

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: **ICC-01/21-01/25**
Date: **12 September 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 “Prosecution’s response to ‘Renewed Request for Interim Release’”, 28 August 2025, ICC-01/21-01/25-252-Conf-Exp

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I. INTRODUCTION

1. The Prosecution respectfully requests that the Chamber reject the Defence’s “Renewed Request for Interim Release” (the “Request”)¹ of Rodrigo Roa Duterte (“Mr Duterte”). The continued detention of Mr Duterte remains necessary because the conditions set out by article 58(1)(a) and 58(1)(b)(i)-(iii) of the Rome Statute (the “Statute”) continue to be met. In fact, there have been several events in the short time since the Prosecution filed its Response² to the Defence’s Initial Request for Interim Release,³ that exemplify why Mr Duterte’s continued detention remains necessary. These include: [REDACTED], [REDACTED], [REDACTED], and continued attempts by Mr Duterte’s family to delegitimise the proceedings before this Court.

2. The reports of [REDACTED]⁴ and [REDACTED]⁵ (the “Defence Reports”) should not be relied upon at this stage of the proceedings. The conclusions and opinions of the Defence Reports are not accepted by the Prosecution. In any event, nothing in the Defence Reports counters the established need for the pre-trial detention of Mr Duterte.

II. CONFIDENTIALITY

3. This filing is classified as confidential *ex parte*, Prosecution and Defence only, pursuant to regulation 23bis(1) and (2) of the Regulations of the Court, as it contains sensitive information [REDACTED]. It also refers to filings and decisions of the same classification.

III. SUBMISSIONS

A. Mr Duterte’s continued detention remains necessary

4. The continued detention of Mr Duterte remains necessary as the conditions set out in articles 58(1)(a) and 58(1)(b)(i)-(iii) of the Statute continue to be met. The Prosecution refers the Chamber to its previous submissions in its Response to the Defence’s Initial Request for Interim Release regarding why Mr Duterte’s continued detention is necessary to ensure his

¹ Confidential Renewed Request for Interim Release, 18 June 2025, ICC-01/21-01/25-231-Conf with confidential Annex A – [REDACTED], ICC-01/21-01/25-231-Conf-AnxA (“Annex A to the Request [REDACTED]”), confidential Annex B – [REDACTED], ICC-01/21-01/25-231-Conf-AnxB (“Annex B to the Request [REDACTED]”) and confidential Annex C [REDACTED], ICC-01/21-01/25-231-Conf-AnxC.

² Confidential *ex parte* Defence, Prosecution only, Prosecution’s response to “Urgent Request for Interim Release”, 23 June 2025, ICC-01/21-01/25-159-Conf-Exp (“Response”).

³ Confidential Urgent Request for Interim Release, 12 June 2025, ICC-01/21-01/25-150-Conf (“Initial Request for Interim Release”).

⁴ Annex A to the Request [REDACTED].

⁵ Annex B to the Request [REDACTED].

appearance at trial,⁶ to ensure that he does not obstruct or endanger the investigation or court proceedings,⁷ and to prevent him from continuing with the commission of crimes or related crimes which are within the jurisdiction of the International Criminal Court (the “Court” or “ICC”) and which arise out of the same circumstances.⁸

5. Additionally, in the short time since the Prosecution submitted its Response, other serious incidents have occurred that support Mr Duterte’s continued detention. These incidents are outlined below.

1. Recent events demonstrate that Mr Duterte’s continued detention is necessary to ensure his appearance at trial under article 58(1)(b)(i)

6. As previously submitted, the rejection of the legitimacy of a court’s jurisdiction over a suspect may be a factor justifying their continued detention in order to ensure their appearance at trial.⁹ Mr Duterte’s family members have continued to reject the legitimacy of his legal proceedings before the Court. For example, on 19 July 2025, Sara Duterte, the current Vice President of the Philippines, spoke in front of a crowd in The Hague and was interviewed afterwards. During this event, she repeated the claim that Mr Duterte was “kidnapped” by the ICC and stated that it was “illegal” to bring him to the Court.¹⁰ She also told supporters, supposedly in jest, that she had discussed breaking Mr Duterte out of the ICC Detention Unit with a colleague.¹¹ She reportedly made similar comments during a Facebook live stream while in the Kingdom of the Netherlands (the “Netherlands”) allegedly stating “let’s all collaborate on a jailbreak”.¹²

7. Also on 19 July 2025, while making a speech on the front steps of the ICC, Sara Duterte falsely claimed that the ICC was “colluding” with the Government of the Philippines, which was paying for “fake witnesses” in the case against her father.¹³ She also blamed the

⁶ Response, paras 8-19.

⁷ Response, paras 20-29.

⁸ Response, paras 30-32.

⁹ See Response, para. 8 citing Pre-Trial Chamber I, Situation in the Libyan Arab Jamahiriya, Decision on the “Prosecutor’s Application Pursuant to Article 58 as to Muammar Mohammed Abu Minyar GADDAFI, Saif Al-Islam GADDAFI and Abdullah AL-SENUSSI” 27 June 2011, ICC-01/11-12, para. 93.

¹⁰ PHL-OTP-00092128 (Transcript: PHL-OTP-00092253, Translation: PHL-OTP-00092250 at 0002, lines 15-38, 0010 lines 366-369).

¹¹ PHL-OTP-00092128 (Transcript: PHL-OTP-00092253, Translation: PHL-OTP-00092250 at 0006, lines 193-218).

¹² Rappler, Fact Check: VP Sara Duterte taken out of context in viral video about her father’s supposed release, 26 August 2025.

¹³ PHL-OTP-00092137 (Transcript: PHL-OTP-00092249, Translation: PHL-OTP-00092252 at 0013, lines 380-385).

Government of the Netherlands for having joined the “extraordinary rendition” of Mr Duterte, and blamed the ICC for accepting Mr Duterte “with open arms” despite having been “kidnapped from his own land”.¹⁴

8. Similarly, on 19 August 2025, Sara Duterte was quoted in the media as stating that Mr Duterte had told her “repeatedly” that if granted interim release, he wished to “return to his hometown” of Davao City in the Philippines¹⁵ – the same city where he reportedly pledged to “double” the killings the “moment [he] return[s]” if elected Mayor.¹⁶ Mr Duterte’s desire to return to Davao City, if granted interim release, echoes his family’s stated intention to ensure his return to the Philippines.¹⁷

9. These examples demonstrate a pattern of the Duterte family refusing to accept the legitimacy of the legal proceedings against Mr Duterte and should militate against granting his interim release.

2. *Recent events demonstrate that the continued detention of Mr Duterte is necessary to ensure that he does not obstruct or endanger the investigation or court proceedings under article 58(1)(b)(ii)*

10. The release of Mr Duterte would provide him with greater access to his associates and family who are actively attempting to interfere with the proceedings against him, including through [REDACTED].

11. On [REDACTED].¹⁸ He further stated [REDACTED].¹⁹ [REDACTED]²⁰ [REDACTED].²¹ [REDACTED]²² [REDACTED].²³

¹⁴ PHL-OTP-00092137 (Transcript: PHL-OTP-00092249, Translation: PHL-OTP-00092252 at 0012, lines 362-365).

¹⁵ Global Filipino Magazine, Duterte eyes return to Davao if granted ICC interim release, says Sara, 19 August 2025.

¹⁶ PhilStar, PHL-OTP-00015374.

¹⁷ Inquirer, PHL-OTP-00090495.

¹⁸ [REDACTED].

¹⁹ [REDACTED].

²⁰ [REDACTED].

²¹ [REDACTED].

²² [REDACTED].

²³ [REDACTED].

12. [REDACTED], Sara Duterte [REDACTED].²⁴ She also claimed that she had gotten in trouble for talking about “prohibited things” with Mr Duterte while visiting him at the ICC Detention Unit.²⁵

13. Further, [REDACTED].²⁶ [REDACTED].²⁷

14. With respect to [REDACTED].²⁸ [REDACTED].²⁹ [REDACTED].³⁰

15. Regarding [REDACTED].³¹ As a result, [REDACTED].³² [REDACTED].³³

16. The [REDACTED], [REDACTED], and Mr Duterte’s [REDACTED], place [REDACTED] at serious risk. Mr Duterte’s release would provide him with greater access to his family and associates and thereby increase the likelihood of interference with the case against him.

17. For the reasons cited above, and in its Response,³⁴ the Prosecution submits that Mr Duterte presents a risk pursuant to article 58(1)(b) of the Statute and his Request should therefore be denied. The Prosecution recalls that it had previously negotiated a series of conditions with the Defence that may have been able to mitigate the risks associated with article 58(1)(b) of the Statute (the “Conditions”) if implemented [REDACTED].³⁵ [REDACTED].³⁶ In any event, pursuant to the Conditions, [REDACTED].³⁷ The Defence has since claimed that Mr Duterte’s [REDACTED] he is not fit to stand trial.³⁸ While the Prosecution does not accept this claim, it nevertheless notes that the Defence does not explain how Mr Duterte could consent to specific conditions of release given the [REDACTED] issues raised by his Counsel.

²⁴[REDACTED].

²⁵ PHL-OTP-00092128 (Transcript: PHL-OTP-00092253, Translation: PHL-OTP-00092250 at 0006, lines 190-200).

²⁶ [REDACTED].

²⁷ [REDACTED].

²⁸ [REDACTED].

²⁹ [REDACTED].

³⁰ Request, para. 16.

³¹ [REDACTED].

³² [REDACTED].

³³ [REDACTED].

³⁴ Response, paras 8-32.

³⁵ See Confidential *ex parte* available to the Defence, Prosecution and OPCV only Annex A – [REDACTED], ICC-01/21-01/25-150-Conf-Exp-AnxA (“[REDACTED]”).

³⁶ [REDACTED].

³⁷ See Annex A - [REDACTED].

³⁸ Confidential Defence Request for an Indefinite Adjournment, 18 August 2025, ICC-01/21-01/25-230-Conf, para. 1.

18. However, should the Chamber find that the risks Mr Duterte presents under article 58(1)(b) of the Statute can be mitigated by the Conditions, or other conditions, the Prosecution maintains its submission that the Conditions cannot be practically or appropriately implemented by [REDACTED] for the reasons provided in its Response.³⁹ In this respect, the Prosecution also notes that the Defence has failed to explain [REDACTED]. The Prosecution would strongly oppose any application for Mr Duterte to attend the confirmation hearing remotely and notes with concern the Defence's contradictory submissions that Mr Duterte could waive his right to appear at the confirmation hearing while simultaneously claiming that he is not competent to stand trial.⁴⁰

B. The Defence Reports should not be relied upon by the Chamber at this stage of the proceedings

19. The Defence relies upon the Defence Reports to argue that any of the risks Mr Duterte presents under article 58(1)(b) of the Statute are mitigated [REDACTED].⁴¹ However, the Defence Reports should not be relied upon by the Chamber at this stage of the proceedings. The Prosecution does not accept the conclusions and opinions of the Defence Reports and is in the process of retaining its own expert. Consequently, the Defence Reports should not be relied upon at this stage to make the serious finding that all risks Mr Duterte poses under article 58(1)(b) are mitigated.

C. In any event, the Defence Reports do not support the Defence's submissions regarding article 58(1)(b) of the Statute

20. None of the Defence's submissions that Mr Duterte's fitness nullifies the potential risks enumerated under article 58(1)(b) of the Statute are supported by the Defence Reports. Counsel for the Defence states that Mr Duterte's [REDACTED].⁴² Counsel further states that Mr Duterte's [REDACTED] mean that he does not "[REDACTED] necessary to formulate and execute the continued commission of crimes".⁴³ None of these conclusions are findings of the Defence Reports. They are extrapolations by Counsel who does not possess the expertise to

³⁹ Response, paras 33-38.

⁴⁰ Request, paras 16-18.

⁴¹ Request, paras 8, 11-13.

⁴² Request, paras 11-12.

⁴³ Request, para. 13.

make such conclusions. As such, the Prosecution submits that the Chamber should reject the Defence's submissions at paragraphs 11-13 of the Request.⁴⁴

IV. REQUESTED RELIEF

21. For the above reasons, and the reasons cited in the Prosecution's Response, the Prosecution respectfully requests that the Chamber reject the Defence's Request for Mr Duterte's interim release.

A handwritten signature in black ink, appearing to read 'Mandiaye Niang', written over a horizontal line.

Mame Mandiaye Niang, Deputy Prosecutor

Dated this 12th day of September 2025

At The Hague, the Netherlands

⁴⁴ The Prosecution further notes that it does not have access to the sources cited by the Defence in support of its statement that "[REDACTED]". *See* Request, fn 10.