

**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 Document

**Victims' Response to the
Defence Request for an Expert Report on Article 58(1)(b) Risk Factors**

Source: Office of Public Counsel for Victims

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

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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

☐ 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. The Principal Counsel of the Office of Public Counsel for Victims (the “OPCV”), appointed to represent the collective interests of potential victims until the mandate of the team of common legal representatives takes effect (the “Legal Representative”),¹ herewith files her response to the Urgent Defence Request for an Expert Report on Article 58(1)(b) Risk Factors (the “Request”).²

2. The Legal Representative opposes the Request as its primary relief sought finds no support in the statutory framework of the Rome Statute (the “Statute”).

3. As to the secondary relief, given that rule 118(3) of the Rules of Procedure and Evidence (the “Rules”) requires to hold a hearing on pre-trial detention at least once every year, the Legal Representative leaves it to the discretion of the Pre-Trial Chamber to consider whether such a hearing is necessary at the present juncture.

II. PROCEDURAL BACKGROUND

4. On 7 March 2025, Pre-Trial Chamber I (the “Chamber”) issued a warrant of arrest for Mr Duterte.³

5. On 12 March 2025, Mr Duterte was surrendered to the Court.⁴ Pursuant to article 60(2) of the Statute, he has been in pre-trial detention since his surrender.

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 “Urgent Defence Request for an Expert Report on Article 58(1)(b) Risk Factors”, [No. ICC-01/21-01/25-342](#), 19 December 2025 (the “Request”).

³ See the “Warrant of Arrest for Mr Rodrigo Roa Duterte” (Pre-Trial Chamber I), [No. ICC-01/21-01/25-83](#), 7 March 2025.

⁴ See the “Decision on the Prosecution’s application under regulation 35 of the Regulations of the Court” (Pre-Trial Chamber I), [No. ICC-01/21-01/25-138](#), 20 May 2025, para. 1.

6. On 5 December 2025, the Registry transmitted the Joint and Individual Reports of the Panel of Experts appointed by the Chamber to assess Mr Duterte's fitness to stand proceedings.⁵

7. On 19 December 2025, the Defence filed the Request,⁶ asking the Chamber (i) to instruct the Panel of Experts previously appointed to "*urgently issue a report focussing on whether Mr Duterte's current cognitive state would permit him to flee the ongoing judicial proceedings, to intimidate witnesses, or to commit crimes*";⁷ and (ii) to convene a hearing on the periodic review of Mr Duterte's pre-trial detention pursuant to rule 118(3) of the Rules.⁸

III. SUBMISSIONS

8. The Legal Representative opposes the primary relief sought in the Request as it lacks legal basis, aims at usurping the Chamber's function, and effectively causes further and unjustified delay to the pre-trial proceedings.

9. Article 58(1)(b) of the Statute designates the Pre-Trial Chamber as the *only* authority to issue a warrant of arrest where *the arrest of the person appears necessary*. Equally, the Pre-Trial Chamber is the *only* authority to assess whether a suspect is likely to appear at trial; or obstruct or endanger the investigation or the Court proceedings, and whether arrest is necessary to prevent the person from continuing with the commission of the crimes or related crime arising out of the same circumstances.⁹ Article 60(2) of the Statute reiterates that "*If the **Pre-Trial Chamber** is satisfied that the conditions set forth in article 58, paragraph 1, are met, the person shall continue to be detained*".¹⁰

⁵ See the "Registry Transmission of the Panel of Experts' Joint and Individual Reports", [No. ICC-01/21-01/25-327-Conf](#), 5 December 2025. A public redacted version [No. ICC-01/21-01/25-327-Red](#) was filed on 18 December 2025.

⁶ *Ibid.*

⁷ *Idem*, paras. 12-13.

⁸ *Idem*, para. 14.

⁹ See article 58(1)(b) of the Statute.

¹⁰ See article 60(2) of the Statute.

10. The Request is without merit and finds no support in the statutory framework of the Court. What the Defence is asking is essentially to “outsource” a judicial determination – namely whether the article 58(1) conditions continue to be met. Yet, this is in fact a judicial assessment with which only the Pre-Trial Chamber is entrusted. Moreover, any proposed additional report is unnecessary as the Chamber has received comprehensive individual reports and a joint panel report of three Court-appointed independent experts on Mr Duterte’s state of health and cognitive abilities that allow it to draw conclusions if and where warranted within the ambit of its assessment of the article 58(1)(b) conditions.

11. The Legal Representative further expresses concern about multiple requests concerning matters already decided or *sub judice* that inevitably cause delays to the proceedings and are as such, neither foreseen in the Statute, nor necessary in the circumstances. She notes that the beginning of the confirmation of charges hearing has been delayed *sine die*, which in itself is a source of significant concern to Victims. The Chamber has before it sufficient material to decide both on Mr Duterte’s fitness and the impact, if any, his state of health might have on considerations surrounding the review of his pre-trial detention. By, effectively, seeking an additional delay through the proposed renewed instruction of the Panel of Experts, the Defence is interfering with the prospect of expeditiously moving forward in this pre-trial phase of the proceedings.

12. Lastly, pursuant to rule 118(3) of the Rules, the Pre-Trial Chamber may hold a hearing on the review of pre-trial detention on the request of the detained person. Such hearing *must be held at least once every year*.¹¹ The Legal Representative leaves this matter to the discretion of the Chamber to consider whether such a hearing is necessary at this juncture.

¹¹ See Rule 118(3) of the Rules.

Respectfully submitted.

A handwritten signature in black ink, reading "Paolina Massidda". The signature is fluid and cursive, with a horizontal line drawn underneath the name.

Paolina Massidda
Principal Counsel

Dated this 23rd day of December 2025.

At The Hague, The Netherlands.