

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/21-01/25

Date: 22 May 2026

TRIAL CHAMBER III

Before: Judge Joanna Korner, Presiding Judge
Judge Keebong Paek
Judge Nicolas Guillou

SITUATION IN THE REPUBLIC OF THE PHILIPPINES

IN THE CASE OF *THE PROSECUTOR v. RODRIGO ROA DUTERTE*

Public

Decision on the Review of Rodrigo Roa Duterte's Detention

Decision 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

Mr Osvaldo Zavala Giler

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☒ Detention Section

☐ Victims Participation and Reparations
Section

☐ Other

TRIAL CHAMBER III (the ‘Chamber’) of the International Criminal Court, in the case of *The Prosecutor v. Rodrigo Roa Duterte*, pursuant to Articles 60(3), 61(11), 64(6)(a) of the Rome Statute (the ‘Statute’) and Rule 118(2) of the Rules of Procedure and Evidence (the ‘Rules’), issues this ‘Decision on the Review of Rodrigo Roa Duterte’s Detention’.

I. PROCEDURAL HISTORY

1. On 12 March 2025, pursuant to a warrant of arrest issued by Pre-Trial Chamber I on 7 March 2025,¹ Rodrigo Roa Duterte (the ‘Accused’) was surrendered to the Court.

2. On 26 September 2025, Pre-Trial Chamber I rejected the Defence’s requests for interim release (the ‘Decision on Interim Release’).² This decision was confirmed by the Appeals Chamber on 28 November 2025.³

3. On 26 January 2026, Pre-Trial Chamber I reviewed the detention of the Accused and remanded him in detention (the ‘Decision on the Review of Detention’).⁴ This decision was confirmed by the Appeals Chamber on 6 March 2026.⁵

4. On 27 February 2026, Pre-Trial Chamber I held the annual hearing on the review of the Accused’s detention during which the parties and participants provided their observations.⁶

¹ Warrant of Arrest for Mr Rodrigo Roa Duterte, ICC-01/21-01/25-83.

² Decision on the Defence’s ‘Urgent Request for Interim Release’ and ‘Renewed Request for Interim Release’, ICC-01/21-01/25-282-Conf (a public redacted version was notified on 10 October 2025, ICC-01/21-01/25-282-Red).

³ 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’”, ICC-01/21-01/25-326-Conf (a public redacted version was notified on the same day, ICC-01/21-01/25-326-Red).

⁴ Decision on the review of Mr Rodrigo Roa Duterte’s detention, ICC-01/21-01/25-357-Conf (a public redacted version was notified on the same day, ICC-01/21-01/25-357-Red).

⁵ Judgment on the appeal against Pre-Trial Chamber I’s “Decision on the review of Mr Rodrigo Roa Duterte’s detention”, ICC-01/21-01/25-408-Conf (a public redacted version was notified on the same day, ICC-01/21-01/25-408-Red).

⁶ Transcript of hearing, 27 February 2026, ICC-01/21-01/25-T-007-Red-ENG, page 54, line 10 – page 62, line 20.

5. On 23 April 2026, Pre-Trial Chamber I confirmed the charges against the Accused,⁷ and the case was referred to the Chamber on 24 April 2026.⁸

6. On 8 May 2026, pursuant to the Chamber's order,⁹ the Prosecution,¹⁰ the Common Legal Representatives of Victims (the 'CLRV')¹¹ and the Defence¹² submitted their observations on the detention of the Accused.

7. On 13 May 2026, in light of the Defence's submissions related to the health of the Accused,¹³ and pursuant to the Chamber's order,¹⁴ the Registry submitted its observations.¹⁵

8. The Chamber notes that the Defence did not submit further observations within the given time limit.¹⁶

II. APPLICABLE LAW

9. Pursuant to Article 60(3) of the Statute, the Chamber shall review the initial decision on release or detention rendered following a request for interim release under Article 60(2) of the Statute. Rule 118(2) of the Rules requires the Chamber to do so at least every 120 days. Upon such review, the Chamber may, pursuant to Article 60(3) of the Statute, modify the original ruling on detention 'if it is satisfied that changed circumstances so require'.

⁷ Decision on the confirmation of charges against Mr Rodrigo Roa Duterte, 23 April 2026, ICC-01/21-01/25-417-Conf (a public redacted version was notified on the same day, ICC-01/21-01/25-417-Red).

⁸ Presidency, Decision constitution Trial Chamber III and referring to it the case of The Prosecutor v. Rodrigo Roa Duterte, ICC-01/21-01/25-420.

⁹ Order to Submit Observations on Rodrigo Roa Duterte's Detention, 1 May 2026, ICC-01/21-01/25-424.

¹⁰ Prosecution's Observations on Rodrigo Roa Duterte's Detention, ICC-01/21-01/25-434-Conf-Exp (a confidential redacted version and a public redacted version were notified on the same day, ICC-01/21-01/25-434-Conf-Red and ICC-01/21-01/25-434-Red, respectively) (the 'Prosecution's Observations').

¹¹ Victims' Observations on Mr Rodrigo Roa Duterte's Detention, ICC-01/21-01/25-431.

¹² Defence Observations on Mr Rodrigo Roa Duterte's Detention, ICC-01/21-01/25-433 (the 'Defence's Observations'), with confidential *ex parte* annex A and confidential annexes B and C.

¹³ Defence's Observations, paras 1, 14-22.

¹⁴ Email from the Chamber, [ICC-01/21-01/25 - Public] Order in relation to the detention of Rodrigo Roa Duterte, 11 May 2026, at 09:01.

¹⁵ Registry's Observations on "Defence Observations on Mr Rodrigo Roa Duterte's Detention" (ICC-01/21-01/25-433) dated 8 May 2026, ICC-01/21-01/25-436-Conf-Exp (the 'Registry's Observations').

¹⁶ Email from the Chamber, [ICC-01/21-01/25 - Public] Second order in relation to the detention of Rodrigo Roa Duterte, 13 May 2026, at 16:33.

10. A change in circumstances has been defined as ‘a change in some or all of the facts underlying a previous decision on detention, or a new fact satisfying a Chamber that a modification of its prior ruling is necessary’.¹⁷ Changed circumstances cannot be hypothetical or conditional, but must be demonstrated on a concrete basis¹⁸ and if the Chamber identifies changed circumstances, it must ‘consider their impact on the factors that formed the basis for the decision to keep the person in detention’.¹⁹ The emphasis of the review is whether there has been a change in any of the circumstances, and the Chamber must therefore only determine whether the circumstances identified in the previous ruling still exist.²⁰ Should the Chamber find that there are no changed circumstances it is not required to further review the ruling on release or detention.²¹

III. PREVIOUS DECISIONS

11. In reviewing the Accused’s detention, the Chamber incorporates by reference the previous findings on detention made by Pre-Trial Chamber I. The Chamber summarises these findings below, given that it is conducting the review of the Accused’s detention for the first time.

12. In its Decision on the Interim Release, Pre-Trial Chamber I found the requirements under Article 58(1)(a) and (b) of the Statute to be satisfied, determining that the Accused posed a flight risk considering: (i) the Accused’s rejection of the proceedings and the will of his close family to help him elude detention and

¹⁷ Appeals Chamber, *The Prosecutor v. Ali Muhammad Ali Abd-al-Rahman* (“Ali Kushayb”), Judgment on the appeal of Ali Muhammad Ali Abd-Al-Rahman against Trial Chamber I’s “Decision on the review of detention”, 17 December 2021, ICC-02/05-01/20-542-Red, para. 58.

¹⁸ Trial Chamber, *The Prosecutor v. Mahamat Said Abdel Kani*, First review of the detention of Mr Mahamat Said Abdel Kani, 22 June 2022, ICC-01/14-01/21-382, para. 25.

¹⁹ Appeals Chamber, *The Prosecutor v. Jean-Pierre Bemba Gombo*, Judgment on the appeal of Mr Jean-Pierre Bemba Gombo against the decision of Trial Chamber III of 6 January 2012 entitled “Decision on the defence’s 28 December 2011 ‘Requête de Mise en liberté provisoire de M. Jean-Pierre Bemba Gombo’”, 5 March 2012, ICC-01/05-01/08-2151-Red, paras 1, 31.

²⁰ Appeals Chamber, *The Prosecutor v. Jean-Pierre Bemba Gombo*, Judgment on the appeal of Mr Jean-Pierre Bemba Gombo against the decision of Trial Chamber III of 28 July 2010 entitled “Decision on the review of the detention of Mr Jean-Pierre Bemba Gombo Pursuant to Rule 118(2) of the Rules of Procedure and Evidence”, 19 November 2010, ICC-01/05-01/08-1019, para. 53.

²¹ Appeals Chamber, *The Prosecutor v. Jean-Pierre Bemba Gombo*, Judgment on the appeal of Mr Jean-Pierre Bemba Gombo against the decision of Trial Chamber III of 6 January 2012 entitled “Decision on the defence’s 28 December 2011 ‘Requête de Mise en liberté provisoire de M. Jean-Pierre Bemba Gombo’”, 5 March 2012, ICC-01/05-01/08-2151-Red, para. 31.

prosecution; (ii) the Accused's international connections, support within the Philippines, and access to resources; and (iii) the severity of the charges brought against the Accused, as well as the potential lengthy sentence the Accused may receive if all or part of the charges were to be confirmed and he were convicted at trial.²² Additionally, Pre-Trial Chamber I found that there was 'a risk of interference with the investigation or proceedings, notably in light of Mr Duterte's and his associates' ability and means to obstruct the proceedings, as well as Mr Duterte's prior breaches of contact restrictions'.²³ The Appeals Chamber confirmed the Decision on Interim Release.²⁴

13. In its Decision on the Review of Detention, Pre-Trial Chamber I found, *inter alia*, that 'there are no changed or new circumstances requiring the Chamber to modify its prior ruling on the existence of the risks under article 58(1)(b)(i) to (iii) of the Statute', stating that such risks 'cannot be sufficiently mitigated by the imposition of the conditions set forth by the Defence'.²⁵ The Appeals Chamber confirmed the Decision on the Review of Detention.²⁶

IV. ANALYSIS

14. The Chamber notes that, in the period since the Decision on the Review of Detention, charges have been confirmed against the Accused. The Chamber finds that the confirmation of charges against the Accused constitutes a change in circumstances. In this regard, the Chamber observes that it is this Court's consistent and longstanding jurisprudence that the confirmation of charges increases the risk that an accused may abscond and is therefore not a change in circumstances that militates in favour of conditional release, but rather one supporting continued detention.²⁷

²² Decision on Interim Release, paras 48-62.

²³ Decision on Interim Release, paras 48-62.

²⁴ See paragraph 2 above.

²⁵ Decision on the Review of Detention, para. 43.

²⁶ See paragraph 3 above.

²⁷ Appeals Chamber, *The Prosecutor v. Jean-Pierre Bemba Gombo*, Judgment on the appeal of the Prosecutor against Pre-Trial Chamber II's "Decision on the Interim Release of Jean-Pierre Bemba Gombo and Convening Hearings with the Kingdom of Belgium, the Republic of Portugal, the Republic of France, the Federal Republic of Germany, the Italian Republic, and the Republic of South Africa", 2 December 2009, ICC-01/05-01/08-631-Red, para. 70.

15. The Defence argues that ‘there exists a *prima facie* change in circumstances that warrants reconsideration of the Article 58(1)(b) risk factors’,²⁸ referring in particular to the Accused’s physical condition and cognitive capacities.²⁹ The Defence submits that the Accused ‘has experienced frequent episodes of falls occasioned by a loss of balance’, and that the Accused is ‘[a]n individual whose short-term memory is impacted [and] is not capable of remembering sufficient details for the purpose of instructing others to tamper with witnesses or to pervert the course of justice’.³⁰

16. In this respect, the Chamber recalls that the Appeals Chamber has found that ‘the medical condition of the detained person may be a reason for a [chamber] to grant interim release with conditions’ and that ‘the ill health of a detained person may be a factor in the exercise of its discretion’.³¹

17. However, the Chamber notes that the Accused’s health condition has been examined by three Court-appointed medical experts, whose reports (the ‘Panel’s Reports’) do not contain any information that warrants modifying the Accused’s detention.³² The Chamber further observes that the Defence’s and the Registry’s Observations do not present information that constitute new facts or a change in circumstances in comparison to the information provided in the Panel’s Reports.

18. Moreover, the Chamber notes that, as the Prosecution avers,³³ the Accused refused to attend the confirmation hearing, stating *inter alia* that ‘I do not recognise the jurisdiction of the International Criminal Court over my person’.³⁴ Such statement demonstrates at its lowest that the Accused will not comply with any orders that might be made in respect of a release from custody. Taken together with his access to vast

²⁸ Defence’s Observations, para. 20.

²⁹ Defence’s Observations, paras 14-19.

³⁰ Defence’s Observations, paras 14-19.

³¹ *The Prosecutor v. Laurent Koudou Gbagbo*, Judgment on the appeal of Mr Laurent Koudou Gbagbo against the decision of Pre-Trial Chamber I of 13 July 2012 entitled “Decision on the ‘Requête de la Défense demandant la mise en liberté provisoire du président Gbagbo’”, 26 October 2012, ICC-02/11-01/11-278-Red OA, para. 87.

³² Registry, Registry Transmission of the Panel of Experts’ Joint and Individual Reports, 5 December 2025, ICC-01/21-01/25-327-Conf (a public redacted version was notified on 18 December 2025, ICC-01/21-01/25-327-Red), with confidential Annexes I-IV.

³³ Prosecution’s Observations, para. 10.

³⁴ Annex A to the Notification of a Request to Waive the Right to Attend the Hearing on the Confirmation of the Charges, 18 February 2026, ICC-01/21-01/25-383-AnxA.

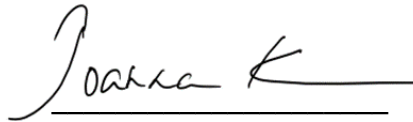
resources and contacts, including his family and supporters in the Philippines who may assist him in evading justice, the Chamber finds that, notwithstanding the Defence's submissions regarding the Accused's health condition, there is a real and substantial risk that the Accused could nonetheless abscond or obstruct justice either on his own or through his associates. Consequently, the Chamber finds that the Accused's physical condition and cognitive capacities referred to by the Defence do not constitute factors which outweigh the risks outlined above.

19. Accordingly, the Chamber finds that the risks under Article 58(1)(b)(i) and (ii) have increased and, in respect of the risks outlined in Article 58(1)(b)(iii), sees no change in circumstances. The Chamber therefore finds no notable change in circumstances that warrant the release of the Accused, with or without conditions.

FOR THESE REASONS, THE CHAMBER HEREBY

DECIDES that the Accused shall continue to be detained.

Done in both English and French, the English version being authoritative.



Judge Joanna Korner
Presiding Judge



Judge Keebong Paek



Judge Nicolas Guillou

Dated this **22 May 2026**

At The Hague, The Netherlands