

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

*Original: English*

No.: ICC-01/21-01/25

Date: 25 June 2025

**PRE-TRIAL CHAMBER I**

**Before:** Judge Iulia Antoanella Motoc , Presiding Judge  
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**

**Public Redacted Version of  
“Victims’ Response to the Defence Urgent Request for Interim Release”  
(No. ICC-01/21-01/25-162-Conf-Exp, dated 25 June 2025)**

**Source:** Office of Public Counsel for Victims

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> The Office of the Prosecutor             | <input checked="" type="checkbox"/> Counsel for the Defence<br>D36              |
| <input type="checkbox"/> Legal Representatives of the Victims                | <input type="checkbox"/> Legal Representatives of the Applicants                |
| <input type="checkbox"/> Unrepresented Victims                               | <input type="checkbox"/> Unrepresented Applicants<br>(Participation/Reparation) |
| <input checked="" type="checkbox"/> The Office of Public Counsel for Victims | <input type="checkbox"/> The Office of Public Counsel for the Defence           |
| <input type="checkbox"/> States' Representatives                             | <input type="checkbox"/> Amicus Curiae  |

## REGISTRY

---

- |  |  |
|--|--|
| Registrar<br>M. Zavala Giler, Osvaldo                                  | <input type="checkbox"/> Counsel Support Section |
| <input type="checkbox"/> Victims and Witnesses Unit                    | <input type="checkbox"/> Detention Section       |
| <input type="checkbox"/> Victims Participation and Reparations Section | <input type="checkbox"/> Other                   |

## I. INTRODUCTION

1. The Principal Counsel of the Office of Public Counsel for Victims (the “OPCV” or the “Office”), appointed to represent the collective interests of potential victims until the mandate of the team of common legal representatives takes effect,<sup>1</sup> files her response to the “Urgent Request for Interim Release” (the “Defence Request” or the “Request”).<sup>2</sup>

2. The Principal Counsel submits that the Defence Request should be rejected and that the continued detention of Mr Rodrigo Roa Duterte (“Mr Duterte”) remains necessary since the conditions set forth in article 58(1) of the Rome Statute (the “Statute”) continue to be met.

3. In particular, the gravity of the charges, the fact that Mr Duterte has now access to a great part of the evidence in the record of the case and to the Prosecution witnesses’ identities, and that he continues to wield considerable power and support, are all important factors that make his continued detention necessary and justified to ensure his presence at trial – as required by the Statute – and to avoid the obstruction of the Court’s proceedings. Moreover, no humanitarian reasons have been established at this juncture justifying an interim release.

4. Victims also oppose the Request on the basis that their security and well-being will be in danger in the event that Mr Duterte is released. In this regard, victims have expressed their strong concerns about the possibility that the suspect enjoys interim release, even with conditions, fearing reprisals. Indeed, Mr Duterte’s supporters are very active and he still has strong connections with individuals in power. Victims are equally concerned by the fact that the Suspect has the means to evade justice.

---

<sup>1</sup> See the “Order on the conduct of confirmation proceedings” (Pre-Trial Chamber I), [No. ICC-01/21-01/25-114](#), 17 April 2025, paras. 68-69.

<sup>2</sup> See the “Public Redacted Version of the ‘Urgent Request for Interim Release’, 12 June 2025”, [No. ICC-01/21-01/25-150-Red](#), 12 June 2025 (the “Defence Request” or the “Request”).

## II. PROCEDURAL BACKGROUND

5. On 10 February 2025, the Prosecutor filed an application for a warrant of arrest for Mr Duterte as an alleged indirect co-perpetrator pursuant to article 25(3)(a) of the Statute for crimes against humanity allegedly committed in the Philippines between 1 November 2011 and 16 March 2019.<sup>3</sup> On 7 March 2025, Pre-Trial Chamber I (the “Chamber”) issued a warrant of arrest against the Suspect (the “Warrant of Arrest”).<sup>4</sup>

6. On 12 March 2025, Mr Duterte was surrendered to the Court.<sup>5</sup>

7. On 17 April 2025, the Chamber issued the “Order on the conduct of confirmation proceedings”, setting several deadlines with regard to the confirmation of charges hearing – scheduled to commence on 23 September 2025 –, including that the Prosecution shall complete the disclosure process by no later than 1 July 2025.<sup>6</sup>

8. On 12 June 2025, the Defence filed its Request.<sup>7</sup> At the time the OPCV was only notified of the public version of the submission.

9. On 16 June 2025, the Chamber granted the OPCV’s demand for the deadline to respond to the Request to start running from the day of notification of the confidential version of the relevant documents.<sup>8</sup> The Principal Counsel was notified of the confidential version of the Request on the same day, except for Annex C [REDACTED].<sup>9</sup>

---

<sup>3</sup> See the “Public redacted version of ‘Prosecution’s urgent application under article 58 for a warrant of arrest against Rodrigo Roa DUTERTE’”, 10 February 2025, ICC-01/21-80-US-Exp, [No. ICC-01/21-01/25-80-Red](#), 13 March 2025 (the “Application for a warrant of arrest”).

<sup>4</sup> See the “Warrant of Arrest for Mr Rodrigo Roa Duterte” (Pre-Trial Chamber I), [No. ICC-01/21-01/25-83](#), 7 March 2025 (the “Warrant of Arrest”).

<sup>5</sup> See the “Decision on the Prosecution’s application under regulation 35 of the Regulations of the Court” (Pre-Trial Chamber I), [No. ICC-01/21-01/25-138](#), 20 May 2025, para. 1.

<sup>6</sup> See the “Order on the conduct of confirmation proceedings”, *supra* note 1, para. 24.

<sup>7</sup> See the Defence Request, *supra* note 2.

<sup>8</sup> See the email from the Chamber of 16 June 2025, at 14:15.

<sup>9</sup> See the email from the Defence Counsel of 14 June 2025, at 17:05.

10. On 18 June 2025, following a Defence request filed on 16 June 2025,<sup>10</sup> the Chamber issued an order [REDACTED].<sup>11</sup>

11. On 23 June 2025, the Prosecution filed its response to the Request.<sup>12</sup>

### III. CLASSIFICATION

12. Pursuant to regulation 23bis (1) and (2) of the Regulations of the Court, the present submission is classified as Confidential *Ex parte* Defence, Prosecution and OPCV only, following the classification chosen by the Defence and because it refers to the content of documents bearing the same classification. A public redacted version will be filed in due course.

### IV. SUBMISSIONS

#### A. Applicable law

13. The interim release of a person within the Court's statutory framework is governed by article 60(2), read in conjunction with article 58(1) of the Statute.

14. Article 60(2) of the Statute provides :

*"A person subject to a warrant of arrest may apply for interim release pending trial. If the Pre-Trial Chamber is satisfied that the conditions set forth in article 58, paragraph 1, are met, the person shall continue to be detained. If it is not so satisfied, the Pre-Trial Chamber shall release the person, with or without conditions."*

---

<sup>10</sup> [REDACTED].

<sup>11</sup> [REDACTED], 18 June 2025.

<sup>12</sup> See the "Public Redacted Version of "Prosecution's response to 'Urgent Request for Interim Release'", [No. ICC-01/21-01/25-159-Red](#), 23 June 2025 (the "Prosecution's Response").

15. Article 58(1) of the Statute provides the following conditions for the issuance of a warrant of arrest :

*“a) There are reasonable grounds to believe that the person has committed a crime within the jurisdiction of the Court; and*

*(b) The arrest of the person appears necessary:*

*(i) To ensure the person’s appearance at trial;*

*(ii) To ensure that the person does not obstruct or endanger the investigation or the court proceedings; or*

*(iii) Where applicable, to prevent the person from continuing with the commission of that crime or a related crime which is within the jurisdiction of the Court and which arises out of the same circumstances”.*

16. The Appeals Chamber held in this respect that *“the decision on continued detention or release pursuant to article 60(2) read with article 58(1) of the Statute is not of a discretionary nature. Depending upon whether or not the conditions of article 58(1) of the Statute continue to be met, the detained person shall continue to be detained or shall be released”*.<sup>13</sup>

17. The Appeals Chamber also clarified that, in reaching a decision under article 60(2) of the Statute, the relevant chamber has to inquire anew into the existence of facts justifying detention as its power is not conditioned by its previous ruling on the issuance of a warrant of arrest.<sup>14</sup> Furthermore, the decision under article 60(2) of the Statute is a decision *de novo*, in the course of which the relevant chamber has to determine whether the conditions of article 58(1) are met.<sup>15</sup>

18. Moreover, the Appeals Chamber has confirmed that, when assessing the need for continued detention, *“[i]t must ‘appear’ to be necessary. The question revolves around*

---

<sup>13</sup> See the “Judgment on the appeal of Mr. Thomas Lubanga Dyilo against the decision of Pre-Trial Chamber I entitled ‘Decision sur la demande de mise en liberté provisoire de Thomas Lubanga Dyilo’” (Appeals Chamber), [No. ICC-01/04-01/06-824 OAZ](#), 13 February 2007, para. 134.

<sup>14</sup> See the “Judgment on the appeal of Mr Laurent Koudou Gbagbo against the decision of Pre-Trial Chamber I of 13 July 2012 entitled ‘Decision on the ‘Requête de la Défense demandant la mise en liberté provisoire du président Gbagbo’” (Appeals Chamber), [No. ICC-02/11-01/11-278-Red OA](#), 26 October 2012, paras. 23, 27.

<sup>15</sup> *Ibid.*

*the possibility, not the inevitability, of a future occurrence*",<sup>16</sup> and "[t]he apparent necessity of continued detention in order to ensure the detainee's appearance at trial does not necessarily have to be established on the basis of one factor taken in isolation. It may also be established on the basis of an analysis of all relevant factors taken together".<sup>17</sup>

19. Lastly, the reasons for detention pursuant to article 58(1)(b)(i) to (iii) of the Statute are alternative.<sup>18</sup> Accordingly, if at least one of the three conditions is fulfilled, the person shall continue to be detained.

## **B. Merits of the Defence Request**

### *i) Article 58(1)(a) - There are reasonable grounds to believe that Mr Duterte committed a crime that falls within the jurisdiction of the Court*

20. In the Warrant of Arrest, the Chamber made several findings relevant to this legal criteria, concluding that there are reasonable grounds to believe that Mr Duterte is individually responsible for the crime against humanity of murder (article 7(1)(a) of the Statute) as an indirect co-perpetrator within the meaning of article 25(3)(a) of the Statute, committed during the relevant period.<sup>19</sup>

21. Whilst the Chamber's power is "*not conditioned by its previous decision to direct the issuance of a warrant of arrest*",<sup>20</sup> the factors supporting said ruling may be the same as those required for a decision under article 60(2) of the Statute. In particular, "*in a decision under article 60(2) of the Statute, a Pre-Trial Chamber may refer to the decision on the*

---

<sup>16</sup> See the "Judgment In the Appeal by Mathieu Ngudjolo Chui of 27 March 2008 against the Decision of Pre-Trial Chamber I on the Application of the Appellant for Interim Release", [No. ICC-01/04-01/07-572 OA4](#), 9 June 2008, para. 21.

<sup>17</sup> See the "Judgment on the appeal of Mr. Jean-Pierre Bemba Gombo against the decision of Pre-Trial Chamber III entitled 'Decision on application for Interim release'" (Appeals Chamber), [No. ICC-01/05-01/08-323 OA](#), 16 December 2008, para. 55. See also the "Decision on the 'Defence Request for Interim Release'" (Pre-Trial Chamber I), [No. ICC-01/04-01/10-163](#), 19 May 2011, para. 39.

<sup>18</sup> See the "Judgment on the appeal of Mr. Thomas Lubanga Dyilo against the decision of Pre-Trial Chamber I entitled 'Décision sur la demande de mise en liberté provisoire de Thomas Lubanga Dyilo'", *supra* note 13, para. 139.

<sup>19</sup> See the Warrant of Arrest, *supra* note 4, paras. 10-25.

<sup>20</sup> See the "Judgment In the Appeal by Mathieu Ngudjolo Chui of 27 March 2008 against the Decision of Pre-Trial Chamber I on the Application of the Appellant for Interim Release", *supra* note 16, para. 10.

warrant of arrest, without this affecting the de novo character of [its] decision".<sup>21</sup> The Chamber may, therefore, "base its decision on evidence that was already before it when it issued the warrant of arrest, as long as it is persuaded that the evidence, at the time of the decision under article 60(2) of the Statute, justifies the finding in question".<sup>22</sup>

22. In the Request, the Defence does not raise any argument to the contrary. Therefore, it can be concluded that there are still reasonable grounds to believe that Mr Duterte has committed crimes that fall within the jurisdiction of the Court and, as a result, the requirement of article 58(1)(a) of the Statute is met.

**ii) Article 58(1)(b)(i) - Mr Duterte's continued detention is necessary to ensure his appearance at trial**

23. The Principal Counsel first recalls that, with respect to article 58(1)(b)(i) of the Statute, the Appeals Chamber has held that "any determination by a Pre-Trial Chamber of whether or not a suspect is likely to abscond necessarily involves an element of prediction".<sup>23</sup> Therefore, and contrary to the Defence's arguments,<sup>24</sup> there is no need to show concrete circumstances demonstrating that the risk of flight is particularly likely.<sup>25</sup>

24. With regard to the seriousness and gravity of the crimes allegedly committed, the Appeals Chamber has clarified that "[e]vading justice in fear of the consequences that may befall the person becomes a distinct possibility; a possibility rising in proportion to the consequences that conviction may entail",<sup>26</sup> and that "[i]f a person is charged with grave

---

<sup>21</sup> See the "Judgment on the appeal of Mr Laurent Koudou Gbagbo against the decision of Pre-Trial Chamber I of 13 July 2012 entitled 'Decision on the 'Requête de la Défense demandant la mise en liberté provisoire du président Gbagbo'", *supra* note 14, paras. 23 and 27.

<sup>22</sup> *Idem*, para. 69.

<sup>23</sup> See the "Judgment on the appeal of Mr. Thomas Lubanga Dyilo against the decision of Pre-Trial Chamber I entitled 'Decision sur la demande de mise en liberté provisoire de Thomas Lubanga Dyilo'", *supra* note 13, para. 137.

<sup>24</sup> *Contra* Defence Request, *supra* note 2, para. 19.

<sup>25</sup> See the "Judgment In the Appeal by Mathieu Ngudjolo Chui of 27 March 2008 against the Decision of Pre-Trial Chamber I on the Application of the Appellant for Interim Release", *supra* note 16, para. 21.

<sup>26</sup> *Ibid.* See also the "Judgment on the appeal of Mr. Jean-Pierre Bemba Gombo against the decision of Pre-Trial Chamber III entitled 'Decision on application for Interim release'", *supra* note 17, para. 55; and the "Judgment on the appeal of the Prosecutor against Pre-Trial Chamber II's 'Decision on the Interim Release of Jean-Pierre Bemba Gombo and Convening Hearings with the Kingdom of Belgium, the Republic of Portugal, the Republic of France, the Federal Republic of Germany, the Italian Republic,

*crimes, the person might face a lengthy prison sentence, which may make the person more likely to abscond*".<sup>27</sup>

25. There is no doubt that the charges for which the Chamber issued the Warrant of Arrest, namely for the Suspect's alleged criminal responsibility pursuant to article 25(3)(a) of the Statute for the crime against humanity of murder,<sup>28</sup> are multiple and of extreme gravity. Therefore, and considering that Mr Duterte potentially faces a lengthy sentence if convicted, the Suspect has a bigger incentive to flee and abscond.

26. Turning to the proposed State of release, the Defence proposes that Mr Duterte be released [REDACTED] and provides his personal commitment to return for the proceedings when ordered and to obey any and all conditions that the Court may choose to impose on him.<sup>29</sup>

27. The Principal Counsel strongly opposes the proposal.

28. First, Mr Duterte has already access to a large amount of evidence, including the identities of some of the Prosecution's witnesses, which poses a risk for the security and well-being of said individuals. The process of disclosure has reached an advanced stage,<sup>30</sup> or is about to reach such a stage.<sup>31</sup> This is a relevant factor in weighing the likelihood of the personal appearance or of the risk of flight, "*due to its resulting in*

---

and the Republic of South Africa'" (Appeals Chamber), [No. ICC-01/05-01/08-631-Red](#), 2 December 2009, para. 67.

<sup>27</sup> See the "Judgment on the appeal of Mr. Thomas Lubanga Dyilo against the decision of Pre-Trial Chamber I entitled 'Decision sur la demande de mise en liberté provisoire de Thomas Lubanga Dyilo'", *supra* note 13, para. 136. See also the "Judgment on the appeal of Mr. Jean-Pierre Bemba Gombo against the decision of Pre-Trial Chamber III entitled 'Decision on application for Interim release'", *supra* note 17, para. 55; and the "Judgment on the appeal of the Prosecutor against Pre-Trial Chamber II's 'Decision on the Interim Release of Jean-Pierre Bemba Gombo and Convening Hearings with the Kingdom of Belgium, the Republic of Portugal, the Republic of France, the Federal Republic of Germany, the Italian Republic, and the Republic of South Africa'", *supra* note 26, para. 70.

<sup>28</sup> See the Warrant of Arrest, *supra* note 4, paras. 10-25.

<sup>29</sup> See the Defence Request, *supra* note 2, para. 25 [REDACTED].

<sup>30</sup> See the "Prosecution's Ninth Communication of the Disclosure of Evidence", [No. ICC-01/21-01/25-156](#), 19 June 2025.

<sup>31</sup> See the Order on the conduct of confirmation proceedings, *supra* note 1, para. 24.

*enhancing the degree of knowledge of the Prosecutor's case*".<sup>32</sup> Further, Mr Duterte's personal commitment should be afforded little weight, considering that the risk posed by these factors cannot *"be outweighed by the mere submission of the personal commitment of the suspect not to abscond from the proceedings. Such undertaking, commendable as it might be, is not and cannot be per se decisive but should rather be assessed and appreciated in light of all other relevant factors"*.<sup>33</sup> It is also relevant to note that the Suspect's daughter, currently Vice-President of the Philippines, relayed her father's words during a demonstration in his support held in March 2025 in The Hague, saying that Mr Duterte told her that he was brought to the Court illegally, by extraordinary rendition, and that he does not have to answer for the case against him at the Court.<sup>34</sup> This statement, made a few months ago, is in stark contrast with Mr Duterte's undertaking not to abscond from the proceedings and should be taken into account to assess the risk of flight. Mr Duterte already claimed that the Court had no jurisdiction in the Philippines, or over him, even threatening to arrest ICC officials.<sup>35</sup>

29. Moreover, as also indicated by the Prosecution, Mr Duterte's political position and international contacts, as well as his financial situation are relevant factors in determining the risk of flight.<sup>36</sup>

30. In any case, the proposal appears difficult to implement, since the relief sought would imply [REDACTED]. This will put an onerous burden on the Registry in terms of security, logistics and resources and will inevitably cause delays in the proceedings.

31. As regard a potential proposal for a release [REDACTED], and considering that the Defence does not, at this stage, requests interim release into this country, the Principal Counsel reserves her right to make submissions if, and when, the Defence

---

<sup>32</sup> See the "Decision on the 'Requête urgente de la Défense sollicitant la mise en liberté provisoire de monsieur Fidèle Babala Wandu'" (Pre-Trial Chamber II, Single Judge), [No. ICC-01/05-01/13-258](#), 14 March 2014, para. 19.

<sup>33</sup> *Idem*, para. 20.

<sup>34</sup> See France 24, [Pro-Duterte rallies as ex-Philippine leader marks 80<sup>th</sup> birthday in jail](#), 28 March 2025.

<sup>35</sup> See The Guardian, [Philippines: Duterte threatens to arrest International Criminal Court prosecutor](#), 13 April 2018. See also, the Prosecution's Response, *supra* note 12, paras. 8-14.

<sup>36</sup> See the Prosecution's Response, *supra* note 12, paras. 15- 17.

files the formal application. However, victims have already indicated that no interim release, into any State, even with the strongest conditions, can alleviate their fears that Mr Duterte will evade justice.

32. Another factor put forward by the Defence in its Request is the [REDACTED] which would make it unreasonable to suggest that he has the [REDACTED] ability to abscond.<sup>37</sup>

33. In this regard, the Principal Counsel submits that any [REDACTED]. [REDACTED] should not be determinative on the issue of whether Mr Duterte should benefit from interim release, or not.

34. Finally, the Suspect continues to wield considerable power, as recognised by the Chamber in the Warrant of Arrest.<sup>38</sup> Mr Duterte has since been re-elected mayor of Davao, where crimes are alleged to have taken place, and retains strong influence over his (former and current) subordinates. While Mr Duterte is no longer the President of the Republic of the Philippines, he just recently left his position after decades of his reign in power both at city, provincial and national level. He is still very popular in the Philippines and commands widespread respect and obedience. Mr Duterte's previous statements are also relevant to demonstrate a risk that he will not collaborate with the ICC.<sup>39</sup> As previously mentioned by the Prosecution, it was under Mr Duterte's rule that the Philippines withdrew from the Rome Statute, "*in an apparent attempt to evade responsibility for crimes before the Court for crimes he committed*".<sup>40</sup>

35. Moreover, Mr Duterte has several family members holding high public positions, including his daughter, Ms Sara Duterte, currently Vice-President of the Philippines, his youngest son Sebastien, recently declared Davao vice mayor, and his eldest son, Paolo, who was recently re-elected as a member of the House of

---

<sup>37</sup> See the Defence Request, *supra* note 2, paras. 21-24.

<sup>38</sup> See the Warrant of Arrest, *supra* note 4, para. 26.

<sup>39</sup> See the Application for a warrant of arrest, *supra* note 3, para. 110.

<sup>40</sup> *Ibid.*

Representatives of the Philippines.<sup>41</sup> The Duterte family has an undeniable continued influence in the Philippines, with strong supporters who are repeatedly calling for Mr Duterte's liberation, including in the numerous demonstrations in The Hague.<sup>42</sup> These factors, in the Principal Counsel's view, make it more likely that the Suspect might abscond if released, even with conditions.

36. Therefore, there would be a tangible risk that Mr Duterte, if released, even with conditions, would not return to appear at trial in the event that the charges against him are confirmed. Consequently, the requirement of article 58(1)(b)(i) of the Statute is satisfied and the continuing detention of Mr Duterte still justified also on this ground.

*iii) Article 58(1)(b)(ii) - Mr Duterte's continued detention is necessary to ensure he does not obstruct or endanger the Court's proceedings*

37. In the Request, the Defence argues that Mr Duterte does not pose a risk under article 58(1)(b)(ii) of the Statute;<sup>43</sup> and that his access to confidential information has been negligible.<sup>44</sup> The Defence further argues that an abstract analysis of the risk without examining whether the Suspect has actually taken steps to contact or exercise pressure on potential witnesses does not pass article 58(1)(b)(ii) muster.<sup>45</sup>

38. The Principal Counsel first submits that, as a matter of law, interference with witnesses entails criminal liability under the Statute and therefore non-interference is the norm and is not meant to be accorded any merit. Contrary to the Defence's arguments,<sup>46</sup> there is no need to examine if the Suspect has actually taken steps to obstruct or endanger the current proceedings. Additionally, the fact that Mr Duterte has not attempted to interfere with any witness so far does not mean *per se* that he might not wish to do so, if the opportunity arises, given in particular that he now knows the identities of several Prosecution's witnesses, as well as the content of their

---

<sup>41</sup> See NPR, [Detained Philippines ex-President Duterte wins mayoral race in his home city](#), 14 May 2025.

<sup>42</sup> See France 24, [Pro-Duterte rallies as ex-Philippine leader marks 80<sup>th</sup> birthday in jail](#), 28 March 2025.

<sup>43</sup> See the Defence Request, *supra* note 2, paras. 26-28.

<sup>44</sup> *Ibid.*

<sup>45</sup> *Idem*, para. 26.

<sup>46</sup> *Ibid.*

expected testimony. As already noted, Mr Duterte will continue to receive disclosure of evidence and of the identity of additional witnesses. All these factors increase the possibility that, if released, he may obstruct or endanger the proceedings. The Appeals Chamber has held in this regard that the “disclosure of evidence ‘amplified’ the risk to the investigation and the court proceedings in case of [the suspect’s] release”.<sup>47</sup> Therefore, if interim release is granted, risks of interference with both the ongoing investigation and witnesses and victims will equally be significant.

39. Additionally, and as mentioned by the Prosecution in its Application for the Warrant of Arrest, Mr Duterte has made several public statements attacking both the Court and its legitimacy,<sup>48</sup> expressly stating that, *inter alia*, if the ICC should “come for me, if they arrest me here, there will be a shootout, I will finish all those sons of bitches”.<sup>49</sup> After his arrest, as underlined by the Prosecution in its Response, he (and his family) continues to negate the Court’s legitimacy.<sup>50</sup> Said statements and behaviour should be taken into consideration as a risk that Mr Duterte could obstruct or endanger the proceedings.

40. In this regard, in the decision [REDACTED].<sup>51</sup> [REDACTED]<sup>52</sup> [REDACTED],<sup>53</sup> the Chamber further [REDACTED].<sup>54</sup> These are also elements that ought to be considered by the Chamber in its analysis of article 58(1)(b)(ii) of the Statute on the need to maintain Mr Duterte in detention to ensure that he does not obstruct or endanger the proceedings.

---

<sup>47</sup> See the “Judgment on the appeal of Mr Laurent Koudou Gbagbo against the decision of Pre-Trial Chamber I of 13 July 2012 entitled ‘Decision on the ‘Requête de la Défense demandant la mise en liberté provisoire du président Gbagbo’”, *supra* note 14, para. 65.

<sup>48</sup> See the Application for a warrant of arrest, *supra* note 3, para. 110, referring to e.g. GMA, [PHL-OTP-0003-1425](#); Guardian, [PHL-OTP-0003-0277](#).

<sup>49</sup> *Idem*, referring to Rappler, [PHL-OTP-00000273](#).

<sup>50</sup> See the Prosecution’s Response, *supra* note 12, paras. 8-14.

<sup>51</sup> [REDACTED].

<sup>52</sup> [REDACTED].

<sup>53</sup> *Idem*, para. 8.

<sup>54</sup> [REDACTED].

41. Moreover, the victims expressed concern that the [REDACTED]. There would therefore be a risk that he “*would, directly, or indirectly with the help of others, exert pressure on the witnesses, thus obstructing or endangering the court proceedings*”.<sup>55</sup> Considering the volatility of the security situation in the Philippines, the Principal Counsel submits that the interim release of Mr Duterte will undoubtedly be an additional destabilising factor, as well as a source of great concern for the victims and witnesses in the present case, some of whom have already reported being harassed by supporters of Mr Duterte.<sup>56</sup>

42. With regard to the Defence’s argument that Mr Duterte [REDACTED],<sup>57</sup> the Principal Counsel notes that, while the Defence [REDACTED], she [REDACTED] is not privy to any evidence supporting this assertion. In any case, as underlined *supra*,<sup>58</sup> in the absence of [REDACTED] should be given no weight in the determination of whether Mr Duterte should benefit from interim release, or not.

43. Therefore, and in light of the totality of the relevant information, and the interests at stake, namely the integrity of the proceedings and the safety of victims and witnesses, the Principal Counsel submits that the risks cannot be sufficiently mitigated by imposing conditions upon interim release. Thus, the requirement of article 58(1)(b)(ii) of the Statute are fulfilled, and the continued detention of Mr Duterte is justified and necessary to avoid the risks that the Suspect obstructs or endangers the Court’s proceedings.

*iv) Article 58(1)(b)(iii) - Mr Duterte’s continued detention is necessary to prevent the commission of crimes*

44. In the Request, the Defence argues that Mr Duterte does not seek interim release [REDACTED].<sup>59</sup> The Defence adds that (a) the alleged crimes did not continue despite

---

<sup>55</sup> See the “Decision on the Application for the interim release of Thomas Lubanga Dyilo” (Pre-Trial Chamber I, Single Judge), [No. ICC-01/04-01/06-586-tEN](#), 18 October 2006, p. 6.

<sup>56</sup> See Rappler, [Duterte supporters harass drug was victims’ families post-arrest](#), 19 March 2025.

<sup>57</sup> See the Defence Request, *supra* note 2, para. 27.

<sup>58</sup> See *supra* para. 33.

<sup>59</sup> See the Defence Request, *supra* note 2, paras. 29-32.

the Suspect's victory in the election held on 13 May 2025; (b) Mr Duterte's complete abstinence from any media statements since his arrest shows his intention to move away from politics and governance; (c) more than six years have passed since the temporal scope of the alleged crimes and thus the possibility of continuing with the commission of crimes within the Court's jurisdiction is highly abstract; (d) Mr Duterte is no longer the President of the Republic of the Philippines and does not command the same influence or power he used to have; and (e) Mr Duterte's agreed to refrain from public engagement or communications with persons outside his family and use of the internet or any electronic devices such as a mobile phone.<sup>60</sup>

45. The Principal Counsel recalls that, in the context of article 58(1)(b)(iii), the Appeals Chamber has held that "[t]he reason for detention under article 58(1)(b)(iii) of the Statute is the risk that further crimes may be committed - therefore the issue is future crimes, which by their nature cannot be specified in detail".<sup>61</sup>

46. As mentioned *supra*,<sup>62</sup> Mr Duterte has been recently re-elected mayor of Davao, and continue to wield considerable power, even if he is no longer the President of the Philippines.<sup>63</sup> In this regard, personal guarantees not to engage in public office are not sufficient *per se* to grant interim release and may only be regarded as a factor that needs to be assessed alongside others.<sup>64</sup> Mr Duterte's previous statements also show a [REDACTED].<sup>65</sup> Finally, the information according to which [REDACTED],<sup>66</sup> and that there would have been [REDACTED],<sup>67</sup> should also be taken into account by the

---

<sup>60</sup> *Ibid.*

<sup>61</sup> See the "Judgment on the appeal of Mr Laurent Koudou Gbagbo against the decision of Pre-Trial Chamber I of 13 July 2012 entitled 'Decision on the 'Requête de la Défense demandant la mise en liberté provisoire du président Gbagbo'", *supra* note 14, para. 70.

<sup>62</sup> See *supra* para. 34.

<sup>63</sup> See the Warrant of Arrest, *supra* note 4, para. 26

<sup>64</sup> See the "Decision on Application for Interim Release" (Pre-Trial Chamber II, Single Judge), [No. ICC-01/05-01/08-321](#), 16 December 2008, para. 37. See also the "Decision on Application for Interim Release" (Pre-Trial Chamber II, Single Judge), [No. ICC-01/05-01/08-403](#), 14 April 2009, para. 50 ; and the "Decision on the 'Requête de la Défense demandant la mise en liberté provisoire du président Gbagbo'" (Pre-Trial Chamber I, Single Judge), [No. ICC-02/11-01/11-180-Red](#), 13 July 2012, para. 55.

<sup>65</sup> See the Application for a warrant of arrest, *supra* note 3, para. 110, referring to Rappler, [PHL-OTP-00000273](#). See also the Prosecution's Response, *supra* note 12, para. 9.

<sup>66</sup> [REDACTED].

<sup>67</sup> *Idem*, para. 8.

Chamber to conclude that there are risks that further crimes may be committed, thereby meeting the requirement of article 58(1)(b)(iii) of the Statute and justifying the Suspect's continued detention.

*v) No [REDACTED] humanitarian factors have been established justifying interim release*

47. In its Request, the Defence contends that the Suspect should be released for "humanitarian reasons", arguing that Mr Duterte is 80 years old, [REDACTED].<sup>68</sup> The Defence also alleges that interim release [REDACTED].<sup>69</sup>

48. Preliminarily, the Principal Counsel observes that the practice of the Court has recognised that the issue of the [REDACTED] affects the personal interests of the victims and, therefore, information pertaining to said issue should be accessible to the legal representatives.<sup>70</sup> Therefore, [REDACTED].

49. In any case, [REDACTED], she notes that the MICT Appeals Chamber concluded that "special circumstances warranting provisional release related to humane and compassionate considerations have been found to exist where there is an "acute justification", such as a medical need, a memorial service for a close family member, or a visit to a close relative in extremely poor health whose death is believed to be imminent",<sup>71</sup> and that "[REDACTED]."<sup>72</sup>

50. In this regard, [REDACTED].<sup>73</sup> Therefore, and in the absence of [REDACTED], the Defence does not show [REDACTED] humanitarian factors that would justify the Suspect's release.

---

<sup>68</sup> See the Defence Request, *supra* note 2, paras. 34-35.

<sup>69</sup> *Idem*, para. 36.

<sup>70</sup> See *e.g.*, [REDACTED].

<sup>71</sup> See MICT, *Prosecutor v. Zdravko Tolimir*, Case No. MICT-15-95-ES, Public Redacted Version of the "Decision on Motion for Provisional Release" filed On 8 January 2016 (Appeals Chamber), 23 February 2016, para. 9.

<sup>72</sup> *Ibid.*

<sup>73</sup> [REDACTED].

**C. Mr Duterte's interim release, if granted, will endanger victims**

51. The release of Mr Duterte will not only be a great destabilising factor to the volatile security situation in the country as a whole, but will pose a direct and significant danger to the victims who have demonstrated courage in applying to participate in the present proceedings in order to contribute to the search for the truth, despite risks of being threatened or otherwise stigmatised.

52. In accordance with article 68(1) of the Statute, the Court must "*take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses*". Consequently, when ruling on the Request, the Chamber must strike a fair balance between different competing interests, with due regard to the safety and well-being of the victims and witnesses. Mr Duterte's continued detention makes it possible to meet all of these requirements given in particular that, as demonstrated *supra*, all relevant criteria under articles 60(2) and 58(1) of the Statute continue to be met.

53. Considering that Mr Duterte has been recently arrested, his interim release would be hard to fathom for the victims who have clearly expressed the view that he should remain in detention at the Court pending the pre-trial proceedings. For the victims, this is the only way of ensuring that he will face trial. Indeed, victims are extremely concerned with the prospect that Mr Duterte could be released, particularly because there is a real risk that they face threats from the Suspect and his supporters.

## V. CONCLUSION

54. For the foregoing reasons, the Principal Counsel respectfully requests the Chamber to reject the Defence Request.

A handwritten signature in black ink, reading "Paolina Massidda". The signature is written in a cursive style with a horizontal line underneath the name.

**Paolina Massidda**  
**Principal Counsel**

Dated this 25<sup>th</sup> June 2025

At The Hague, The Netherlands