

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-01/21-01/25**
Original: **29 May 2026**
Date: **18 June 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
With Confidential Annex A

Public Redacted Version of “Defence Request for Variation of Contact Restrictions”

Source: Defence for Mr Rodrigo Roa Duterte

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

Duterte Defence Team

☒ 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

Osvaldo Zavala Giler

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☐ Detention Section

☐ Victims Participation and Reparations
Section

☐ Other

I. INTRODUCTION

1. On [REDACTED], Pre-Trial Chamber I (“Pre-Trial Chamber”) put in place contact restrictions prohibiting all calls and visits between Mr Duterte and [REDACTED] (“Contact Restrictions”).¹ Mr Duterte has accordingly not seen or spoken to [REDACTED].
2. A blanket prohibition on contact between a detainee and a family member is, by any measure, an extreme order. This is particularly so in the case of an objectively vulnerable detainee, where there are indications that isolation from his family is negatively impacting his well-being.²
3. The Defence has identified a number of changed circumstances [REDACTED] which, in its respectful submission, justify a variation of the Contact Restrictions to allow for limited and actively monitored contact between Mr Duterte and [REDACTED]. Following *inter partes* discussions, the Prosecution and the Legal Representatives of the Victims have indicated that they would not oppose this variation, where certain conditions are met, as set out herein.

II. PROCEDURAL HISTORY

4. On [REDACTED], at the Prosecution’s request,³ the Pre-Trial Chamber [REDACTED].⁴ [REDACTED].⁵
5. On [REDACTED] and [REDACTED], ruling on two requests from the Prosecution,⁶ the Pre-Trial Chamber [REDACTED].⁷
6. From [REDACTED], the Registry [REDACTED].⁸

¹ [REDACTED]. This request is filed **confidentially** pursuant to [Regulation 23bis\(1\)](#) of the Regulations of the Court because it concerns submissions of the same classification.

² See e.g. Annex A to the Defence Request for an Indefinite Adjournment, [ICC-01/21-01/25-230-Conf-AnxA](#), 18 August 2025 (“[Final Neurological Report of Defence Expert](#)”), p. 16 (“[h]earing loss and [REDACTED] – linked to social and familial deprivation – may exacerbate cognitive difficulties”).

³ [REDACTED], para. 23.

⁴ [REDACTED], paras 12-16.

⁵ [REDACTED], paras 14-15.

⁶ [REDACTED]; [REDACTED].

⁷ [REDACTED], para. 10; [REDACTED], para. 11.

⁸ [REDACTED], paras 9, 11, 13; [REDACTED], para. 7.

7. On [REDACTED], the Registry [REDACTED], [REDACTED] (“[REDACTED]”).⁹
8. On [REDACTED], the Registry [REDACTED], [REDACTED] “[REDACTED]”¹⁰ [REDACTED] (“[REDACTED]”).¹¹
9. Following the [REDACTED], [REDACTED].¹²
10. On [REDACTED], [REDACTED],¹³ the Pre-Trial Chamber [REDACTED].¹⁴
11. [REDACTED], the Pre-Trial Chamber [REDACTED].¹⁵ [REDACTED].¹⁶ [REDACTED].¹⁷
12. On 23 April 2026, the Pre-Trial Chamber issued its Decision on the confirmation of charges against Mr Duterte.¹⁸
13. On that same day, the Pre-Trial Chamber [REDACTED].¹⁹
14. On 20 May 2026, the Defence sent a letter to the Prosecution seeking its views on lifting the restrictions on contact between Mr Duterte and [REDACTED].²⁰
15. On 25 May 2026, the Prosecution indicated that it does not anticipate opposing the present request so long as certain conditions are met, such as the active monitoring of all calls and visits between Mr Duterte and [REDACTED]. The Prosecution further requested that [REDACTED].²¹
16. On 27 May 2026, after having been informed of the correspondence between the parties,²² the Legal Representatives of the Victims confirmed that they have no

⁹ [REDACTED]. *See also* [REDACTED].

¹⁰ [REDACTED], para. 10.

¹¹ [REDACTED]. *See also* [REDACTED], and [REDACTED] (“[REDACTED]”).

¹² [REDACTED], para. 12.

¹³ [REDACTED], paras 14-15.

¹⁴ [REDACTED], para. 17.

¹⁵ [REDACTED], para. 17 (emphasis added).

¹⁶ [REDACTED], p. 45, line 727.

¹⁷ [REDACTED], para. 17.

¹⁸ Public redacted version of ‘Decision on the confirmation of charges against Mr Rodrigo Roa Duterte’, 23 April 2026, [ICC-01/21-01/25-417-Red](#), 23 April 2026.

¹⁹ [REDACTED], para. 10, fn. 18.

²⁰ Annex to Email, Defence to Prosecution, “Contact Restrictions, [REDACTED]”, 20 May 2026, 13:23.

²¹ Email, Prosecution to Defence, “Re: Contact Restrictions, [REDACTED]”, 24 May 2026, 13:09 (“Prosecution Email on Contact Restrictions”)

²² Email, Defence to Legal Representatives of the Victims, “Duterte contact restrictions”, 25 May 2026, 12:28.

objections to lifting the current restrictions under the same conditions already indicated by the Prosecution.²³

III. APPLICABLE LAW

17. ICC Chambers have repeatedly made the link between family contact, and overall well-being of a detainee. As explained by the ICC Presidency, “the right to receive family visits fundamentally affects the well-being of the detained person; his connection to his family being a central component of his identity” and that “the importance of maintaining family ties for the well-being of the detained person and that the lack of family visits may cause a degree of emotional hardship for the detained person and affect his morale”.²⁴
18. In *Al Hassan*, Trial Chamber X held that “contact with the outside world and visits are imperative for a detained person’s well-being” and that “[a] balance must be struck between the right of every detained person to maintain family life and contact with the outside world, and the absolute necessity of ensuring the safety of witnesses, the preservation of evidence and the integrity of the proceedings”.²⁵
19. The legal framework governing contact between ICC detainees and their family starts with Regulation 99(1) of the Regulations of the Court (“Regulations”), which provides that “[e]very detained person shall be entitled, *inter alia*, to the following: [...] (h) [t]o receive correspondence, mail and packages; (i) [t]o communicate by letter or telephone with his or her family and other persons”.
20. Regulation 101(2) of the Regulations then authorises the Prosecutor to request the Chamber seized of the case to “prohibit, regulate or set conditions for contact between

²³ Email, Legal Representatives of the Victims to Defence, “Re: Duterte contact restrictions”, 27 May 2026, 11:01 (“Legal Representatives of the Victims Email on Contact Restrictions”).

²⁴ *Katanga and Ngudjolo*, Decision on “Mr Ngudjolo’s Complaint under Regulation 221(1) of the *Regulations of the Registry* Against the Registrar’s Decision of 18 November 2008”, [ICC-01/04-02/12-51](#), 10 March 2009 (“*Katanga and Ngudjolo Decision of the Presidency*”), para. 35 (“[t]he maintenance of family ties through family visits facilitates a detained person’s re-integration into society in the event of an acquittal or his social rehabilitation upon release in the event of conviction. The maintenance of family contact also assumes particular importance in the context of detention, bearing in mind the cultural isolation which might be experienced by detained persons who are transferred long distances to a new environment entailing differences in cuisine, language, religion and custom. The detained person’s right correlates with the interests of other affected individuals such as those of his children of minority age who wish to have contact with their detained parent. It further coincides with the obligation upon the Registrar to fulfil her duty of care to maintain the physical and psychological well-being of detained person”) (internal footnote omitted).

²⁵ *Al Hassan*, Decision on Mr Al Hassan’s restrictions and accesses while in detention, [ICC-01/12-01/18-557-Red3](#), 21 January 2020 (“*Al Hassan Decision*”), para. 10.

a detained person and any other person, with the exception of counsel, if the Prosecutor has reasonable grounds to believe that such contact: [...] (b) [c]ould prejudice or otherwise affect the outcome of the proceedings against a detained person, or any other investigation; [...] (d) [c]ould be used by a detained person to breach an order for non-disclosure made by a judge”.

21. However, given the importance of the right to family life, it has been recognised that “[r]estrictions imposed on the contact of the accused person must be justified and proportionate, in accordance with internationally recognised human rights” and that such restrictions “must be based on the existence of an objectively justifiable risk”, and “must be the least restrictive possible to the rights of the detained person”.²⁶ Importantly, as held in *Ntaganda*, “the imposition of restrictions – including increased monitoring – on a detained person’s contacts constitutes the exception and not the rule”.²⁷
22. Relevantly, in other ICC cases where contact restrictions on family members have been imposed, these restrictions have been then re-assessed and relaxed where no intervening incidents had been reported,²⁸ with Chambers considering whether there has been a material change in circumstances warranting a variation.²⁹

²⁶ [Al Hassan Decision](#), para. 10.

²⁷ *Ntaganda*, Public redacted version of ‘Decision on requests to call witnesses in relation to sentencing and for increased monitoring of Mr Ntaganda’s contacts and scheduling the sentencing hearing’, [ICC-01/04-02/06-2384-Red](#), 20 August 2019, para. 57.

²⁸ See e.g. *Ntaganda*, Decision on Prosecution requests to impose restrictions on Mr Ntaganda’s contacts, [ICC-01/04-02/06-785-Red](#), 18 August 2015, para. 69 (“[h]owever, in light of Mr Ntaganda’s right to family life, [REDACTED], the Chamber modifies the full restriction of any visits other than those under Regulations 97(2) and 98 of the Regulations and Regulation 178 of the Regulations of the Registry, as imposed in the Decision on Interim Restrictive Measures, to now also permit family visits, subject to the following conditions. The visits shall be actively monitored. Conversations are to take place in a language that can be monitored by the Registry and shall be strictly of a personal nature and may not relate in any way to the present case. The Registry is permitted to set such time limits as necessary to allow effective monitoring of the visits and is instructed to take all necessary measures to ensure that the effectiveness of the restrictions imposed on Mr Ntaganda’s contacts are not compromised by the visits. The Chamber considers this to be the least restrictive means available, in light of the importance of the objectives of protecting witnesses and the integrity of the proceedings”) (internal footnote omitted). See also *Katanga and Ngudjolo*, Third Decision on Measures of Prohibition and Restriction of Contacts Both Outside and Inside the Detention Centre in respect of Mathieu Ngudjolo, [ICC-01/04-01/07-1498-tENG-Red](#), 25 September 2009 (“*Katanga and Ngudjolo Decision*”), paras 19-21.

²⁹ See e.g. *Yekatom and Ngaïssona*, Third Decision on Mr Ngaïssona’s Restrictions on Contacts and Communications in Detention, [ICC-01/14-01/18-672](#), 5 October 2020, paras 6, 10 (considering whether there had been a “change in circumstances warranting the reconsideration” of existing restrictions); *Yekatom and Ngaïssona*, Twelfth Decision on Mr Yekatom’s Restrictions on Contacts and Communications in Detention, [ICC-01/14-01/18-2767](#), 26 March 2025, para. 7 (finding “no material change in circumstances” since the previous restrictions decision); *Yekatom and Ngaïssona*, Decision on Request for Variation of Restrictions to Mr Ngaïssona’s Contacts and Communications in Detention, [ICC-01/14-01/18-2812-Red](#), 9 October 2025, paras 24, 26.

IV. SUBMISSIONS

The Material Change in Circumstances Since [REDACTED]

23. The most significant change in circumstances since [REDACTED] is the passage of the intervening [REDACTED] and the impact on Mr Duterte's separation from [REDACTED] on his mental and physical wellbeing. Although it is known in general terms that "the right to receive family visits fundamentally affects the well-being of the detained person",³⁰ in Mr Duterte's case there are medical reports which confirm that, for example, "[h]earing loss and [REDACTED] – linked to social and familial deprivation – may exacerbate cognitive difficulties".³¹ Relevantly, the ICC Presidency has previously recognised the cultural isolation of detainees held at a long distance from their country of origin in the context of the Democratic Republic of the Congo, given that family contact undoubtedly alleviates feelings of cultural estrangement.³² In simple terms, the Defence is concerned that the current blanket restrictions on Mr Duterte's contact with [REDACTED] are counter-intuitive to the desire of the parties and participants in these proceedings, being that the trial proceed in an efficient manner in full compliance with Mr Duterte's rights.
24. Secondly, since the imposition of the Contact Restrictions, [REDACTED]. [REDACTED]. [REDACTED], leaving Mr Duterte further isolated from his family if contact restrictions on [REDACTED] remain in place.
25. An additional adverse consequence of the Contact Restrictions is that they have prevented Mr Duterte from [REDACTED]. The passage of [REDACTED] has increased the urgency of the need for contact in order to [REDACTED].
26. A further change in circumstances is that, since [REDACTED], the Defence has not been informed of any other violations of the contact restriction orders by Mr Duterte or other members of his family with whom he remains in contact. In addition, [REDACTED],³³ all of which could take place under active monitoring. Relevantly, the contact restrictions placed on Mr Ngudjolo on 22 July 2009 following indications that

³⁰ [Katanga and Ngudjolo Decision by the Presidency](#), para. 35.

³¹ See e.g. [Final Neurological Report of Defence Expert](#), p. 16.

³² [Katanga and Ngudjolo Decision by the Presidency](#), para. 35

³³ [REDACTED], submitted as **Annex A**.

his wife was “transmitting his instructions” to contacts in the DRC,³⁴ were relaxed three months later following, *inter alia*, “a notable change” in Mr Ngudjolo’s attitude and conduct, and his “word of honour” that he would no longer engage in prohibited conduct. In Mr Ngudjolo’s case, the Chamber noted that it “currently possesses no further transcript of the accused’s conversations providing evidence of reprehensible conduct apart from that on which its previous decisions were based”.³⁵

27. A further changed circumstance is the position of the Office of the Prosecutor, which itself is a corollary of the abovementioned changes. In [REDACTED], the Office of the Prosecutor supported the imposition of Contact Restrictions between Mr Duterte and [REDACTED].³⁶ Having considered the intervening changed circumstances, the Prosecution has indicated that it did not anticipate opposing the present motion,

“so long as certain conditions are met. This would include, for example, that all calls and visits are subject to active monitoring consistent with the Pre-Trial Chamber’s direction ([REDACTED]) and that the Victims and Witnesses Unit be consulted before the current restrictions in place between Mr Duterte and [REDACTED] are modified. [REDACTED]”.³⁷

28. The Defence would not object to the Victims and Witnesses Unit being consulted on this question, and has also received confirmation that the Legal Representatives of the Victims will also not object to the variation sought.³⁸
29. As a final point, Defence Counsel comes fresh to the case and has had the opportunity to review the original pleadings that preceded the imposition of the Contact Restrictions. It is clear to Counsel that Mr Duterte wants now, and always has wanted, to have contact with [REDACTED]. There are powerful points which could have been made in [REDACTED] in support of ongoing contact, and although Counsel will refrain from making them now, it is apparent that the original Decision [REDACTED] could have been contested.

³⁴ *Katanga and Ngudjolo*, Decision on Request 1200 of the Prosecutor for Prohibition and Restrictive Measures Against Mathieu Ngudjolo with Respect to Contacts Both Outside and Inside the Detention Centre, [ICC-01/04-01/07-1243-tENG-Red](#), 13 February 2015, para. 5.

³⁵ *Katanga and Ngudjolo Decision*, para. 19.

³⁶ [REDACTED], para. 21.

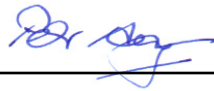
³⁷ Prosecution Email on Contact Restrictions.

³⁸ Legal Representatives of the Victims Email on Contact Restrictions.

V. CONCLUSION AND RELIEF SOUGHT

30. It remains an extreme order to separate a detainee from [REDACTED], particularly in circumstances where there are questions of vulnerability, and physical and mental [REDACTED] at play. The practice of this Court recognises that restrictions on family contact must be the exception and “the least restrictive possible to the rights of the detained person”.³⁹ Given the change in circumstances outlined above, and the less restrictive available measure of actively monitored communications, the Defence submits that a variation of the Contact Restrictions is warranted. On this basis, the Defence requests that the Trial Chamber

ORDER a variation of the Contact Restrictions to permit contact between Mr Duterte and [REDACTED] and with such contact to be subjected to active monitoring consistent with the Pre-Trial Chamber’s direction [REDACTED].



Mr Peter Haynes, KC
Counsel for Mr Rodrigo Roa Duterte

Dated this 18th day of June 2026

At The Hague, the Netherlands

³⁹ [Al Hassan Decision](#), para. 10.