

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

No.: **ICC-01/21-01/25**
Date: **23 December 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 Request for an Expert Report on Article 58(1)(b) Risk Factors' ICC-01/21-01/25-342"

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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Victims

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I. INTRODUCTION

1. The Prosecution respectfully requests that Pre-Trial Chamber I (“Chamber”) reject the Defence’s urgent “Request for an Expert Report on Article 58(1)(b) Risk Factors” (“the Request”)¹. The request is late, unfounded, and the requested expert report unnecessary. The Chamber has all the required information to review its previous decision on the provisional release of Rodrigo Roa Duterte (“Mr Duterte”). The Requested Expert report would not assist the Chamber in determining if the conditions of article 58(1) of the Statute are met. If anything, the only result of allowing the requested relief would likely be unnecessary delay.²

II. CONFIDENTIALITY

2. This filing is classified as confidential pursuant to regulation 23*bis*(1) and (2) of the Regulations as it refers to annexes and decisions of the same classification.

III. SUBMISSIONS

A. The requested expert evidence is unnecessary for the Chamber’s upcoming review of Mr Duterte’s detention

3. The requested expert evidence is unnecessary as the Chamber already has all the information required to decide the question of provisional release. It does not need expert opinion nor an expert report on Mr. Duterte’s cognitive ability to “escape” or satisfy other conditions under article 58(1)(b).

4. The request, in essence, constitutes another attempt by the Defence to relitigate issues previously adjudicated. The Chamber has already considered and rejected the Defence’s argument that Mr Duterte’s health can mitigate the risks he poses under article 58(1)(b) of the Statute.³ This decision was subsequently upheld by the Appeals Chamber, noting the Defence’s failure to demonstrate that the Chamber’s approach to the issue was unreasonable.⁴ As explained below, there are no changed circumstances which would justify a reconsideration of

¹ Defence Request for an Expert Report on Article 58(1)(b) Risk Factors, 19 December 2025, ICC-01/21-01/25-342.

² It is virtually impossible that the requested report could be completed in time for submissions on 7 January 2026 given the date of the filing of the Request, the current Court break, and the fact that all three experts are likely to have plans for holiday time off during this period [REDACTED].

³ Public redacted version of “Decision on the Defence’s ‘Urgent Request for Interim Release’ and ‘Renewed Request for Interim Release’”, 26 September 2025/10 October 2025, ICC-01/21-01/25-282-Red, paras. 63-64.

⁴ Appeals Chamber, Public redacted version of Judgment on the appeal of Mr Rodrigo Roa Duterte against the decision of Pre-Trial Chamber I entitled “Decision on the Defence’s ‘Urgent Request for Interim Release’ and ‘Renewed Request for Interim Release’”, 28 November 2025, ICC-01/21-01/25-326-Red, paras. 87-88.

the Defence's previous submissions regarding the supposed impact of Mr. Duterte's alleged declining health on his ability to abscond. To the contrary, the recent findings of the panel of independent experts ("Panel of Experts") undermine any argument by the Defence that Mr. Duterte's health has declined such that he lacks the cognitive ability to abscond. As set out below, the Panel of Experts found that Mr. Duterte [REDACTED] but that he demonstrated his "[REDACTED]"⁵ and "[REDACTED]"⁶ while being assessed.

5. Additionally, and contrary to the Defence's suggestion, the "visible proof" sought through Mr. Duterte's physical appearance before the Court⁷ is not necessary for the Chamber's assessment of his ability to flee, intimidate, or commit crimes. His appearance is irrelevant and, as explained below, is possibly being [REDACTED].⁸

B. There are no changed circumstances warranting an expert assessment of Mr. Duterte's ability to abscond

6. The alleged deterioration of Mr. Duterte's health⁹ does not justify the need for a further expert report, nor does it constitute a changed circumstance. The impact of time on his physical health is consistent with the natural process of aging. The alleged impact of Mr. Duterte's medical condition is even less compelling or relevant as the Panel of Experts confirmed that [REDACTED].¹⁰

7. Moreover, the "unexplained weight loss" noted by the Defence¹¹ is explainable; one of the experts indicated in his report that Mr. Duterte "[REDACTED]".¹² This is consistent with the expert's observation that "[REDACTED]".¹³ [REDACTED],¹⁴ [REDACTED]. Considering the Panel of Experts' findings concerning his "[REDACTED]"¹⁵ and "[REDACTED]"¹⁶ while being assessed, [REDACTED].

⁵ [REDACTED].

⁶ [REDACTED].

⁷ Request, para. 1.

⁸ See below, para. 7.

⁹ Request, para. 1.

¹⁰ [REDACTED].

¹¹ Request, para. 1.

¹² [REDACTED].

¹³ [REDACTED].

¹⁴ [REDACTED].

¹⁵ [REDACTED].

¹⁶ [REDACTED].

IV. REQUESTED RELIEF

8. For the above reasons, the Prosecution requests that the Chamber reject the Defence's Request.

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

Mame Mandiaye Niang, Deputy Prosecutor

Dated this 23rd day of December 2025

At The Hague, the Netherlands