

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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

Date: **12 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

With Confidential Annexes A, B and C, *ex parte* Defence and Prosecution only

**Public Redacted Version of the “Urgent Request for Interim Release”, 12 June
2025**

Source: Defence for Mr Rodrigo Roa Duterte

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

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☒ Counsel for the Defence

Duterte Defence Team

☒ Legal Representatives of the Victims

☐ Legal Representatives of the Applicants

☐ Unrepresented Victims

☐ Unrepresented Applicants
(Participation/Reparation)

☐ The Office of Public Counsel for Victims

☐ The Office of Public Counsel for the Defence

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I. INTRODUCTION

1. Mr Rodrigo Roa Duterte respectfully requests, in accordance with Article 60(2) of the Rome Statute, interim release to [REDACTED].¹ The Government of [REDACTED] has expressed to the Defence its advance and principled agreement to receive Mr Duterte onto its territory for the term of his interim release and will act, in accordance with its domestic law, to implement such conditions as deemed appropriate by Pre-Trial Chamber I.
2. *Inter partes* discussions on interim release commenced between Counsel and the Chief Prosecutor, himself, immediately after the initial appearance. [REDACTED]. [REDACTED].
3. Since then, and since the Chief Prosecutor's leave of absence, the Prosecution has confirmed its non-opposition to interim release to [REDACTED] [REDACTED] State Party on the understanding that the terms and conditions set out in Annex A to this filing would be met. The terms and conditions proffered by Mr Duterte for guaranteeing interim release to [REDACTED] would remain exactly the same bar the obligation to [REDACTED]. Moreover, the same terms and conditions would include an extra clause providing for Mr Duterte [REDACTED]. The terms and conditions proffered by the Defence for interim release to [REDACTED] are set out in Annex B.
4. In light of its agreement of terms and conditions for interim release to [REDACTED] [REDACTED] State Party, the Defence submits that the

¹ All references to "Article" and to "Rule" in this submission are to the [Rome Statute](#) and the [ICC Rules of Procedure and Evidence](#), respectively, unless otherwise indicated. This submission is classified, in conformity with Regulation 23bis(1) of the [Regulations of the Court](#), as confidential *ex parte* as it references [REDACTED]. A public redacted version of this submission will be filed forthwith.

Prosecution accepts that the risk factors enumerated in Article 58(1)(b) may be neutralised with adequate safeguards.²

5. Mr Duterte is not a flight risk, and custody is not necessary to ensure his appearance before the Court. As mentioned above, the Government of [REDACTED] has expressed its willingness to receive Mr Duterte onto its territory and, accordingly, there is more than good reason to believe that Mr Duterte would not embarrass his hosts, and the hospitality afforded him, by violating the terms of his release.
6. Given the nature of this request, which concerns the pre-trial liberty of an individual of advanced age and [REDACTED], the Defence submits that good cause is shown for reducing the time limit for a response under Court Regulation 35(2) and for seeking State observations on an urgent basis under Court Regulation 51.

² *Gicheru*, Public Redacted Version of ‘Decision on Mr Gicheru’s Request for Interim Release’, 29 January 2021, ICC-01/09-01/20-90-Conf, [ICC-01/09-01/20-90-Red2](#), 29 January 2021 (“*Gicheru* Decision”), paras. 41, 45 (“the Chamber is of the view that these [article 58(1)(b)] risks may be adequately mitigated by imposing conditions restricting liberty on the basis of rule 119 of the Rules”). See also *Bemba*, Judgment on the appeal of Mr Jean-Pierre Bemba Gombo against the decision of Trial Chamber III of 27 June 2011 entitled “Decision on Applications for Provisional Release”, [ICC-01/05-01/08-1626-Red](#), 19 August 2011 (“*Bemba* 19 August 2011 Decision”), para. 55 (indicating that conditional release is possible “where risks enumerated in article 58 (1) (b) exist, but the Chamber considers that these can be mitigated by the imposition of certain conditions of release”) (internal citations omitted).

II. PROCEDURAL HISTORY

7. On 10 February 2025, the Prosecution submitted its application for an arrest warrant against Mr Duterte.³ Pre-Trial Chamber I issued the arrest warrant on 7 March 2025.⁴
8. Mr Duterte was arrested upon arrival in Manila on 11 March 2025,⁵ delivered into ICC custody on 12 March 2025,⁶ and, thereafter, admitted to the ICC Detention Centre on 13 March 2025.⁷ Mr Duterte was noticeably fatigued during his initial appearance on 14 March 2025.
9. [REDACTED].⁸
10. [REDACTED].⁹ [REDACTED].
11. [REDACTED]. [REDACTED].¹⁰
12. On 9 June 2025, in the context of meetings with the Defence – a privilege for which it is extremely grateful – representatives of the Government of [REDACTED] communicated its principled agreement to receive Mr Duterte onto its territory for the term of his interim release and to host him for that term. To this end, the [REDACTED] has indicated to the Defence that if invited by the Pre-Trial Chamber to make its observations, it would do so promptly.

³ Situation in the Republic of the Philippines, 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, [ICC-01/21-80-Red](#), 13 March 2025 (“Application for Arrest Warrant”).

⁴ Situation in the Republic of the Philippines, Warrant of Arrest for Mr Rodrigo Roa Duterte, [ICC-01/21-83](#), 7 March 2025.

⁵ Report of the Registry on the Arrest and Surrender of Mr Rodrigo Roa Duterte, [ICC-01/21-01/25-91-Conf](#), 14 March 2025 (“Registry’s Report on Arrest”), para. 11.

⁶ [Registry’s Report on Arrest](#), paras. 15, 16.

⁷ [Registry’s Report on Arrest](#), para. 20.

⁸ Email from Pre-Trial Chamber I Communications, [REDACTED]. [REDACTED]; [REDACTED].

⁹ [REDACTED].

¹⁰ [REDACTED].

III. APPLICABLE LAW

13. Article 60(2) of the Rome Statute provides that

[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.

A deliberation on provisional release at the ICC requires a Chamber to engage in a *de novo* factual assessment to determine whether the Article 58(1) conditions justifying detention are met.¹¹ Where a detainee does not pose a risk under Article 58(1), they must be released; this is not a discretionary decision, it is absolute.¹² Even where Article 58(1)(b) risks may exist, interim release is still appropriate where those risks can be mitigated by the imposition of certain conditions of release.¹³ This is consistent with the international human rights norm that alternatives be employed as early as possible to ensure pre-trial detention is a last resort that lasts no longer than necessary.¹⁴

¹¹ *Said*, Decision on the Defence Application for Interim Release of Mahamat Said Abdel Kani and Contact Restrictions, [ICC-01/14-01/21-247-Red](#), 3 March 2022, para. 19. See also *Bemba et al.*, Judgment on the appeal of the Prosecutor against the decision of Pre-Trial Chamber II of 23 January 2015 entitled “Decision on ‘Mr Bemba’s Request for provisional release’”, [ICC-01/05-01/13-970 \(OA10\)](#), 29 May 2015, para. 24.

¹² *Lubanga*, 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”, [ICC-01/04-01/06-824](#), 13 February 2007 (“*Lubanga* Appeal Judgment on Interim Release”), para. 134 (“[a]t the outset, the Appeals Chamber deems it appropriate to clarify 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* be continued to be detained or *shall* be released”) (emphasis added).

¹³ *Gicheru Decision*, para. 45 (“while there is no information before the Chamber establishing that the aforementioned risks under article 58(1)(b) of the Statute no longer exist, the Chamber is of the view that these risks may be adequately mitigated by imposing conditions restricting liberty on the basis of rule 119 of the Rules”). See also *Bemba 19 August 2011 Decision*, para. 55.

¹⁴ United Nations General Assembly Resolution 45/110, [Standard Minimum Rules for Non-Custodial Measures](#), 14 December 1990, principles 6.1 & 6.2.

14. Assessments on interim release are fact-intensive inquiries that must take into account an individual's particular circumstances. Decisions cannot be taken on the basis of one factor in isolation; all relevant factors must be considered in their totality.¹⁵ Individual circumstances are the primary consideration as to whether a suspect will appear for trial if released.¹⁶ The ICC takes into account political position, influence, and contacts;¹⁷ financial resources;¹⁸ acts¹⁹ or assurances of cooperation;²⁰ good behaviour in detention;²¹ and family ties.²² [REDACTED] are also compelling factors militating toward interim release.²³ Chambers at the ICC and *ad hoc* tribunals have been minded to grant interim

¹⁵ ICTY, *Petković*, IT-03-67-R77.1-AR65.1, [Decision on Defence appeal against the Trial Chamber's decision on provisional release](#), 25 July 2008, para. 7. See also [UNHRC General Comment No. 35](#), para. 38 ("[i]t should not be the general practice to subject defendants to pretrial detention. Detention pending trial must be based on an individualized determination that it is reasonable and necessary taking into account all the circumstances, for such purposes as to prevent flight, interference with evidence or the recurrence of crime [...] Pretrial detention should not be [...] without regard to individual circumstances.")

¹⁶ MICT, *Turinabo et al.*, MICT-18-116-PT, [Decision on Marie Rose Fatuma's Motion for Provisional Release to Rwanda](#), 11 February 2019, para. 16.

¹⁷ *Lubanga*, Decision on the Application for the interim release of Thomas Lubanga Dyilo, [ICC-01/04-01/06-586-tEN](#), 18 October 2006, para. 6. See also *Bemba*, Decision on Application for Interim Release, [ICC-01/05-01/08-321](#), 16 December 2008 ("*Bemba* 16 December 2008 Decision"), para. 36.

¹⁸ *Mbarushimana*, Decision on the "Defence Request for Interim Release", [ICC-01/04-01/10-163](#), 19 May 2011, para. 46. [Bemba 16 December 2008 Decision](#), para. 36.

¹⁹ ICTY, *Šainović et al.*, IT-99-37-AR65, [Decision on Provisional Release](#), 30 October 2002 ("*Šainović et al.* Decision"), paras. 6-7, 9.

²⁰ [Bemba 16 December 2008 Decision](#), para. 37 (finding that a statement of cooperation should be assessed with other factors in coming to a decision on interim release). See also *Bemba et al.*, Decision on the 'Demande de mise en liberté provisoire de Maître Aimé Kilolo Musamba', [ICC-01/05-01/13-259](#), 14 March 2014, para. 29 (finding that a personal undertaking not to abscond should be assessed and appreciated in light of all relevant factors).

²¹ *Bemba*, Public Redacted Version of "Decision on Applications for Provisional Release" of 27 June 2011, [ICC-01/05-01/08-1565-Red](#), 16 August 2011 ("*Bemba* 27 June 2011 Decision"), para. 61.

²² [Bemba 27 June 2011 Decision](#), para. 59 (finding that the absence of personal or family connections suggested a reduced likelihood of returning to the seat of the Court if provisionally released).

²³ *Gbagbo*, 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'", [ICC-02/11-01/11-278-Red](#), 26 October 2012 ("*Gbagbo* 26 October 2012 Judgment") [REDACTED]. See Marchesi, D. & Fusari, C., "To Release or not to Release, that is the Question": Detention Pending Trial at the International Criminal Court after the Gicheru Case", EJIL: Talk!, 8 March 2021 [REDACTED].

release where the Prosecutor does not oppose the request,²⁴ or where State guarantees are presented in support of the application.²⁵

15. Applications for interim release should be adjudicated as a matter of urgency.²⁶

IV. SUBMISSIONS

16. The burden for maintaining a suspect's detention rests on the shoulders of the Prosecution. It is the Prosecution that must satisfy the Pre-Trial Chamber that the risk factors identified in Article 58(1)(b) cannot be sufficiently addressed by terms and conditions of interim release. Where this test is not satisfied, the Appeals Chamber has held that the suspect **must** be released.²⁷ The Pre-Trial Chamber may choose to release the individual, with or without conditions. At this point, it is necessary to secure a State's cooperation. Mr Duterte, so it is respectfully submitted, is now at this stage of the interim release assessment.
17. The Defence has included at Annex B the list of terms and conditions that it believes would neutralise any possible concern about interim release to [REDACTED]. These conditions are as rigorous, if not more so, than those that

²⁴ [Gicheru Decision](#), paras. 43 ("the Prosecutor does not oppose Mr Gicheru's request for interim release together with conditions restricting liberty"); 44 ("[t]his factor additionally militates in favour of Mr Gicheru's request for interim release in the specific circumstances of this case, namely a person having voluntarily surrendered himself and the Prosecutor not opposing his request for interim release"); p. 18.

²⁵ *Bemba et al.*, Public redacted version of "Defence Observations on the Continued Detention of Aimé Kilolo Musamba Pursuant to ICC-01/05-01/13-495, Order requesting observations for the purposes of the periodic review of the state of detention of Aimé Kilolo Musamba, Jean Jacques Mangenda Kabongo and Fidèle Babala Wandu pursuant to rule 118 (2) of the Rules of Procedure and Evidence" (ICC-01/05-01/13- 528-Conf-Exp), [ICC-01/05-01/13-528-Red](#), 24 June 2016 ("*Bemba et al.* Observations"). See also [Šainović et al. Decision](#), paras. 12-29; *Mrkšić*, IT-95-13/1-AR65, [Decision on Appeal Against Refusal to Grant Provisional Release](#), 8 October 2002 ("*Mrkšić* Decision"), para. 9.

²⁶ ICC, [Chambers Practice Manual](#) (2017), p. 7.

²⁷ [Lubanga Decision](#), para. 134 ("[a]t the outset, the Appeals Chamber deems it appropriate to clarify that the decision on continued detention or release pursuant to article 60(2) read with article 58(1) of the Statute is not 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 be continued to be detained or shall be released").

have been offered at the ICC,²⁸ or accepted by the ICTY, IRMCT, and KSC, for the purpose of interim release.²⁹ Furthermore, and as previously mentioned, almost identical terms and conditions have been deemed suitable by the Prosecution for interim release to [REDACTED] [REDACTED] State Party bar [REDACTED] (*see* Annex A).

18. The assessment of Article 58(1)(b) and a decision on interim release, however, ultimately falls within the remit of the Chamber. To this end, the Defence makes the following additional submissions.

²⁸ See e.g. [Bemba 19 August 2011 Decision](#), para. 57 (referencing the **four** conditions the accused had offered in respect of his interim release). See also *Bemba et al.*, Public redacted version of “Defence Observations on the Continued Detention of Aimé Kilolo Musamba Pursuant to ICC-01/05-01/13-495, [ICC-01/05-01/13-528-Red](#), 24 June 2016 (referencing **fourteen** conditions offered by the accused). See also *Bemba et al.*, Application for Interim Release of Mr Aimé Kilolo Musamba, [ICC-01/05-01/13-42-tENG](#), 16 December 2013, paras. 64-69 (offering **six** conditions, including a commitment to comply with court summonses and to surrender his passport).

²⁹ **ICTY**: The most common State guarantees offered at the ICTY included undertakings to escort the accused during transfers to and from the Tribunal, ensure reporting to local police with written confirmations, and to arrest and report the suspect upon any violations of the release conditions, such as unauthorised travel, contact with witnesses or co-accused, failure to cooperate with the Tribunal, or attempts to evade justice. See e.g. *Milan Milutinović*, Letter from the Federal Government of the Federal Republic of Yugoslavia to the ICTY, “Guarantee of the Federal Government of the Federal Republic of Yugoslavia”, Document no. [762-1/2003](#), 27 January 2003. The most stringent conditions offered at the ICTY included daily reporting to a police station; surrender of one’s travel document and passport; inability to travel beyond the confines of the municipality; consent to occasional, unannounced visits; and inability to discuss the case with anyone outside the defence. See e.g. [Šainović et al. Decision](#), pp. 15-17. **IRMCT**: The most stringent condition ordered at the IRMCT included 24-hour armed surveillance. See *Beara*, MICT-15-85-ES.3, [Public redacted version of 7 February 2017 Decision of the President of the early release of Ljubisa Beara](#), 16 June 2017, para. 52. **KSC**: The typical conditions for release have included restrictions on travel, the surrender of all travel and identity documents, and designation of a fixed residence. Additional conditions have included prohibitions on contact with specific individuals, restrictions on public statements, and, in *Kilaj*, the provision of a financial security of 30,000 EUR. See *Kilaj*, KSC-BC-2018-01, [Public Redacted Version of Corrected Version of Decision on Review of Detention of Isni Kilaj](#), 3 May 2024, para. 62.

i) Mr Duterte will not abscond

19. The risk of flight cannot be based on the hypothetical because a hypothetical possibility, by its very nature, can never be entirely ruled out.³⁰ Simply showing the feasibility, ease, or “possibility” of Mr Duterte’s ability to abscond is insufficient; rather, there must be concrete circumstances demonstrating that the risk of flight is particularly likely.³¹
20. Should Mr Duterte be deemed a flight risk by virtue of his political network or international connections, these contacts and connections must be specifically identified as well as the manner by which their relationship to Mr Duterte would render it “more likely” that he would abscond if released. The ICC Appeals Chamber has held that the Prosecution bears the burden of submitting sufficient information to establish that the existence of such international contacts.³²
21. The Appeals Chamber has found that [REDACTED],³³ [REDACTED].³⁴ Chambers at the *ad hoc* tribunals have similarly considered and granted provisional release on humanitarian grounds³⁵ where [REDACTED].³⁶

³⁰ *Mbarushimana*, Defence Request for Interim Release, [ICC-01/04-01/10-86](#), 30 March 2011, para. 10. See also ICTY, *Hadžihasanović et al.*, IT-01-47-PT, [Decisions granting Provisional Release to Enver Hadžihasanovic, Mehmed Alagic and Amir Kubura](#), 19 December 2001, p. 2.

³¹ ECHR, *Stögmüller v. Austria*, App. no. 1602/62, Judgment, 10 November 1969, p. 39, para. 15; UNHRC, *Hill v. Spain*, CCPR/C/59/D/526/1993, 2 April 1997 (“*Hill v. Spain*”), para. 12.3.

³² [Lubanga Appeal Judgment on Interim Release](#), para. 136.

³³ [Gbagbo 26 October 2021 Judgment](#), para. 87. See also *Al Hassan*, Public redacted version of ‘Decision on the Defence request for interim release’, [ICC-01/12-01/18-786-Red](#), 29 May 2020 (“*Al Hassan Decision*”), para. 80.

³⁴ [Al Hassan Decision](#), para. 80.

³⁵ ICTY, [REDACTED].

³⁶ ICTY, [REDACTED], [REDACTED]. See also [REDACTED], [REDACTED]; [REDACTED], [REDACTED], [REDACTED](“REDACTED”).

22. Mr Duterte is [REDACTED], as substantiated and corroborated by [REDACTED].³⁷ [REDACTED] – [REDACTED]³⁸ – [REDACTED]. [REDACTED],³⁹ [REDACTED].⁴⁰
23. In light of the above, it would be unreasonable to suggest that Mr Duterte has the [REDACTED] ability to abscond.
24. Furthermore, were he to abscond from [REDACTED], not only would he embarrass his hosts but as one of the most recognised political figures in the world, he would be easily found and returned to ICC custody without any prospect of future release. This is not a realistic risk for a [REDACTED] 80-year-old [REDACTED].
25. Finally, Mr Duterte's commitment to returning for trial when ordered, even in the absence of any state guarantees, carries significant weight in militating against a finding of flight risk.⁴¹ This is amplified, and the risk of flight further depreciated, where State guarantees are presented in support of the application, agreeing to undertake various obligations in cooperation with the Court.⁴² In light of [REDACTED]'s support for Mr Duterte's application for interim release, as well as its indicated willingness to implement such conditions as may be imposed by the Pre-Trial Chamber that are in accordance with its domestic laws, there can be no objective, concrete finding of flight risk.

³⁷ [REDACTED].

³⁸ [REDACTED].

³⁹ [REDACTED].

⁴⁰ [REDACTED].

⁴¹ MICT, *Turinabo et al.*, MICT-18-116-PT, [Decision on Marie Rose Fatuma's Motion for Provisional Release to Rwanda](#), 11 February 2019, paras. 15-17 (granting provisional release after holding that "[t]he Prosecution argues that Fatuma has not provided any evidence indicating that she will appear for trial; however, I observe that she has committed to returning for trial when ordered and is willing to be provisionally released subject to conditions under Rule 68(C) of the Rules").

⁴² See e.g. [Bemba et al. Observations](#), paras. 5, 9, 11. See also, [Šainović et al. Decision](#), paras. 12-29; [Mrkšić Decision](#), para. 9.

ii) Mr Duterte will not imperil proceedings if released

26. An abstract analysis of the risk – acknowledging merely the possibility of a risk ‘in principle’ – without examining whether, in this specific case, Mr Duterte has actually taken steps to contact or exercise pressure on potential witnesses does not pass Article 58(1)(b)(ii) muster. The Defence, even if it were to bear the burden of proof, cannot be obliged to prove a negative. This assessment must be based on relevant and concrete evidence,⁴³ as opposed to abstract risks⁴⁴ or conjecture.⁴⁵ The onus is on the Prosecution to demonstrate that Mr Duterte *would* – and not just that he *could* – engage in witness intimidation or otherwise obstruct the conduct of the proceedings. This interpretation is bolstered by the clear language of Article 58(1)(b) that the suspect’s arrest appears “necessary” to preclude obstruction or endangerment of the investigation or proceedings.
27. In any event, balancing the totality of relevant factors, Mr Duterte does not pose a risk under Article 58(1)(b)(ii). In its submissions [REDACTED], the Prosecution has not cited recent and substantial security threats to witnesses or shown that these witnesses are facing a “dire security situation.”⁴⁶ The charges against Mr Duterte have not been confirmed, and the case is not in a sufficiently advanced stage of disclosure – quite the opposite. Furthermore, Mr Duterte’s

⁴³ ECHR, [Becciev v. Moldova](#), App. no. 9190/03, Judgment, 4 October 2005, para. 59 (“[t]he danger of the accused’s hindering the proper conduct of the proceedings cannot be relied upon *in abstracto*, it has to be supported by factual evidence”).

⁴⁴ ICTY, [Haradinaj et al.](#), IT-04-84-A, [Decision on Lahi Brahimaj’s Application for Provisional Release](#), 25 May 2009, para. 14 (“[t]he Appeals Chamber considers that an assessment of danger posed to victims, witnesses or others cannot be made in the abstract and that there is no substantiated indication from the Prosecution that Brahimaj will seek to intimidate witnesses”).

⁴⁵ [Hill v. Spain](#), para. 12.3 (“[t]he mere conjecture of a State party that a foreigner might leave its jurisdiction if released on bail does not justify an exception to the rule laid down in article 9, paragraph 3, of the Covenant”).

⁴⁶ [Said Interim Release Application](#), paras. 32-35. See also [Said](#), Prosecution Response to Defence Appeal Brief, [ICC-01/14-01/21-268-Red](#), 5 April 2022, para. 7.

access to confidential information, let alone his ability to weaponise it, is and has been negligible [REDACTED].⁴⁷ Put simply, [REDACTED].

28. In any event, release into [REDACTED], coupled with the various conditions to which Mr Duterte is prepared to agree, ensures Mr Duterte is well removed from the scope of, and investigations into, the alleged crimes.

iii) Mr Duterte will not continue to commit crimes

29. The Prosecution referred to this possibility, in passing, only once in its Arrest Warrant Application.⁴⁸ It predicated its position on a single newspaper article, by a single author, in respect of a single House Quad Committee hearing⁴⁹ that took place in 2024, long after Mr Duterte had left office. The article allegedly attributed to Mr Duterte a promise to double his drug war kills if re-elected mayor. Nothing else was cited nor any evidence provided.
30. No real or concrete risk exists under Article 58(1)(b)(iii) that would justify Mr Duterte's continued pre-trial detention. To its credit, the Prosecution has acknowledged that even this risk may be addressed by virtue of its negotiations with the Defence in the context of [REDACTED] [REDACTED] State Party.
31. In any event, not only have the alleged crimes not continued despite his election victory on 13 May 2025, Mr Duterte does not seek interim release to [REDACTED] or to [REDACTED]. On the contrary, his request for release into [REDACTED] and his complete abstinence from any media statements since his arrest evinces his intention to divorce himself from politics and governance.

⁴⁷ *Id.*

⁴⁸ [Application for Arrest Warrant](#), para. 110.

⁴⁹ See PHL-OTP-00015374 (<https://www.philstar.com/headlines/2024/11/15/2400377/mayor-i-will-double-drug-war-kills-duterte>).

32. It should not be forgotten that the crimes imputed to Mr Duterte occurred between 1 November 2011 and 16 March 2019. More than six years have passed since the temporal scope of these crimes. The possibility of “continuing with the commission of [] crime[s]” within the Court’s jurisdiction is highly abstract. Mr Duterte is no longer the President of the Philippines, and does not command the same influence or power he is said to have abused during the period of the alleged crimes. He no longer holds the type of office that the Prosecution argues allowed him to order and to implement the policies that form the basis for the ICC arrest warrant. Any risk is totally neutralised by virtue of Mr Duterte’s affirmation, in the annexed terms and conditions, that he will refrain from public engagement, office, or communications with persons outside his family. He has also agreed to abstain from use of the internet or any electronic devices, such as a mobile phone.
33. Given these restrictions and considering that he will be residing well outside the geographic scope of the alleged crimes, the likelihood of Mr Duterte posing a risk under Article 58(1)(b)(iii) is non-existent.

iv) Humanitarian factors militate in favour of interim release

34. While the ICC’s statutory framework does not explicitly include humanitarian considerations as factors in interim release, the ICC has, in practice, granted provisional release for humanitarian reasons.⁵⁰ This is consistent with the practice at the *ad hoc* tribunals, which frequently considered and accepted humanitarian concerns in decisions on provisional release.⁵¹ Indeed, ICTY Chambers were empowered to consider “exceptionally compelling

⁵⁰ *Bemba*, Decision on the Defence’s Urgent Request concerning Mr Jean-Pierre Bemba’s Attendance of his Father’s Funeral, [ICC-01/05-01/08-437-Red](#), 3 July 2009. See also *Bemba*, Decision on the Defence Request for Mr Jean-Pierre Bemba to attend his Stepmother’s Funeral, [ICC-01/05/01/08-1099-Red](#), 12 January 2011.

⁵¹ Humanitarian grounds have long been the most commonly-accepted reason at the ICTY for the granting of provisional release, well before the term’s incorporation into [Rule 65 \(B\)](#) in 2011.

humanitarian reasons” where the conditions for release were otherwise unmet.⁵²

35. The Defence submits that compelling humanitarian grounds similarly exist in the present case. Mr Duterte is 80 years old and [REDACTED]. [REDACTED]. [REDACTED] – [REDACTED] – [REDACTED]. [REDACTED].
36. [REDACTED], on the other hand, represents a stable and suitable environment in keeping with Mr Duterte’s [REDACTED]. Its location [REDACTED]. [REDACTED]. [REDACTED].
37. [REDACTED] is also at the forefront of [REDACTED] cooperation in matters of international justice and is committed to the humane defence of internationally recognised liberties. Its agreement to host Mr Duterte demonstrates its commitment to actively cooperate with the Court, while simultaneously ensuring a balance between the right to a fair trial and accountability.

V. CONCLUSION AND RELIEF SOUGHT

38. Mr Duterte does not meet any of the conditions to warrant further pre-trial detention as provided in Article 58(1)(b). He does not pose an objective risk of flight, nor is his arrest necessary to ensure the integrity of the investigations or to preclude the continued commission of crimes. He must, as a result, be immediately released from ICC custody.
39. [REDACTED] has affirmed its principled willingness to cooperate with the Court, and to accept Mr Duterte onto its territory for the duration of his interim

⁵² [REDACTED].

release and enforce conditions of release. It has also affirmed that it will make its prompt observations, should it be invited to do so by the Pre-Trial Chamber.

40. As such, the Defence will respectfully **REQUEST** that the Pre-Trial Chamber order Mr Duterte's immediate release into [REDACTED] under any conditions as deemed appropriate.
41. The Defence also respectfully **REQUESTS** that the deadline for any responses or observations be shortened in light of [REDACTED].

A handwritten signature in black ink that reads "Nicholas Kaufman". The signature is written in a cursive, slightly slanted style. Below the signature is a solid horizontal line.

Nicholas Kaufman
Counsel for Rodrigo Roa Duterte

Dated this 12 day of June 2025

At [REDACTED], [REDACTED]