. 47, para. 40, p. 49, Counts 2 and 3. *See also* [Leave to Appeal Decision](#), para. 10.

¹⁹ [Motion](#), paras. 31-32.