

Status Conference

(Open Session)

ICC-01/21-01/25

1 International Criminal Court
2 Trial Chamber III
3 Situation: Republic of the Philippines
4 In the case of The Prosecutor v. Rodrigo Roa Duterte - ICC-01/21-01/25
5 Presiding Judge Joanna Korner, Judge Keebong Paek
6 and Judge Nicolas Guillou
7 Status Conference - Courtroom 1
8 Tuesday, 23 June 2026
9 (The hearing starts in open session at 10.02 a.m.)
10 THE COURT USHER: [10:02:39] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE KORNER: [10:03:11] Yes, good morning, all.
14 Madam Registrar, can you call the case.
15 THE COURT OFFICER: [10:03:21] Good morning, Madam President, your Honours.
16 Situation in the Republic of the Philippines, in the case of The Prosecutor versus
17 Rodrigo Roa Duterte, case reference ICC-01/21-01/25.
18 And for the record, we are in open session.
19 PRESIDING JUDGE KORNER: [10:03:40] And, again, Mr Haynes, we have excused
20 your client's attendance today, but, as I think we made clear, it's only because it's a
21 relatively short hearing.
22 MR HAYNES: [10:03:56] Yes. I was going to observe, of course, that the movement
23 of a detainee from the detention unit to the court is an unsettling experience, even for
24 the sturdiest of clients. But he's fully aware that you'll expect to see him sooner
25 rather than later.

1 PRESIDING JUDGE KORNER: [10:04:16] Right. Yes, as you're on your feet, Mr
2 Haynes, we may as well start the introductions with you.

3 MR HAYNES: [10:04:23] I'm ably assisted today by Ms Gibson, Ms Daniel and
4 Ms Sethi.

5 PRESIDING JUDGE KORNER: [10:04:29] Yes, thank you very much.
6 And the appearances for the Prosecution.

7 MR NICHOLLS: [10:04:32] Good morning, Madam President. Good morning, your
8 Honours, to everybody in the room.

9 Julian Nicholls, with Edward Jeremy, Sylvie Wakchom, Zinzana Zjajo and
10 James Miriti. Thank you.

11 PRESIDING JUDGE KORNER: [10:04:43] Thank you very much.
12 And, finally, the representatives for the victims.

13 MS MASSIDDA: [10:04:47] Good morning, Madam President, your Honours.
14 Anne Grabowski and myself, Paolina Massidda, for the victims today. Thank you.

15 PRESIDING JUDGE KORNER: [10:04:53] Yes, Ms Massidda, can I just clarify
16 something while you're on your feet.

17 I know you're the only representative appearing today, but the Pre-Trial Chamber,
18 I think, appointed three of you. Can I ask which of you is lead counsel?

19 MS MASSIDDA: [10:05:11] None of us; the three of us are lead counsel actually.

20 The way in which we work, we normally agree on a common position before
21 anything before the Chamber, if necessary, or anything. So we actually act as a
22 single team -- this is the expression which was used by the Pre-Trial Chamber. But
23 we don't have a formal lead counsel in the team and we take our decisions jointly and
24 collegially.

25 PRESIDING JUDGE KORNER: [10:05:40] Yes, all right. I mean, that, of course, is a

1 matter for you. But I want to make one thing clear, only one of you --

2 MS MASSIDDA: [10:05:49] Yes.

3 PRESIDING JUDGE KORNER: [10:05:51] -- from the three that have been appointed
4 will be asking questions. I'm not going to have three people asking questions during
5 the course of the trial.

6 MS MASSIDDA: [10:06:02] You can be reassured, Madam President, this is also our
7 understanding --

8 PRESIDING JUDGE KORNER: [10:06:04] Right.

9 MS MASSIDDA: [10:06:04] -- and we will always be in agreement between the three
10 of us who will be leading a specific questioning for a witness or specific arguments in
11 court; so, in other words, also for legal arguments, only one of us will address the
12 Court. Thank you.

13 PRESIDING JUDGE KORNER: [10:06:20] That's very helpful. Thank you very
14 much, indeed.

15 All right. I don't think we've got anybody here from the Registry this morning, so
16 we might as well move to, as I say, what is a relatively short session.

17 The first item on the agenda was the deadlines for the filings of observations to the
18 expert panel for the reports. And we set -- I should make it clear, the experts who
19 are going to examine the accused.

20 We set the following deadlines: 18 August for the experts to file their reports; 24
21 August, the Registry was going to file the experts' reports - all right - and 31 August
22 observations from the parties and participants, including any request that may be
23 made for natural hearing.

24 Now, Mr Nicholls, the Office of the Prosecutor requested this item; is there a reason
25 for that?

1 MR NICHOLLS: [10:07:36] Yes, your Honour. Thank you.
2 Really, what we're asking for is one more week to file our observations and then, of
3 course, if necessary, another week for the Defence and for our friends in the LRV.
4 The reason is very simply, on 31 August we're going to have to file our pretrial brief,
5 our list of witnesses, our list of evidence, complete our disclosure, and then this
6 will -- I'm sort of asking for mercy. This will drop on us, and we can't really start
7 writing it early during that last week as well when we expect to be extremely busy,
8 and depending on what the outcome is of the reports we receive on the 24th, it may or
9 may not be quite a lot of work. So, we're just asking for one more week to file so that
10 we can do -- have more time after our deadline for all those other projects. I think
11 there's a total of, like, approximately 10 that we have due on that day -- and my -- so
12 this is formally under reg 35. But I don't see that this would slow things down
13 substantially in any real way, and certainly not the start of the trial date if we're given
14 that week. So those are the grounds and that is the request.

15 PRESIDING JUDGE KORNER: [10:09:02] It's not if it was just that, Mr Nicholls, but
16 it's the knock-on effect, because, as you say, if we give you an extra week, well, then
17 we are going to have to give the Defence an extra week -- well, I suppose it's
18 everybody at the same time, isn't it? Okay.

19 MR NICHOLLS: [10:09:22] Your Honour, I think we were filing simultaneously --

20 PRESIDING JUDGE KORNER: [10:09:23] Yes. No, I was -- yeah.

21 MR NICHOLLS: [10:09:24] -- so it won't have that extra that I think you may have
22 been thinking.

23 PRESIDING JUDGE KORNER: [10:09:30] Yes, sorry. You're quite right.
24 Mr Haynes.

25 MR HAYNES: [10:09:37] We've got no difficulty with you showing some mercy to

1 the Prosecution.

2 PRESIDING JUDGE KORNER: [10:09:41] Ms Massidda.

3 MS MASSIDDA: [10:09:44] Same with us, your Honour.

4 PRESIDING JUDGE KORNER: [10:09:45] Yes, all right. We'll be merciful,
5 Mr Nicholls, as it's early on.

6 MR NICHOLLS: [10:09:52] Thank you very much, your Honours.

7 PRESIDING JUDGE KORNER: [10:09:53] And you can have the extra week.

8 Then the next item was the adoption of the protocol on the handling of confidential
9 information.

10 I think you've all seen that it's really the standard one that appears in all trials. Does
11 anybody have any comments on it?

12 MR NICHOLLS: [10:10:10] No, your Honour. Just I thought it hadn't been
13 formally adopted yet, unless I'm wrong. It was adopted by the Pre-Trial Chamber.

14 PRESIDING JUDGE KORNER: [10:10:20] Yeah.

15 MR NICHOLLS: [10:10:21] The standard one that's annexed to the trial manual.
16 But we were just asking that it be formally adopted at this stage, because it wasn't
17 carried over from the -- from the pretrial stage -- pre-confirmation stage, excuse me.

18 PRESIDING JUDGE KORNER: [10:10:40] Yes, I think that's right. Does anybody
19 have any objections, otherwise we'll just order it to be adopted and filed?

20 MR HAYNES: [10:10:45] We did have a couple of small observations to make about
21 the text of it, which I think, with respect, might be better done in writing. That has
22 been the practice in the past and it's worked very well. It shouldn't hold things up at
23 all, but I'm sure we can get something across in a few days.

24 PRESIDING JUDGE KORNER: [10:11:02] Right. That seems very sensible. I think
25 then we'll simply -- well, we'll wait for your potential objection and see if we want to

1 make any amendments and then we'll instruct the Registry to file it, or whatever the
2 procedure is with this protocol.

3 Right. Page limit of the Prosecution's trial brief.

4 Well, you again, Mr Nicholls, asked for this. How many pages are you asking for?

5 MR NICHOLLS: [10:11:43] We'd ask for 160, your Honour -- an additional 40 pages.

6 I don't have the stats, but I think that's almost the standard now with the 120 is that

7 the parties ask for some more. That's 40 less than in the Abd-Al-Rahman case, and

8 I think we may use a little bit less than that, but we think that's what we really need to
9 write a good brief.

10 PRESIDING JUDGE KORNER: [10:12:07] Yeah. And is that with or without

11 annex -- annexes, because you had some helpful annexes attached to the

12 Pre-Confirmation Brief?

13 MR NICHOLLS: [10:12:27] Yes, that would be without annexes. We will avoid that

14 issue that came up in the last trial about substance in the annexes that should have
15 been in the brief.

16 PRESIDING JUDGE KORNER: [10:12:30] Yeah.

17 MR NICHOLLS: [10:12:30] But that would be without the annexes, so that wouldn't
18 include maps and charts.

19 PRESIDING JUDGE KORNER: [10:12:37] No. Well, that's all right. Yeah, I think
20 we're all -- yeah. We all agree. Yes. All right.

21 MR NICHOLLS: [10:12:43] Thank you very much, your Honours.

22 PRESIDING JUDGE KORNER: [10:12:45] Right. Then we're going to give some
23 dates for the next status conferences.

24 There will be one, as I think we've already given the date, 14 July; is that right?

25 These are all dates that were put into the calendar, but if it turns out there's no need

1 for anything to be discussed then we may vacate them. But, otherwise, it's

2 7 September, 13 October, and then 2 November.

3 I rather feel the one on 7 September, because by then we will have had the reports, is
4 likely to be an important one. And for that, certainly, Mr Haynes, we would expect
5 Mr Duterte to be here unless there's some medical issue.

6 The final matter that I want to raise is this, and that's the question of statements being
7 made by counsel to the media.

8 This case has attracted, not surprisingly, a substantial amount of media interest in the
9 Philippines in particular. That's not, of course, only mainstream media, but, as is
10 common these days, social media and, additionally, appears to have provoked
11 suppliers of what is undoubtedly fake news and obviously fake news.

12 The first thing we wish to emphasise is the need for the media to report to the public
13 accurately and fairly what is said in court and, above all, to avoid speculation. That
14 is important in any trial and it's doubly important when it comes to a trial of serious
15 allegations, and nothing could be more serious than these of criminal activity.

16 Can I just issue a reminder to the media that anything which is said in private session
17 may not be reported.

18 Part of the reporting of the earlier proceedings in this case was not assisted by
19 comments made by previous Defence counsel, Nicholas Kaufman, to the media.

20 On 3 October of last year, the Pre-Trial Chamber issued a reminder to him to
21 remember that he had a professional duty to be respectful and courteous to the
22 Chamber. Regrettably, that reminder had no effect.

23 On 26 April of this year, after the Appeals Chamber had made its decision on
24 jurisdiction, Kaufman gave at least two interviews commenting on the decision.

25 Some of those comments were his personal view of legal decisions made by the Court

1 as a whole and were, on any showing, wholly inappropriate, the more so when made
2 by counsel in the case.

3 In the light of this previous history, this Trial Chamber feels it incumbent to repeat the
4 reminder, or warning, to all counsel in the case for the reasons that I have already
5 expressed as to the importance of this trial.

6 We see no reason why counsel should feel it necessary to make any comment to the
7 media. The appropriate forum for counsel to raise matters is in the courtroom.
8 Trials are not conducted by the court of public opinion, but by this Court during the
9 course of the proceedings.

10 We should add, finally, that we are somewhat surprised to see that other than the
11 catch-all provisions that are contained in the Defence code of conduct - namely,
12 Articles 5, 7 and 24 - no guidance on the topic of media comment is offered to counsel
13 in any of the codes in fact, those including for the Prosecution, but, of course, it's
14 particularly applicable to the code for Defence counsel, and we feel that this is a
15 lacuna which should be rectified sooner rather than later.

16 So, are there any other matters that counsel wish to raise at this stage?

17 On either side? No.

18 In that case, that concludes the status conference this morning.

19 THE COURT USHER: [10:19:06] All rise.

20 (The hearing ends in open session at 10.19 a.m.)