

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

No.: **ICC-01/21-01/25**
Date: **29 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 “Prosecution’s response to ‘Defence Notification’ (ICC-01/21-01/25-271-Conf)”, 18 September 2025, ICC-01/21-01/25-277-Conf

Source: Office of the Prosecutor

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

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☐ Legal Representatives of the Victims

☐ Legal Representatives of the Applicants

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(Participation/Reparation)

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I. SUBMISSIONS

1. The Prosecution submits that the Defence Notification, in which Mr Duterte offers [REDACTED], is irrelevant to the issue of whether he should be granted interim release.¹ The relevant test is whether the conditions set forth in article 58(1) of the Statute remain fulfilled. The Prosecution has demonstrated through multiple filings that Mr Duterte, if granted interim release, would be a flight risk, is likely to interfere with the proceedings, and may commit further crimes.² Mr Duterte's offer [REDACTED] in no way lessens the risk he presents if granted interim release.

2. While the Prosecution agrees that the [REDACTED] should be accelerated, Mr Duterte's interim detention for an [REDACTED] does not outweigh the serious risk he presents if granted interim release. The Defence has unnecessarily delayed the proceedings by waiting until five months after Mr Duterte's initial appearance, following the deadline for the Prosecution's pre-trial disclosure, the Document Containing the Charges and the Pre-Confirmation Brief, to file its challenge regarding his fitness to stand trial.³

3. The Prosecution also notes that during these five months, Mr Duterte was apparently capable of, *inter alia*, providing his instruction to file the Defence's challenge to jurisdiction⁴ and its request to disqualify two Judges of this Chamber,⁵ representing to the Chamber that he was "[REDACTED]" in relation to [REDACTED],⁶ and agreeing to abide by [REDACTED] conditions of his interim release in negotiations with the Prosecution.⁷ These examples

¹ Confidential Defence Notification, 16 September 2025, ICC-01/21-01/25-271-Conf (public redacted version filed the same day [ICC-01/21-01/25-271-Red](#)) ("Defence Notification"), para. 4. The Prosecution notes that the Defence [REDACTED].

² Confidential *ex parte* Defence and Prosecution only, Prosecution's response to "Urgent Request for Interim Release", 23 June 2025, ICC-01/21-01/25-159-Conf-Exp (confidential and public redacted versions filed the same day ICC-01/21-01/25-159-Conf and [ICC-01/21-01/25-159-Red](#)); Confidential *ex parte* Defence and Prosecution only, Prosecution's response to "Renewed Request for Interim Release" 28 August 2025, ICC-01/21-01/25-252-Conf-Exp (confidential version filed on the same day ICC-01/21-01/25-252-Conf and public redacted version notified on 12 September 2025, [ICC-01/21-01/25-252-Red](#)).

³ Confidential Defence Request for an Indefinite Adjournment, 18 August 2025, ICC-01/21-01/25-230-Conf (public redacted version filed on 11 September 2025 [ICC-01/21-01/25-230-Red](#)); Decision convening a hearing for the first appearance of Mr Rodrigo Roa Duterte, 13 March 2025, [ICC-01/21-01/25-90](#), para. 9.

⁴ Defence Challenge with Respect to Jurisdiction, 1 May 2025, [ICC-01/21-01/25-121](#).

⁵ Corrigendum to Request for the Disqualification of Judge Reine Adélaïde Sophie Alapini-Gansou and Judge María del Socorro Flores Liera from Adjudicating on the Issue of Jurisdiction, 12 May 2025, ICC-01/21-01/25-130-Corr.

⁶ [REDACTED].

⁷ See Confidential *ex parte* available to the Defence, Prosecution and OPCV only Annex A –[REDACTED], ICC-01/21-01/25-150-Conf-Exp-AnxA.

contradict Defence Counsel's recent proclamation that "[REDACTED]"⁸ and his claim in the Defence Notification that Mr Duterte's fitness has been at issue since his initial appearance.⁹

4. The Defence has also now proposed [REDACTED].¹⁰ If [REDACTED], this will only cause further delay to the proceedings. Given the significant delays caused by the Defence, it cannot now, in earnest, point to a potential [REDACTED] delay to argue that the length of Mr Duterte's pre-trial detention militates in favour of his release.

5. The Registry has also indicated that [REDACTED],¹¹ which means that [REDACTED]. It is therefore incorrect to suggest that the [REDACTED] will, on its own, add an additional [REDACTED] to the proceedings. The Chamber has further made clear that the postponement of the hearing of the confirmation of charges is "limited to the time strictly necessary" to determine Mr Duterte's fitness and that the "parties and participants shall be ready to immediately resume the proceedings on the confirmation of the charges, should Mr Duterte be found fit to participate in these proceedings."¹² Given the [REDACTED]¹³ [REDACTED], it is likely that this case will still proceed to the hearing on the confirmation of charges sooner than previous cases before this Court.¹⁴

6. Finally, the logistics surrounding the [REDACTED] is likely to further delay the proceedings. [REDACTED]. For instance, [REDACTED].¹⁵ [REDACTED]. A condition of the appointment of experts should not be based on [REDACTED]. Further, while the Defence states that [REDACTED], there has been no formal indication [REDACTED].¹⁶

II. CONFIDENTIALITY

⁸ [REDACTED].

⁹ Defence Notification, ICC-01/21-01/25-271-Conf, para. 2.

¹⁰ [REDACTED].

¹¹ [REDACTED].

¹² Decision postponing the hearing on the confirmation of charges, 8 September 2025, [ICC-01/21-01/25-267](#), paras 8, 10.

¹³ [REDACTED].

¹⁴ See *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud* in which it took over one year to proceed from Mr Al Hassan's first appearance to the confirmation of charges hearing. Corrected Version of "Décision relative à la confirmation des charges portées contre Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud", 8 November 2019, [ICC-01/12-01/18-461-Corr-Red-Teng](#), paras 4, 26. See also *The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman ('Ali Kushayb')*, in which the confirmation hearing took place almost one year after Mr Al Rahman's first appearance. Decision on the confirmation of charges against Ali Muhammad Ali Abd-Al-Rahman ('Ali Kushayb'), 9 July 2021, [ICC-02/05-01/20-433](#), paras 5, 12.

¹⁵ [REDACTED].

¹⁶ Defence Notification, ICC-01/21-01/25-271-Conf, para. 6.

7. This filing is classified as confidential pursuant to regulation 23bis(1) and (2) of the Regulations as it refers to the [REDACTED] and [REDACTED]. It also refers to filings and decisions of the same classification.

III. REQUESTED RELIEF

8. For the above reasons, the Prosecution respectfully requests that the Chamber find that the submissions within the Defence's Notification are irrelevant to its determination on interim release.

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

Mame Mandiaye Niang, Deputy Prosecutor

Dated this 29th day of September 2025

At The Hague, the Netherlands