

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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No.: ICC-01/21-01/25
Date: 2 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 Redacted Version of No. ICC-01/21-01/25-256-Conf-Exp

Victims' Response to the Defence's Renewed Request for Interim Release

Source: Office of Public Counsel for Victims

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

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☒ Counsel for the Defence

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☐ 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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☐ Detention Section

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I. INTRODUCTION

1. The Principal Counsel of the Office of Public Counsel for Victims (the “Legal Representative”), appointed to represent the collective interests of potential victims until the mandate of the team of common legal representatives takes effect,¹ files her response to the Defence’s Renewed Request for Interim Release (the “Renewed Request”).²

2. The Legal Representative submits that the Renewed Request should be rejected and the continued detention of Mr Rodrigo Roa Duterte (“Mr Duterte”) remains necessary since the conditions set forth in article 58(1) of the Rome Statute (the “Statute”) continue to be met. The [REDACTED] does not justify an interim release in the absence [REDACTED].

3. In particular, as already argued in her previous submissions on the matter,³ the gravity of the charges, the fact that Mr Duterte has now access to a great part of the evidence including identities of the Prosecution witnesses, and that he continues to wield considerable power and support, are all important factors that make his continued detention necessary and justified in order to ensure his presence at trial and to avoid the obstruction of the Court’s proceedings.

4. Victims also oppose the Renewed Request on the basis that their security and well-being will be put in danger in the event that Mr Duterte is released. They expressed their strong concerns about the possibility that he enjoys interim release, even with conditions, fearing reprisals from his supporters in the Philippines.

¹ See the “Order on the conduct of confirmation proceedings” (Pre-Trial Chamber I), [No. ICC-01/21-01/25-114](#), 17 April 2025, paras. 68-69.

² See the “Renewed Request for Interim Release”, [No. ICC-01/21-01/25-231-Conf](#), 18 August 2025 (the “Renewed Request”). A public redacted version [No. ICC-01/21-01/25-231-Red](#) was filed on 19 August 2025.

³ See the “Victims’ Response to the Defence Urgent Request for Interim Release”, [No. ICC-01/21-01/25-162-Conf-Exp](#), 25 June 2025 (the “Victims’ Initial Response”). A public redacted version [No. ICC-01/21-01/25-162-Red](#) was filed the same day.

5. Lastly, the Renewed Request does not alter any of these facts in a significant manner. In any case, [REDACTED] fails to meet the threshold of severe justification for interim release [REDACTED] or [REDACTED].

II. PROCEDURAL BACKGROUND

6. On 12 June 2025, the Defence filed its Request for Interim Release (the “Initial Request”).⁴ On 23 and 25 June 2025, the Prosecution and the Legal Representative filed their responses to the Initial Request, respectively.⁵ On 26 June 2025, the Defence requested leave to reply to the Prosecution’s response,⁶ which was opposed by the Prosecution and the Legal Representative on 30 June 2025 and 1 July 2025, respectively.⁷

7. On 14 July 2025, the Defence filed a request seeking, *inter alia*, the suspension of the Chamber’s adjudication of the Initial Request (the “Suspension Request”),⁸ which was opposed by the Prosecution.⁹

⁴ See the “Urgent Request for Interim Release”, [No. ICC-01/21-01/25-150-Conf-Exp](#), 12 June 2025 (the “Initial Request”). A public redacted version [No. ICC-01/21-01/25-150-Red](#) was filed the same day.

⁵ See the “Confidential Redacted Version of ‘Prosecution’s response to ‘Urgent Request for Interim Release’”, [No. ICC-01/21-01/25-159-Conf-Exp-Red](#), 23 June 2025. A public redacted version [No. ICC-01/21-01/25-159-Red](#) was filed the same day. See also, the Victims’ Initial Response, *supra* note 3.

⁶ See the “Defence Request for Leave to Reply to ICC-01/21-01/25-159 (Prosecution’s response to Defence’s ‘Urgent Request for Interim Release’”, No. ICC-01/21-01/25-165-Conf-Exp, 26 June 2025. Confidential and public redacted versions [No. ICC-01/21-01/25-165-Conf-Red](#) and [No. ICC-01/21-01/25-165-Red](#) were notified on 27 June 2025.

⁷ See the “Prosecution’s response to ‘Defence Request for Leave to Reply to ICC-01/21-01/25-159 (Prosecution’s response to Defence’s ‘Urgent Request for Interim Release’”, No. ICC-01/21-01/25-166-Conf-Exp, 30 June 2025. A confidential redacted version [No. ICC-01/21-01/25-166-Conf-Exp-Red](#) was filed the same day, and a public redacted version [No. ICC-01/21-01/25-166-Red](#) was filed on 3 July 2025. See also, the “Victims’ Response to the ‘Confidential Redacted Version of the ‘Defence Request for Leave to Reply to ICC-01/21-01/25-159 (Prosecution’s response to Defence’s ‘Urgent Request for Interim Release’”, 26 June 2025”, [No. ICC-01/21-01/25-169-Conf-Exp](#). A public redacted version [No. ICC-01/21-01/25-169-Red](#) was filed on 3 July 2025.

⁸ See the “Urgent Defence Request to Suspend Adjudication on the Defence Request for Interim Release”, [No. ICC-01/21-01/25-193-Conf](#), 14 July 2025 (the “Suspension Request”). A public redacted version [No. ICC-01/21-01/25-193-Red](#) was filed on 18 July 2025.

⁹ See the “Prosecution’s response to ‘Urgent Defence Request to Suspend Adjudication on the Defence Request for Interim Release’”, No. ICC-01/21-01/25-196-Conf-Exp. A confidential redacted version [No. ICC-01/21-01/25-196-Conf-Red](#) was filed the same day and a public redacted version [No. ICC-01/21-01/25-196-Red](#) was filed on 18 July 2025.

8. On 18 July 2025, the Defence submitted [REDACTED].¹⁰
9. On 23 July 2025, the Chamber issued its Decision on the Suspension Request deciding, *inter alia*, to defer the issuance of a decision on the Initial Request.¹¹
10. On 18 August 2025, the Defence filed its Renewed Request.¹²
11. On 28 August 2025, the Prosecution filed its Response to the Renewed Request.¹³

III. CLASSIFICATION

12. Pursuant to regulation 23*bis* (1) and (2) of the Regulations of the Court, the present submission is classified as Confidential *Ex parte* only available to the Prosecution, the Defence and the OPCV because it refers to the content of documents bearing the same classification. A public redacted version will be filed in due course.

¹⁰ See the "Defence Submission of [REDACTED]", [No. ICC-01/21-01/25-199-Conf](#), 18 July 2025.

¹¹ See the "Decision on the 'Urgent Defence Request to Suspend Adjudication on the Defence Request for Interim Release'" (Pre-Trial Chamber I), [No. ICC-01/21-01/25-209](#), 23 July 2025.

¹² See the Renewed Request, *supra* note 2.

¹³ See the Confidential redacted version of "Prosecution's response to 'Renewed Request for Interim Release'", [No. ICC-01/21-01/25-252-Conf-Red](#), 28 August 2025.

IV. SUBMISSIONS

A. Applicable law

13. The Legal Representative recalls that interim release of a person within the Court's statutory framework is governed by article 60(2), read in conjunction with article 58(1) of the Statute. The decision on continued detention or release is not of a discretionary nature and, thus, depending on whether or not the conditions of article 58(1) of the Statute continue to be met, the person shall continue to be detained or shall be released.¹⁴

14. Moreover, the Appeals Chamber has held that, when assessing the need for continued detention, “[i]t must ‘appear’ to be necessary. The question revolves around the possibility, not the inevitability, of a future occurrence”¹⁵ and “[t]he apparent necessity of continued detention in order to ensure the detainee’s appearance at trial does not necessarily have to be established on the basis of one factor taken in isolation. It may also be established on the basis of an analysis of all relevant factors taken together.”¹⁶ The reasons for detention pursuant to article 58(1)(b)(i) to (iii) of the Statute are alternative.¹⁷ Accordingly, if at least one of the three conditions is fulfilled, the person shall continue to be detained.

¹⁴ See the “Judgment on the appeal of Mr. Thomas Lubanga Dyilo against the decision of Pre-Trial Chamber I entitled ‘Decision sur la demande de mise en liberté provisoire de Thomas Lubanga Dyilo’” (Appeals Chamber), [No. ICC-01/04-01/06-824 OA7](#), 13 February 2007, para. 134.

¹⁵ See the “Judgment In the Appeal by Mathieu Ngudjolo Chui of 27 March 2008 against the Decision of Pre-Trial Chamber I on the Application of the Appellant for Interim Release”, (Appeals Chamber), [No. ICC-01/04-01/07-572 OA4](#), 9 June 2008, para. 21.

¹⁶ See the “Judgment on the appeal of Mr. Jean-Pierre Bemba Gombo against the decision of Pre-Trial Chamber III entitled ‘Decision on application for Interim release’” (Appeals Chamber), [No. ICC-01/05-01/08-323 OA](#), 16 December 2008, para. 55. See also, the “Decision on the ‘Defence Request for Interim Release’” (Pre-Trial Chamber I), [No. ICC-01/04-01/10-163](#), 19 May 2011, para. 39.

¹⁷ See the “Judgment on the appeal of Mr. Thomas Lubanga Dyilo against the decision of Pre-Trial Chamber I entitled ‘D cision sur la demande de mise en libert  provisoire de Thomas Lubanga Dyilo’”, *supra* note 14, para. 139.

B. Merits of the Renewed Request

15. Preliminarily, the Legal Representative notes that [REDACTED] does not suffice to justify an interim release [REDACTED].

16. In the Renewed Request, the Defence argues, *inter alia*, that: (i) Mr Duterte's [REDACTED]; and (ii) [REDACTED] which suggests that none of the risks envisaged in article 58(1)(b) of the Statute can be actualised.¹⁸

17. The Legal Representative will not raise again the arguments provided in her response to the Initial Request in relation to the criteria under article 58(1) of the Statute which she recalls *in toto*,¹⁹ concluding that all the criteria are still met, in spite of the arguments raised in the Renewed Request. She will only address the new factors presented by the Defence to show that, at this stage, they do not change the substance of her previous submissions on the matter.

18. In its Initial Request, the Defence had argued that [REDACTED].²⁰ The Defence reiterates these arguments in its Renewed Request.²¹ In this regard, the Legal Representative submits that [REDACTED]. Absent such an assessment, [REDACTED] should not be determinative of the issue at hand.

19. In any case, [REDACTED] provided by the Defence so far demonstrates that [REDACTED] to: (i) evade justice and fail to appear before the Court; (ii) obstruct or endanger the investigation or the court proceedings, and (iii) continue with the commission of the crimes within the jurisdiction of the Court, if released.

20. In particular, the Legal Representative stresses that, [REDACTED].²²

¹⁸ See the Renewed Request, *supra* note 2, paras. 6-10.

¹⁹ See the Victims' Initial Response, *supra* note 3, paras. 20-46.

²⁰ See the Initial Request, *supra* note 4, paras. 21-24.

²¹ See the Renewed Request, *supra* note 2, paras. 6-10.

²² See [No. ICC-01/21-01/25-199-Conf-AnxA](#), pp. 2-4.

21. Moreover, [REDACTED].²³

22. Furthermore, [REDACTED].²⁴

23. These facts clearly indicate that, [REDACTED].

24. In other words, the information amply demonstrates that, if the Suspect wishes to abscond or obstruct or endanger the investigation or the judicial proceedings by, in particular, harassing and intimidating victims and witnesses and commit more crimes within the jurisdiction of the Court, [REDACTED]. Consequently, the requirements of article 58(1) of the Statute are met and his detention continues to be justified on these grounds. Additionally, these risks cannot be sufficiently mitigated by imposing conditions upon his potential release.

25. Moreover, in its Initial Request, the Defence had argued that [REDACTED]²⁵ In the Renewed Request, the Defence adds that Mr Duterte: [REDACTED].²⁶

26. The Legal Representative notes that these arguments firstly misrepresent [REDACTED].

27. Secondly, [REDACTED],²⁷ [REDACTED].²⁸ Moreover, [REDACTED].²⁹

28. These conclusions show that [REDACTED].

29. Moreover, [REDACTED]. There was no [REDACTED]. Thus, [REDACTED] cannot form the basis for a decision by the Chamber granting interim release of Mr Duterte. Any eventual determination of the matter by the Judges can only be based on [REDACTED].

²³ See [No. ICC-01/21-01/25-231-Conf-AnxC](#), pp. 4, 6 and 9; and [No. ICC-01/21-01/25-231-Conf-AnxB](#), pp. 4, 6 and 9, 18 August 2025.

²⁴ See [No. ICC-01/21-01/25-231-Conf-AnxA](#), pp. 2, 3, 5 and 6.

²⁵ See the Initial Request, *supra* note 4, paras. 34-35.

²⁶ See the Renewed Request, *supra* note 2, paras. 6-10.

²⁷ See [No. ICC-01/21-01/25-231-Conf-AnxB](#), p. 16.

²⁸ See [No. ICC-01/21-01/25-231-Conf-AnxA](#), p. 4 (emphasis added).

²⁹ See [No. ICC-01/21-01/25-199-Conf-AnxA](#), p. 6 (emphasis added).

30. *Arguendo*, even if the Chamber takes into consideration [REDACTED]³⁰ In particular, [REDACTED]:

[REDACTED]³¹

31. In this regard, the Legal Representative recalls the jurisprudence quoted in her previous submissions on the matter,³² according to which “*special circumstances warranting provisional release related to humane and compassionate considerations have been found to exist where there is an ‘acute justification’, [REDACTED] [...]*”³³ and that “*[REDACTED].*”³⁴ [REDACTED].³⁵

32. Indeed, it is [REDACTED]. Therefore, [REDACTED] fails to meet the threshold of severe justification for interim release [REDACTED].

C. Mr Duterte’s interim release, if granted, will endanger victims

33. Lastly, the Legal Representative reiterates that the release of Mr Duterte will not only be a great destabilising factor to the volatile security situation in the country but will also pose a direct and significant danger to victims who have demonstrated great courage in applying to participate in the present proceedings, despite risks of being threatened or stigmatised.

34. In accordance with article 68(1) of the Statute, the Chamber must strike a fair balance between different competing interests, with due regard to the safety and well-being of victims and witnesses. Mr Duterte’s continued detention makes it possible to meet all of these requirements given, in particular, that all relevant criteria under articles 60(2) and 58(1) of the Statute continue to be met.

³⁰ See [No. ICC-01/21-01/25-231-Conf-AnxB](#), pp. 12-13 (emphasis added).

³¹ *Idem*, pp. 15-16 (emphasis added).

³² See the Victims’ Initial Response, *supra* note 3, para. 49.

³³ See MICT, *The Prosecutor v. Zdravko Tolimir*, [Public Redacted Version of the “Decision on Motion for Provisional Release” filed on 28 January 2016](#) (Appeals Chamber), Case No. MICT-15-95-ES, 23 February 2016, para. 9.

³⁴ *Ibid.*

³⁵ See ICTY, *The Prosecutor v. Goran Hadžić*, [Decision on Defence Urgent Request for Provisional Release](#), (Trial Chamber), Case No. IT-04-75-T, 13 March 2015, paras. 33, 36, 38-41.

35. Mr Duterte's release would be hard to fathom for victims who have clearly expressed the view that he must remain in detention at the Court. For them, this is the only way of ensuring that he will face trial for the suffering he caused to victims.

V. CONCLUSION

36. For the foregoing reasons, the Legal Representative respectfully requests the Chamber to reject the Renewed Request.

A handwritten signature in black ink, appearing to read 'Paolina Massidda', with a horizontal line drawn underneath the name.

Paolina Massidda
Principal Counsel

Dated this 2nd day of September 2025

At The Hague, The Netherlands