

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

No.: ICC-01/21-01/25
Date: 30 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 "Corrected Version of "Confidential Redacted Version of the "Registry's Observations on the "Defence Request for Reconsideration of Order ICC-01/21-01/25-243-Conf", 27 August 2025, ICC-01/21-01/25-244-Conf", issued on 28 August 2025", 28 August 2025, ICC-01/21-01/25-254-Conf-Red", 29 August 2025, ICC-01/21-01/25-254-Conf-Red-Corr

Source: Registry

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. Zavala Giler, Osvaldo

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☒ Detention Section

☐ Victims Participation and
Reparations Section

☐ Other

I. Introduction

1. Following the “Order to the Registry for a report from the Medical Officer of the Detention Centre”, dated 26 August 2025 (“Order for a Report”)¹ and “Defence Request for Reconsideration of Order ICC-01/21-01/25-243-Conf”, dated 27 August 2025 (“Request for Reconsideration”),² Pre-Trial Chamber I (“Chamber”) ordered “that any responses to [the Request for Reconsideration] shall be filed by no later than 28 August 2025” (“Order on Request for Reconsideration”).³ The Registry hereby submits its observations in the context of the Order for a Report and the Order on Request for Reconsideration, pursuant to regulation 24 *bis* of the Regulations of the Registry.

II. Procedural History

2. On 18 August 2025, the Defence for Mr Rodrigo Roa Duterte (“Defence” and “Mr Duterte”, respectively) submitted the “Defence Request for an Indefinite Adjournment” (“Request for Adjournment”), stating, *inter alia*, that Mr Duterte “is not fit to stand trial as a result of cognitive impairment in multiple domains”, and that his “condition will not improve and, for this reason, the Pre-Trial Chamber must adjourn all legal proceedings in his case indefinitely” pursuant to Rule 135(4) of the Rules of Procedure and Evidence.⁴
3. On 22 August 2025, the Defence emailed the Registry as follows: “[REDACTED]”.⁵

¹ Pre-Trial Chamber I, “Order to the Registry for a report from the Medical Officer of the Detention Centre” (“Order”), 26 August 2025, ICC-01/21-01/25-243-Conf.

² Defence for Mr Duterte, “Defence Request for Reconsideration of Order ICC-01/21-01/25-243-Conf” (“Request”), 27 August 2025, ICC-01/21-01/25-244-Conf.

³ Email from Pre-Trial Chamber I to the Office of the Prosecutor, Office of Public Counsel for the Victims, Defence for Mr Duterte and Registry on 27 August 2025 at 16:20.

⁴ Defence for Mr Duterte, “Defence Request for an Indefinite Adjournment”, 18 August 2025, ICC-01/21-01/25-230-Conf, paras. 1, 35.

⁵ Email from the Defence to the Registry, 22 August 2025 at 16:56.

4. On 26 August 2025, the Chamber issued its Order for a Report whereby it instructs the Registry to, as part of the adjudication of the Request for Adjournment, submit a report which shall include the assessment by the Medical Officer of the ICC Detention Centre (“MO” and “ICC DC”, respectively) on the following:
 - a. The management of Mr Duterte’s health conditions while in custody at the Court’s Detention Centre, including a complete overview of all measures and arrangements put in place to provide him with medical access and care, as well as any examinations and results thereof;
 - b. Whether and, if so, at what level Mr Duterte suffers from any condition which might have an effect on his ability to follow and take part in the ongoing pre-trial proceedings, including the confirmation of charges hearing;
 - c. Whether any special measures or adjustments are recommended to address any medical condition of Mr Duterte during the pre-trial proceedings, including the confirmation of charges hearing.⁶

5. On 27 August 2025, the Defence submitted its Request for Reconsideration, requesting the Chamber to reconsider and rescind its Order for a Report, stating, *inter alia*, that “there exists no statutory provision empowering the Pre-Trial Chamber to compel the Medical Officer to provide an opinion on a detainee”;⁷ “[a]ccess to Mr Duterte’s medical record may solely be afforded to the Pre-Trial Chamber upon Mr Duterte’s ‘express written consent’ pursuant to Registry Regulation 156(3) [...] through the agency of ‘a reporting physician other than the medical officer’”;⁸ and that rule 113(2) of the Rules of Procedure and Evidence “requires the Chamber to seek the opinion of an expert from ‘the list of experts’ maintained by the Registry or an expert proposed by a party to the litigation”.⁹

6. On the same day, 27 August 2025, the Defence sent the following email to the Registry:

⁶ Pre-Trial Chamber I, “Order to the Registry for a report from the Medical Officer of the Detention Centre” (“Order”), 26 August 2025, ICC-01/21-01/25-243-Conf, para. 3.

⁷ Defence for Mr Duterte, Request, para. 4.

⁸ *Ibid.*, para. 5.

⁹ *Ibid.*, para. 7.

[REDACTED].¹⁰

7. On 27 August 2025, the Chamber, noting the Request for Reconsideration, ordered in its Order on Request for Reconsideration, “that any responses to this request shall be filed by no later than 28 August 2025”.¹¹

III. Classification

8. In accordance with regulation 23 *bis*(1) of the Regulations of the Court (“RoC”), the present report is classified as confidential *EX PARTE* only available to the Defence for Mr Duterte and the Registry as it contains confidential medical information. A confidential redacted version will be filed simultaneously.

IV. Applicable law

9. For the purpose of the present submission, the Registry has considered, *inter alia*, regulations 44 and 103 of the RoC, regulations 155 and 156 of the Regulations of the Registry (“RoR”), as well as rules 113(2) and 135(1) of the Rules of Procedure and Evidence.

V. Submissions

10. The Registry provides the following submissions on paragraph 3(a) (b) and(c) of the Order for a Report, and in the context of the Order on Request for Reconsideration.
11. As to the Order for a Report at paragraph 3(a), the Registry notes that any examinations and results thereof form part of the medical record of a detained person.¹² In this regard, the Registry recalls that pursuant to regulation 156(2) of the RoR, “[t]he medical record of a detained person shall not be consulted by any person other than the medical officer, his or her deputy, any medical staff

¹⁰ Email from the Defence for Mr Duterte to the Registry on 27 August 2025 at 08:51. Emphasis in original.

¹¹ Email from Pre-Trial Chamber I to the Office of the Prosecutor, Office of Public Counsel for the Victims, Defence for Mr Duterte and Registry on 27 August 2025 at 16:20.

¹² Pre-Trial Chamber I, Order, para. 3(a).

directly involved in the detained person's treatment [...] without the express written consent of the detained person concerned".¹³ The medical record of a detained person "may only be disclosed without the consent of the detained person where, in the opinion of the medical officer, there exists a danger to the health and safety of the detained person concerned [...]".¹⁴

12. Also, pursuant to regulation 156(4) of the RoR, "[a]t the request of the Chamber and with the written consent of the detained person, a reporting physician other than the medical officer shall provide the Registrar with the sealed medical record of the detained person. The Registrar shall then provide the Chamber with the medical record".¹⁵ In line with regulation 156(4) of the RoR, the Registry stands ready to appoint a reporting physician for the purpose of transmitting the medical record of Mr Duterte to the Chamber.¹⁶ The standard procedure of appointing a reporting physician is designed to safeguard and uphold the integrity of the doctor-patient relationship and in particular in the ICC DC, between the MO and the detained person. Any involvement of the MO of the ICC in legal proceedings would be inconsistent with the ethical duties of a physician and could affect the confidentiality, trust, and professional independence inherent in that relationship.¹⁷

13. Another option available regarding accessing Mr Duterte's medical records, is that [REDACTED],¹⁸ [REDACTED]¹⁹ [REDACTED].²⁰

¹³ Regulation 156(2) of the Regulations of the Registry.

¹⁴ Regulation 156(3) of the Regulations of the Registry.

¹⁵ Emphasis added.

¹⁶ Pre-Trial Chamber I, Order for a Report, paragraph.3(a).

¹⁷ See Regulation 156(4) of the Regulations of the Registry and Registry; "Seminar on Medical Matters in Detention, Summary of the presentation and main areas of Discussion", 19-20 September 2024, pages 89, at <https://www.icc-cpi.int/sites/default/files/2025-01/2025-01-20-SeminarMedical-Matters-in-Detention.pdf> (accessed on 28 August 2025).

¹⁸ Registry, "Registry Observations on "Urgent Defence Request to Obtain Mr Duterte's Medical Records", 4 July 2025, ICC-01/21-01/25-182-Conf-Exp", 11 July 2025, ICC-01/21-01/25-190-Conf-Exp, para. 13.

¹⁹ Regulation 44 of the Regulations of the Court; see para. 16 *infra*. Any such appointed expert would provide their comment on Mr Duterte's medical information, whereas a reporting physician (Regulation 156(4) of the RoR), would simply transmit the medical record to the Chamber.

²⁰ See also para. 3, *supra*.

14. Regarding the Order for a Report at paragraph 3(b) and (c) to provide the MO's assessment on "[w]hether and, if so, at what level Mr Duterte suffers from any condition which might have an effect on his ability to follow and take part in the ongoing pre-trial proceedings, including the confirmation of charges hearing" and on "[w]hether any special measures or adjustments are recommended to address any medical condition of Mr Duterte during the pre-trial proceedings, including the confirmation of charges hearing",²¹ the Registry informs the Chamber that the MO of the ICC DC does not possess the requisite expertise or judicial knowledge to provide such an assessment regarding a detained person's fitness to stand trial. In line with regulation 155 of the RoR, the MO's mandate is limited to the oversight of the physical and mental health of detained persons, and pursuant to regulation 155(3) of the RoR, the MO may inform the Chief Custody Officer "whenever he or she considers that the physical or mental health of a detained person has been or will be adversely affected by any condition of or treatment in detention" (emphasis added).
15. This is contrasted by the following. The MO may, in certain limited circumstances where, for example, a detained person is unwell and therefore unable to attend a hearing, inform the Chamber accordingly. Additionally, the MO may provide observations on the length of sitting schedule and/or physical modalities (such as attending online, chair's adjustment, etc.) based on general health condition of a detained person. Such observations, however, do not extend to any assessment of the detained person's cognitive abilities. For the confirmation hearing, the MO may provide limited observations regarding the appropriate length of the confirmation hearing schedule. With respect to any long-term adjustments to hearing arrangements regarding a detained person capacity to follow and take part in judicial proceedings, and any adjustment to so follow and take part therein, such matters fall outside the MO's mandate²²

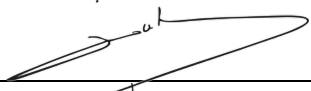
²¹ Pre-Trial Chamber I, Order for a Report, para. 3(b) and (c).

²² See, paras. 12, 14, above.

and require assessment by an appropriately qualified expert (i.e., on fitness to stand trial).

16. The Registry, in accordance with Regulation 44 of the Regulations of the Court, maintains a roster of qualified experts who may be called upon to provide services to any organ of the Court or to participate in Court proceedings. For the purpose, then, of implementing paragraph 3(b) of the Order, the Registry stands ready to provide the Chamber with a shortlisted curriculum vitae of suitable experts from this list in line with the Chamber's requirements, for its consideration, should the Chamber so decide.

17. Finally, in line with the Order for a Report and, in light of the above submissions, the Registry confirms that the MO would be in a position to provide recommendations for the confirmation of charges hearing regarding the length of the sitting schedule and/or the physical modalities (such as online attendance, chair adjustment, etc.) based on the general health condition of Mr Duterte. Also, the MO would be in a position to submit to the Chamber a factual report on "all measures and arrangements [if any] put in place to provide [Mr Duterte] with medical access and care" at the Detention Centre, if Mr Duterte consents to this information being so provided.



Marc Dubuisson, Director, Division of Judicial Services
on behalf of
Osvaldo Zavala Giler, Registrar

Dated this 30 August 2025

At The Hague, Netherlands