

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **16 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 "Defence Notification", ICC-01/21-01/25-271-Conf

Source: Defence for Mr Rodrigo Roa Duterte

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
Duterte Defence Team |
| <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
(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
Osvaldo Zavala Giler | <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 |

1. The Defence appreciates the intense work carried out by the Registry, at such short notice, in formulating [REDACTED] for the consideration of the Pre-Trial Chamber.¹
2. Notwithstanding the aforementioned, the Defence feels it appropriate to observe that the issue of fitness was raised prior to the initial appearance,² and two requests were made, a considerable time ago, for status conferences to regulate litigation of the matter.³ The Prosecution, which wishes to detain Mr Duterte, opposed these status conferences that could have regulated the timely [REDACTED].⁴
3. In its [REDACTED] pursuant to the Chamber's Order,⁵ the Registry "[REDACTED]".⁶ This logistical hurdle will necessarily entail the prolongation of proceedings, and is an extra factor militating in favour of interim release. Although the Pre-Trial Chamber has ruled that there should be only a short adjournment of the proceedings, the hearing on the confirmation of charges has effectively been postponed *sine diem*.⁷
4. Considering the aforementioned, the Defence wishes to proffer a further condition in respect of interim release; namely, the provision of [REDACTED]

¹ [REDACTED], 15 September 2025 ("[REDACTED]"). This is a public redacted version of a previously-submitted confidential filing.

² Annex 7 to the Report on decisions and orders issued by way of email for the period February 2025 - April 2025, [ICC-01/21-01/25-133-Conf-Anx7](#), 14 May 2025, p. 5.

³ Public Redacted Version of the "Urgent Defence Request for a Status Conference under rule 121(2)(b)", 14 July 2025, [ICC-01/21-01/25-192-Red](#), 15 July 2025, paras. 2, 8. *See also* Public Redacted Version of the "Defence Request for an Indefinite Adjournment", [ICC-01/21-01/25-230-Red](#), 11 September 2025, para. 36.

⁴ Prosecution's response to "Urgent Defence Request for a Status Conference under rule 121(2)(b)", [ICC-01/21-01/25-194-Conf](#), 15 July 2025, paras. 4-5. *See also* Public redacted version of "Prosecution's Response to the 'Defence Request for an Indefinite Adjournment' (ICC-01/21-01/25-230-Conf)", 28 August 2025, ICC-01/21-01/25-253-Conf, [ICC-01/21-01/25-253-Red](#), 11 September 2025, para. 23.

⁵ Order pursuant to rules 113 and 135 of the Rules of Procedure and Evidence, [ICC-01/21-01/25-268-Conf](#), 8 September 2025.

⁶ [REDACTED], para. 30.

⁷ Decision postponing the hearing on confirmation of charges, [ICC-01/21-01/25-267](#), 8 September 2025.

at the discretion of the Pre-Trial Chamber, which will [REDACTED]. This [REDACTED], which would be a condition for release, would remain under the exclusive supervision of the Pre-Trial Chamber, and would be [REDACTED].

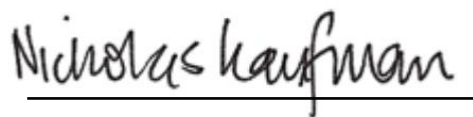
5. This notification is submitted to facilitate the Pre-Trial Chamber's adjudication of Mr Duterte's interim release application in light of new information arising out of the Registry's last submission. Mr Duterte should not remain in detention while proceedings on fitness – now expected to take no less than [REDACTED] at a minimum⁸ – are underway. Administrative delay, occasioned by [REDACTED], cannot justify the abrogation of liberty.⁹ Provisional release should be ordered as soon as continuing detention ceases to be reasonable.¹⁰

⁸ [REDACTED], para. 30.

⁹ *Mbarushimana*, Reasons for "Decision on the appeal of the Prosecutor of 19 December 2011 against the 'Decision on the confirmation of the charges' and, in the alternative, against the 'Decision on the Prosecution's Request for stay of order to release Callixte Mbarushimana' and on the victims' request for participation" of 20 December 2011, [ICC-01/04-01/10-483](#), 24 January 2012, para. 34 ("[a]ny delay for procedural reasons in the delivery of this admissibility decision could have an effect on the release of Mr Mbarushimana and potentially could jeopardize his fundamental right to liberty").

¹⁰ European Court of Human Rights, Guide on Article 5 of the Convention, "[Right to Liberty and Security](#)" (2014), paras. 155, 156. The European Court of Human Rights has also found, in the context of deportation or extradition proceedings for example, that where proceedings are not prosecuted with due diligence and inexplicably delayed, "the detention will cease to be permissible". See e.g. *Case of A. and Others v. The United Kingdom*, [App. No. 3455/05](#), Judgment, 19 February 2009, para. 164; *Case of Amie and Others v. Bulgaria*, [App. No. 58149/08](#), Judgment, 12 February 2013, para. 72.

6. Interim release will not, in any way, affect or hinder the proceedings on fitness or of the case more generally. The receiving State identified by the Defence as willing to host Mr Duterte will be required, as a condition for release, to facilitate [REDACTED] by the Court. Mr Duterte's release while litigation on fitness is underway would ensure a proper balance between a suspect's rights under the Statute while respecting the efficiency and integrity of the proceedings.



Nicholas Kaufman
Counsel for Rodrigo Roa Duterte

Dated this 16th day of September 2025
At The Hague, The Netherlands