

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

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

Date: **28 August 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*

Confidential

**Prosecution's Observations on the "Defence Request for Reconsideration of Order
ICC-01/21-01/25-243-Conf" (ICC-01/21-01/25-244-Conf)**

Source: Office of the Prosecutor

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

- | | |
|--|---|
| ☒ The Office of the Prosecutor | ☒ Counsel for the Defence |
| ☐ 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 |
| ☐ States' Representatives | ☐ Amicus Curiae |

REGISTRY

-
- | | |
|--|--|
| Registrar

M. Osvaldo Zavala Giler | ☐ Counsel Support Section |
| ☐ Victims and Witnesses Unit | ☐ Detention Section |
| ☐ Victims Participation and Reparations Section | ☐ Other |

I. INTRODUCTION

1. Pursuant to the Chamber's instructions of 27 August 2025,¹ the Prosecution provides its observations on the "Defence Request for Reconsideration of Order ICC-01/21-01/25-243-Conf"² ("Defence Request").

II. CONFIDENTIALITY

2. Pursuant to regulation 23bis(2) of the Regulations of the Court ("RoC"), this submission is filed as "Confidential", because it responds to filings with the same classification.

III. PROSECUTION'S SUBMISSIONS

3. The Defence Request suggests that the Chamber's "Order to the Registry for a report from the medical Officer of the Detention Centre"³ must be reconsidered and rescinded,⁴ because regulation 103(4) of the RoC is not the appropriate mechanism for obtaining Mr Duterte's medical record from the ICC Detention Centre, or for assessing fitness to stand trial.⁵

4. While the Prosecution takes no position on the Defence Request, it notes jurisprudence from the *Yekatom and Ngaissona* case,⁶ which emphasises the "different objectives underlying Rule 135 of the Rules, as opposed to Regulation 103(4) of the Regulations of the Court".⁷ It clarifies the role of regulation 103(4) and regulation 157 of the Regulations of the Registry, by stating that "the objective of these provisions is to ensure – as part of the Registry's general obligation under Regulation 103 of the Regulations, and subsidiary to complying with this obligation through its own medical services – that detainees have the (additional) medical care

¹ Chamber's e-mail dated 27 August 2025 at 16:20.

² Defence Request for Reconsideration of Order ICC-01/21-01/25-243-Conf, ICC-01/21-01/25-244-Conf ("Defence Request").

³ Order to the Registry for a report from the medical Officer of the Detention Centre, ICC-01/21-01/25-243-Conf ("Chamber's Order").

⁴ Defence Request, ICC-01/21-01/25-244-Conf, para. 8.

⁵ Defence Request, ICC-01/21-01/25-244-Conf, paras. 4-7.

⁶ Decision on the Defence Request to Grant Privileged Status to Medical Expert and to Allow In-Person Visits, ICC-01/14-01/18-567-Red.

⁷ Decision on the Defence Request to Grant Privileged Status to Medical Expert and to Allow In-Person Visits, ICC-01/14-01/18-567-Red, para. 18.

they wish to receive”.⁸ This decision further emphasises that “[t]hese provisions do not concern the issue of an accused’s ability to effectively participate in the proceedings”.⁹

IV. CONCLUSION

5. The Prosecution respectfully submits that the above-mentioned jurisprudence may assist the Chamber in the adjudication of the Defence Request.

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

Mame Mandiaye Niang, Deputy Prosecutor

Dated this 28th day of August 2025

At The Hague, the Netherlands

⁸ Decision on the Defence Request to Grant Privileged Status to Medical Expert and to Allow In-Person Visits, ICC-01/14-01/18-567-Red, para. 19.

⁹ Decision on the Defence Request to Grant Privileged Status to Medical Expert and to Allow In-Person Visits, ICC-01/14-01/18-567-Red, para. 19.