

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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Date: **23 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 “Prosecution’s response to ‘Urgent Request for Interim Release’”

Source: Office of the Prosecutor

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I. INTRODUCTION

1. The Prosecution respectfully requests that the Chamber reject the Defence’s “Urgent Request for Interim Release” (the “Request”)¹ of Rodrigo Roa Duterte (“Mr Duterte”) under article 60(2) of the Rome Statute (the “Statute”). The continued detention of Mr Duterte remains necessary because the constituent conditions set out by article 58(1)(a), 58(1)(b)(i), 58(1)(b)(ii) and 58(1)(b)(iii) are met. The Prosecution, therefore, strongly opposes Mr Duterte’s interim release to [REDACTED].

II. CONFIDENTIALITY

2. This Response is classified as confidential *ex parte* pursuant to regulation 23bis(1) and (2) of the Regulations, as it contains sensitive information which could impact the security of Prosecution witnesses and their family members, as well as ongoing investigations. It also refers to filings with the same classification.

III. APPLICABLE LAW

3. Pursuant to article 60(2) of the Statute, a person subject to a warrant of arrest may apply for interim release pending trial. If the Chamber is satisfied that the conditions set forth in article 58(1) of the Statute remain fulfilled, the person shall continue to be detained; if not, the Chamber shall release the person with or without conditions.

4. Pursuant to article 58(1) of the Statute, a Chamber must be satisfied that there are reasonable grounds to believe that the person has committed a crime within the jurisdiction of the International Criminal Court (the “Court” or “ICC”) and that the continued detention of the person remains 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 Court’s jurisdiction and which arises out of the same circumstances.

5. The Appeals Chamber has held that, in reaching a decision pursuant to article 60(2) of the Statute, a Chamber has to inquire anew into the existence of facts justifying detention,

¹ Confidential *Ex Parte* Defence and Prosecution only Urgent Request for Interim Release, 12 June 2025, ICC-01/21-01/25-150-Conf-Exp. The Prosecution notes that pursuant to Pre-Trial Chamber I’s instruction dated 16 June 2025, ICC-01/21-01/25-150-Conf-Exp and its annexes A and B were reclassified as confidential *ex parte*, available to the Defence, Prosecution and OPCV only.

which involves determining whether the article 58(1) conditions are met.² While the Pre-Trial Chamber's review is "not conditioned by its previous decision to direct the issuance of a warrant of arrest," the factors "underpinning the decision on a warrant of arrest may be the same as those for the decision under article 60(2)" of the Statute.³

6. Further, an assessment pursuant to article 60(2) of the Statute "speaks to a standard of 'appearance' that a continued detention is necessary", and "the evidence presented in relation to the necessity of continued detention for the purpose of article 58(1)(b) of the Statute does not have to be of the same nature and strength as the evidence required to establish reasonable grounds to believe that the person has committed one or more crimes referred to in the Prosecutor's application".⁴

7. Finally, if release would lead to any of the risks described in article 58(1)(b) of the Statute, the Chamber may, pursuant to rule 119 of the Rules of Procedure and Evidence (the "Rules"), examine appropriate conditions with a view to mitigating or negating the risk.⁵

IV. SUBMISSIONS

A. Mr Duterte's continued detention is necessary to ensure his appearance at trial under article 58(1)(b)(i)

1. *Mr Duterte does not accept the legitimacy of the legal proceedings against him*

8. Chambers have previously found that a suspect's rejection of the legitimacy of Court's jurisdiction over them to be a factor justifying their continued detention in order to ensure their

² Appeals Chamber, *The Prosecutor v. Jean-Pierre Bemba Gombo 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'", 29 May 2015, [ICC-01/05-01/13-970 \(OA10\)](#), para. 24.

³ The Appeals Chamber, *The Prosecutor v. Laurent Koudou Gbagbo*, Public redacted version of 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'", 26 October 2012, [ICC-02/11-01/11-278-Red](#), para. 27.

⁴ Pre-Trial Chamber II, *The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman ('Ali Kushayb')*, Decision on the Defence Request for Interim Release, 14 August 2020, [ICC-02/05-01/20-115](#), (Abd-Al-Rahman Decision), para. 28, citing, Pre-Trial Chamber II, *Prosecutor v. Bosco Ntaganda, Decision on the Defence's Application for Interim Release*, 18 November 2013, [ICC-01/04-02/06-147](#) (Ntaganda Decision), para. 47.

⁵ Appeals Chamber, *The Prosecutor v. Jean-Pierre Bemba Gombo*, Public Redacted Version of 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", 2 December 2009, [ICC-01/05-01/08-631-Red](#) (Bemba Decision), para. 105.

appearance at trial.⁶ Mr Duterte does not accept the legitimacy of the legal proceedings he is subject to before the Court. This is demonstrated by his resistance to his arrest and the claims of his counsel and family that he was kidnapped/abducted by the Court.

9. The Defence submits that Mr Duterte is committed to “returning for trial when ordered” and argues that this “carries significant weight in militating against a finding of flight risk”.⁷ However, at the time of his arrest, Mr Duterte told arresting officers that they would “just have to kill [him]” in order to bring him to The Hague and before the Court.⁸ Even before his arrest, Mr Duterte reportedly made a public assertion that if the ICC were to “come for me, if they arrest me here, there will be a shootout, I will finish all those sons of bitches”.⁹ Mr Duterte’s proclamations that that he would rather die than appear before the Court, or would “finish” ICC staff assisting with his arrest and transfer in “a shootout”, is not consistent with the behaviour of an individual committed to returning for his appearance at trial and casts doubt on his recently stated “commitment”.

10. Further, on the day of his arrest, before his transfer to the Netherlands, Mr Duterte petitioned the Supreme Court of the Republic of the Philippines to, *inter alia*, grant a permanent injunction/prohibition that would perpetually restrain and prohibit a number of Philippine Government officials, and all persons acting under their authority, from engaging in any form of cooperation with the Court, including the execution of ICC warrants for arrest.¹⁰

11. A member of Mr Duterte’s family also exhibited physical acts of violence in resistance to his arrest and transfer. Mr Duterte’s common-law wife, Honeylet Avanceña, reportedly assaulted a police officer by hitting her on the head with a cell phone, which resulted in injuries

⁶ 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.

⁷ Request, ICC-01/21-01/25-150-Conf-Exp, para. 25. The Prosecution notes that the Defence has not provided any declaration of Mr Duterte to this effect.

⁸ ANC, PHL-OTP-00090285 (transcription PHL-OTP-00090516, translation PHL-OTP-00090514); PBS News, PHL-OTP-00090457 at 0002; Guardian, PHL-OTP-00090459 at 0002.

⁹ Rappler, PHL-OTP-00000273. Days before his arrest, in a speech in Hong Kong, Mr Duterte again referred to the ICC as “sons of bitches” who had been “after [him] for a long time.” See ANC, PHL-OTP-00090149 (transcription PHL-OTP-00090522, translation PHL-OTP-00090523at 0003).

¹⁰ Petition for Certiorari and Prohibition before the Supreme Court of the Philippines, PHL-OTP-00088375 at 0091-0092.

to the officer.¹¹ The alleged assault was captured on video.¹² The officer reportedly declined to press charges for this assault.¹³

12. Mr Duterte's counsel and family have also claimed that he was kidnapped by the Court and have vowed to bring him home to the Philippines.¹⁴ At Mr Duterte's first appearance before the Court, his counsel at the time stated that his transfer to the Court was "pure and simple kidnapping" and suggested that Mr Duterte had been arrested by the Court because the current President of the Philippines "wished to neutralise and choke the legacy of [Mr Duterte] and his daughter" and because the Court was "a troubled legal institution subject to delegitimation and desperate for price cuts and a legal show today [...]".¹⁵

13. Mr Duterte's current counsel has contributed to this narrative, reportedly stating in an interview that Mr Duterte's arrest was a "political hit-job" and that the Prosecution had "colluded" with the current Government of the Philippines to "abduct and dump Former President Duterte in The Hague".¹⁶ Mr Duterte's children have also stated that Mr Duterte's arrest and transfer to the Court was a kidnapping, with his daughter Veronica Duterte reportedly writing on social media that the plane used to transfer Mr Duterte to the Court had been used to "kidnap" her father.¹⁷ Further, in the very [REDACTED],¹⁸ [REDACTED].¹⁹

14. Mr Duterte's behaviour, as described above, and the claims of his family and lawyers that he was kidnapped or abducted by the Court, demonstrate that he does not accept the legitimacy of the legal proceedings against him. His continued detention is therefore necessary to ensure his appearance at trial pursuant to article 58(1)(b)(i) of the Statute. A victim of a kidnapping is unlikely to return to the custody of the kidnapper if given an opportunity to escape. Mr Duterte, his family, vocal supporters, and counsel all consider him a victim of a kidnapping/abduction.

2. Mr Duterte's political position and international contacts

¹¹ Inquirer, PHL-OTP-00090280 at 00:00-00:26 (transcription PHL-OTP-00090521); PBS News, PHL-OTP-00090457 at 0002.

¹² Inquirer, PHL-OTP-00090280.

¹³ Inquirer, PHL-OTP-00090280.

¹⁴ Inquirer, PHL-OTP-00090495.

¹⁵ Transcript of Hearing, 14 March 2025, ICC-01/21-01/25-T-002-ENG, p. 7.

¹⁶ Rappler, PHL-OTP-00090466.

¹⁷ Guardian, PHL-OTP-00090459 at 0001; Manila Bulletin, PHL-OTP-00090470.

¹⁸ Confidential ex parte Defence and Prosecution only Annex C – [REDACTED], ICC-01/21-01/25-150-Conf-Exp-AnxC (Annex C – [REDACTED]), p. 4.

¹⁹ Annex C – [REDACTED], ICC-01/21-01/25-150-Conf-Exp-AnxC, p. 4.

15. Chambers have previously held that a suspect's past political and professional positions, as well as international contacts, are relevant factors in determining the risk of flight and may contribute to their ability to abscond.²⁰

16. In his capacity as the former President of the Philippines, Mr Duterte held the highest political office in the country for a period of six years.²¹ As a result of this position, Mr Duterte has maintained a network of support from powerful individuals within the Philippines. Further, many of Mr Duterte's associates—including his family members—remain in positions of power with access to powerful domestic networks. This includes his daughter, Sara Duterte, who is Vice President of the Philippines²² and has made her position clear that she views her father's detention at the Court as illegitimate.²³ Further, in his filing before the Philippines Supreme Court, Mr Duterte's counsel highlighted his current strong influence over the police in his home town of Davao – the same police department that the Prosecution alleges was involved in murders at his direction during the mayoral period.²⁴

3. *Mr Duterte's financial situation and resources*

17. The Appeals Chamber has previously confirmed that a suspect's access to financial resources may be a factor that would enable them to abscond.²⁵ While the Prosecution does not have access to Mr Duterte's financial records, it is worth noting that Mr Duterte has undertaken to [REDACTED].²⁶ [REDACTED]. This is consistent with his family's powerful position and connections.

4. *The Defence's arguments regarding Mr Duterte's alleged [REDACTED] should be rejected*

²⁰ Pre-Trial Chamber I, *The Prosecutor v. Laurent Gbagbo*, Decision on the "Requête de la Défense demandant la mise en liberté provisoire du président Gbagbo", 13 July 2012, [ICC-02/11-01/11-180-Red](#) (Gbagbo Decision), para. 57; Pre-Trial Chamber III, *The Prosecutor v. Simone Gbagbo*, Decision on the Prosecutor's Application Pursuant to Article 58 for a warrant of arrest against Simone Gbagbo, 2 March 2012, [ICC-02/11-01/12-2-Red](#), para. 43; [ICC-02/05-01/20-115](#), (Abd-Al-Rahman Decision), para. 29.

²¹ GoPHL, PHL-OTP-00000269.

²² See e.g. PNA, PHL-OTP-00015372, referring to Sara Duterte as the Vice President of the Philippines.

²³ Manila Bulletin, PHL-OTP-00090470.

²⁴ Petition for Certiorari and Prohibition before the Supreme Court of the Philippines, PHL-OTP-00088375 at 0024; 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, 13 March 2025, ICC-01/21-01/25-80-Red, paras 25-30.

²⁵ Gbagbo Decision, [ICC-02/11-01/11-180-Red](#), para. 57

²⁶ Defence [REDACTED], 16 June 2025, ICC-01/21-01/25-152-Conf, para. 4(iii).

18. The Defence submits that Mr Duterte [REDACTED].²⁷ The Defence relies on a [REDACTED].²⁸ At the outset, the Prosecution submits that the [REDACTED] should not be relied upon by the Chamber. [REDACTED].²⁹ [REDACTED].³⁰

19. In any event, the Prosecution considers that any alleged [REDACTED] cannot be considered an impediment to Mr Duterte's potential as a flight risk. The Prosecution notes that Mr Duterte recently ran and was elected as Mayor of Davao City.³¹ The Prosecution further notes that only days before Mr Duterte was arrested and transferred to the Court, he travelled from the Philippines to Hong Kong, China, to deliver a speech, [REDACTED], which lasted almost one hour, to a stadium of thousands of people.³² The crowd roared their approval at Mr Duterte's speech.³³ Mr Duterte similarly spoke before a large crowd of people at a rally in the Philippines a few weeks prior to his arrest.³⁴ In light of these examples, the notion that Mr Duterte [REDACTED] is unpersuasive. [REDACTED].

B. 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)

20. With the hearing for the confirmation of charges hearing currently scheduled for 23 September 2025, the Prosecution has a limited timeframe in which to continue its investigation, contact vital witnesses, complete disclosure and make all other necessary preparations for the hearing. The Defence's claim that the case 'is not sufficiently advanced stage of disclosure' is incorrect.³⁵ As of the date of this filing, the Prosecution aims to complete its pre-confirmation disclosure within one week. Further, the Prosecution has relied on Mr Duterte's detention, [REDACTED], when making decisions regarding redactions and disclosure of witness identities to the Defence. Mr Duterte's interim release would risk interference with the Prosecution's investigation and hearing preparations at this critical stage for the reasons outlined below.

²⁷ Request, ICC-01/21-01/25-150-Conf-Exp, paras 22-23.

²⁸ Annex C – [REDACTED], ICC-01/21-01/25-150-Conf-Exp-AnxC, p. 4.

²⁹ Annex C – [REDACTED], ICC-01/21-01/25-150-Conf-Exp-AnxC, p. 4.

³⁰ Annex C – [REDACTED], ICC-01/21-01/25-150-Conf-Exp-AnxC, p. 11.

³¹ CNN, PHL-OTP-00090483.

³² ANC, PHL-OTP-00090149 (transcription PHL-OTP-00090522, translation PHL-OTP-00090523); CTV News, PHL-OTP-00090479.

³³ ANC, PHL-OTP-00090149.

³⁴ Rappler, PHL-OTP-00090481.

³⁵ Request, ICC-01/21-01/25-150-Conf-Exp, para. 27.

1. *Mr Duterte has the ability to interfere with and intimidate witnesses if released*

21. The release of Mr Duterte could pose a risk of endangerment or obstruction of the Prosecution’s ongoing investigation under article 58(1)(b)(ii) of the Statute because of the possible opportunity to intimidate or threaten witnesses either directly or indirectly, through his associates or his family members.³⁶

22. As the Chamber found in the Warrant of Arrest, Mr Duterte “appears to continue to wield considerable power” entailing a “risk of interference with the investigations and the security of witnesses and victims”.³⁷ This considerable power is evident from Mr Duterte’s recent election as Mayor of Davao City, which he won with overwhelming support.³⁸ Mr Duterte has also publicly admitted in his filing to the Supreme Court seeking to prevent his arrest and transfer to the Court that he “maintains strong influence over law enforcement in Davao”.³⁹ [REDACTED].⁴⁰

23. Further, if released, Mr Duterte would have greater access to his associates and family who remain in positions of power with access to networks and personnel to carry out witness interference. As noted above, his daughter, Sara Duterte, is Vice President of the Philippines and a reserve colonel in the Army with strong links to the police and military. In these positions, she wields power and influence over governmental structures, as well as over her father’s former allies and supporters. Mr Duterte’s son, Sebastian Duterte, was the Mayor of Davao City. Following Mr Duterte’s election as Mayor, he now serves as Vice Mayor of Davao City.⁴¹ Under the relevant legislation, as Vice-Mayor, he performs the duties of the Mayor in the event of the absence of the Mayor and has the same powers and duties as the Mayor.⁴² Sebastian Duterte therefore maintains operational control under relevant domestic legislation for all police officers in Davao City.⁴³

³⁶ Ntaganda Decision, [ICC-01/04-02/06-147](#), para. 59.

³⁷ Warrant of Arrest for Mr Rodrigo Roa Duterte, 7 March 2025, [ICC-01/21-83](#), para. 26.

³⁸ CNN, PHL-OTP-00090483.

³⁹ Petition for Certiorari and Prohibition before the Supreme Court of the Philippines, PHL-OTP-00088375 at 0024.

⁴⁰ [REDACTED].

⁴¹ Rappler, PHL-OTP-00090485.

⁴² Philippine Republic Act No. 1368, 18 June 1955, PHL-OTP-00090487 at 0001.

⁴³ Philippine Republic Act No. 6975, 13 December 1990, PHL-OTP-0003-3321 at 3329, section 51, as amended by Philippine Republic Act No. 8551, 25 February 1998, PHL-OTP-0009-0143 at 0162-0163, sections 62 and 63.

24. As previously submitted by the Prosecution, [REDACTED],⁴⁴ [REDACTED].⁴⁵ She is also currently facing impeachment proceedings on accusations including that she plotted to assassinate the current President of the Philippines.⁴⁶ [REDACTED].⁴⁷ [REDACTED].⁴⁸

25. Also as previously noted by the Prosecution, various law enforcement personnel [REDACTED].⁴⁹ Mr Duterte has supporters in security and law enforcement across the Philippines, many of whom are armed and trained in the use of weapons.⁵⁰

26. Overall, Mr Duterte, his family, and his associates are capable of influencing and harming witnesses as a result of their positions of power and [REDACTED]. The release of Mr Duterte could risk bringing real and substantial harm to the legitimate interests of victims and witnesses.

2. Mr Duterte and his associates have a history of interfering with investigations against him

27. The Prosecution has previously outlined the many alleged instances of Mr Duterte and/or his associates allegedly interfering with investigations against him, including through the intimidation of witnesses and planning to kill those involved in assisting investigations.⁵¹ This includes:

- (i) In 2009, then-chairperson of the Philippines Commission on Human Rights (“CHR”) Leila De Lima investigated extrajudicial killings in Davao City, including the existence of the DDS and Mr Duterte’s alleged links to it. Former Davao City police officer and self-confessed DDS member Arturo Lascañas has publicly revealed that Mr Duterte formulated a plan to assassinate Ms de Lima while she was conducting this investigation.⁵²
- (ii) In 2016 and 2017, the Philippines Senate held two public inquiries into extrajudicial killings in the war on drugs. Senator Alan Peter Cayetano, a close associate of Mr

⁴⁴ [REDACTED]

⁴⁵ [REDACTED]; [REDACTED].

⁴⁶ The Guardian, PHL-OTP-00090489.

⁴⁷ [REDACTED].

⁴⁸ [REDACTED]; [REDACTED].

⁴⁹ [REDACTED].

⁵⁰ Philippine Republic Act No. 10591, 29 May 2013, PHL-OTP-0017-4852 at 4859, Section 10 (providing for the lawful acquisition of and possession of firearms by PNP and other law enforcement agencies).

⁵¹ See e.g. [REDACTED].

⁵² Jonathan Miller, Duterte Harry, PHL-OTP-0018-0003 at 0246.

Duterte, reportedly met with then-Philippine National Police Chief Ronald Dela Rosa and a group of Davao City police officers set to appear before the hearing and instructed them to remain loyal to Mr Duterte and to deny all of the allegations against him.⁵³ After ex-DDS member Edgar Matobato testified publicly that Mr Duterte was involved in the DDS and with DDS killings, then Chief Dela Rosa reportedly instructed Mr Lascañas that if any DDS hitmen showed sympathy for Mr Matobato, he was to “neutralise” them immediately and he should emphasise to the DDS the importance of loyalty to Mr Duterte.⁵⁴

- (iii) Senator de Lima chaired one of the Senate inquiries and became known as a prominent critic of Mr Duterte’s anti-illegal drug campaign.⁵⁵ Months after launching the inquiry, she was arrested on what human rights groups described as trumped-up charges to silence her.⁵⁶
- (iv) During his Presidency, Mr Duterte made public threats against individuals opposing his war on drugs and/or attempting to pursue accountability for crimes allegedly committed therein. For example, when elements of the Catholic Church criticised war on drugs killings, Mr Duterte reportedly gave a speech calling for the public to “kill” bishops.⁵⁷ On other occasions, he reportedly instructed police to “shoot” human rights activists and threatened to block CHR investigations and to abolish it altogether.⁵⁸ He also threatened to slap a United Nations Special Rapporteur if she investigated his war on drugs.⁵⁹

28. With respect to the Court specifically, Mr Duterte has reportedly made public statements attacking the Court and threatening its staff,⁶⁰ including, as previously mentioned, asserting that if the ICC were to “come for me, if they arrest me here, there will be a shootout, I will finish all those sons of bitches”.⁶¹ Mr Duterte also withdrew the Philippines from the Rome

⁵³ Rappler, PHL-OTP-0017-4591. The Prosecution notes that Ronald Dela Rosa is now a Senator in the Philippines.

⁵⁴ Rappler, PHL-OTP-0017-4591.

⁵⁵ See e.g. Guardian, PHL-OTP-0003-0579 at 0002; AI, PHL-OTP-00019371.

⁵⁶ Human Rights Watch, PHL-OTP-0003-0803 at 0803; AI, PHL-OTP-0003-0826.

⁵⁷ Al Jazeera, PHL-OTP-00019369.

⁵⁸ International Federation for Human Rights, PHL-OTP-0003-0831 at 0851.

⁵⁹ Rappler, PHL-OTP-00090491.

⁶⁰ See e.g. GMA, PHL-OTP-0003-1425; Guardian, PHL-OTP-0003-0277; Inquirer, PHL-OTP-00090493.

⁶¹ Rappler, PHL-OTP-00000273.

Statute approximately one month after the former Prosecutor announced that the Philippines was under preliminary examination.⁶²

29. These examples demonstrate a repeated history of Mr Duterte interfering with investigations against him and should militate against granting his interim release.

C. The continued detention of Mr Duterte is necessary to prevent him 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 pursuant to article 58(1)(b)(iii)

30. The Defence submits that Mr Duterte will not continue to commit crimes if released.⁶³ However, Mr Duterte has reportedly previously stated that he planned to run for Mayor of Davao City again in 2025 and pledged to “double” the killings the “moment I return”.⁶⁴ As noted above, Mr Duterte has since won the Davao Mayoral election and his family has consistently stated their intention to bring him home to the Philippines.⁶⁵

31. While the Defence appears to take issue with the fact that the Prosecution relied upon a news article to support the claim that Mr Duterte promised to double the killings when he returns to Davao City, the Defence, notably, does not dispute that Mr Duterte made these comments.⁶⁶ Further, Chambers have previously held that there is “no impediment to the use of such material, or any requirement that it be corroborated” when assessing applications for interim release.⁶⁷

32. Further, the Defence’s submission that killings have not doubled despite Mr Duterte having won the Mayoral election reaffirms the Prosecution’s position that Mr Duterte’s continued detention is necessary.⁶⁸

D. The risks identified under article 58(1)(b) cannot be mitigated by the Defence’s proposal for interim release to [REDACTED]

⁶² UN, Notification of Philippines’ Withdrawal from the Rome Statute, 17 March 2018, PHL-OTP-0003-2950; GMA, PHL-OTP-0003-1425; International Criminal Court, [Statement of the Prosecutor of the International Criminal Court, Fatou Benouda, on the opening Preliminary Examinations into the situations in the Philippines and in Venezuela](#), 8 February 2018.

⁶³ Request, ICC-01/21-01/25-150-Conf-Exp, paras 29-31.

⁶⁴ PhilStar, PHL-OTP-00015374.

⁶⁵ Inquirer, PHL-OTP-00090495.

⁶⁶ Request, ICC-01/21-01/25-150-Conf-Exp, para. 29.

⁶⁷ Abd-Al-Rahman Decision, [ICC-02/05-01/20-115](#), para. 28.

⁶⁸ Request, ICC-01/21-01/25-150-Conf-Exp, para 31.

33. The Prosecution's position is that Mr Duterte's continued detention is necessary to ensure his appearance at trial, ensure that he does not obstruct or endanger the investigation or court proceedings, and prevent him from committing crimes within the jurisdiction of the Court.

34. However, the Prosecution notes that the Chamber may, pursuant to rule 119 of the Rules, consider appropriate conditions with a view to mitigating or negating the risks associated with article 58(1)(b) of the Statute.⁶⁹ The Prosecution therefore, in the context of different state, pre-emptively engaged in good faith discussions with the Defence to negotiate the conditions set out in Annex A to the Defence's Request (the "Conditions") that may mitigate the risks identified above.⁷⁰

35. The Prosecution's agreement to the Conditions was based exclusively on the express understanding that Mr Duterte's potential interim release, if granted by the Chamber, would take place in [REDACTED], not [REDACTED] as the Defence seems to suggest.⁷¹ No agreement whatsoever was reached with the Defence on conditions of interim release to any country other than [REDACTED]. For absolute clarity: the Prosecution has not agreed in any way to conditions for interim release to [REDACTED], or anywhere else in the world, other than [REDACTED]. In addition, the Prosecution reserves its right to make submissions in response to Mr Duterte's formal application to the Chamber for interim release to [REDACTED] if and when it may be filed. The Prosecution cannot agree not to oppose a specific submission before the submission has been filed by the Defence and reviewed by the Prosecution.

36. While the Prosecution commends [REDACTED] apparent commitment to provide support to the Court, it strongly opposes Mr Duterte's interim release to [REDACTED] and submits that [REDACTED] is not an appropriate state to host Mr Duterte's interim release for the following reasons:

- (i) The Prosecution only agreed to the Conditions on the basis that they would be implemented in [REDACTED], which, [REDACTED], has a long history of cooperation with the Court, which would suggest the Conditions would be strictly

⁶⁹ Bemba Decision, [ICC-01/05-01/08-631-Red](#), para. 105.

⁷⁰ Confidential ex parte Defence, Prosecution and OPCV only Annex A – [REDACTED], ICC-01/21-01/25-150-Conf-Exp-AnxA.

⁷¹ Request, ICC-01/21-01/25-150-Conf-Exp, paras 3, 4, 30.

enforced. Moreover, [REDACTED]. [REDACTED] does not have the same extensive history of cooperation with the Court.

- (ii) Second, the Prosecution submits that [REDACTED] would make the implementation of the Conditions impossible. The Conditions require [REDACTED].⁷² This would be impossible [REDACTED]. Even if the [REDACTED] would likely outlast the period of interim release, given that the hearing on the confirmation of charges is only three months away. It would also be highly time consuming and complex to secure Mr Duterte's attendance in the courtroom given the distance [REDACTED]. [REDACTED]. [REDACTED]. Again, the time it would take to [REDACTED] would likely outlast the period of Mr Duterte's interim release.
- (iii) Third, the Prosecution has concerns about [REDACTED].⁷³
- (iv) Fourth, the Prosecution notes that [REDACTED] is unable to implement the condition of [REDACTED].⁷⁴ The Prosecution submits that the condition [REDACTED]. [REDACTED].⁷⁵
- (v) Finally, the Defence's submission that Mr Duterte would not abscond from [REDACTED] for fear of embarrassing his hosts is highly unpersuasive given Mr Duterte's history of making disparaging and insulting remarks about heads of state and world leaders.⁷⁶

37. With respect to the Defence's submission that 'humanitarian factors' militate in favour of Mr Duterte's release, the Prosecution notes that, as admitted by the Defence, humanitarian factors are not, on their own, a consideration in the Chamber's analysis pursuant to article 58 of the Statute.⁷⁷ Further, the jurisprudence the Defence cites in its submission that the "ICC has, in practice, granted provisional release for humanitarian reasons" relates to two instances in which Chambers granted detained persons permission to attend funerals – not an extended period of interim release.⁷⁸ In any event, the Prosecution submits that the Defence's argument

⁷² Annex A, ICC-01/21-01/25-150-Conf-Exp-AnxA, p. 3 (v), (vi), (xvi).

⁷³ [REDACTED] ; [REDACTED].

⁷⁴ Request, ICC-01/21-01/25-150-Conf-Exp, para. 17; Annex A, ICC-01/21-01/25-150-Conf-Exp-AnxA, p. 3 (ii).

⁷⁵ [REDACTED].

⁷⁶ See e.g., BBC, PHL-OTP-00090472; Time, PHL-OTP-00090474.

⁷⁷ Request, ICC-01/21-01/25-150-Conf-Exp, para. 34.

⁷⁸ Request, ICC-01/21-01/25-150-Conf-Exp, para. 34, citing, Pre-Trial Chamber II, *The Prosecutor v. Jean-Pierre Bemba Gomba*, Public Redacted Version of ICC-01/05-01/08-437-Conf Decision on the Defence's Urgent Request concerning Mr Jean-Pierre Bemba's Attendance of his Father's Funeral, 3 July 2009, [ICC-01/05-01/08-](#)

that interim release to [REDACTED].⁷⁹ The purpose of interim release is not [REDACTED]. [REDACTED].⁸⁰

38. For these reasons, the Prosecution submits that the Conditions cannot be practically or appropriately implemented by [REDACTED], and therefore, would not mitigate against the risks Mr Duterte presents under article 58(1)(b) of the Statute. As such, his continued detention by the Court is required under the provisions of article 58(1)(a), 58(1)(b)(i)-(iii) of the Statute.

V. REQUESTED RELIEF

39. For the above reasons, the Prosecution respectfully requests that the Chamber reject the Defence's Request for the interim release of Mr Duterte.



Mame Mandiaye Niang, Deputy Prosecutor

Dated this 23rd day of June 2025

At The Hague, the Netherlands

[437-Red](#); Public Redacted Version of ICC-01/05-01/08-1099-Conf; Decision on the Defence Request for Mr Jean-Pierre Bemba to attend his Stepmother's Funeral, 12 January 2011, [ICC-01/05-01/08-1099-Red](#).

⁷⁹ [REDACTED].

⁸⁰ Request, ICC-01/21-01/25-150-Conf-Exp, para. 36.