

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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No.: **ICC-01/21-01/25**
Date: **14 September 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

Public Redacted Version of “Prosecution’s Observations on Rodrigo Roa Duterte’s Detention”, 7 September 2026, ICC-01/21-01/25-495-Conf

Source: Office of the Prosecutor

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I. INTRODUCTION

1. Pursuant to Trial Chamber III's (the "Chamber") Order of 15 July 2026,¹ the Prosecution hereby submits its observations on the review of the detention of Mr Rodrigo Roa Duterte ("Mr Duterte") under rule 118(2) of the Rules of Procedure and Evidence (the "Rules").

2. The continued detention of Mr Duterte pursuant to article 60(2) of the Rome Statute (the "Statute") remains necessary because the conditions set out under articles 58(1)(a) and 58(1)(b)(i)-(iii) of the Statute continue to be met. There has been no change in circumstances that would require the Chamber to revise its previous determination that Mr Duterte should remain in detention (the "Decision").² To the contrary, there have been changes in circumstances that have increased the risk Mr Duterte presents under articles 58(1)(b)(i) and (ii) of the Statute.

II. CONFIDENTIALITY

3. This filing is classified as confidential pursuant to regulations 23*bis* (1) and (2) of the Regulations of the Court as it refers to sensitive witness information, as well as filings and a decision of the same classification.

III. SUBMISSIONS

4. As noted above, the Prosecution is not aware of any change in circumstances or new facts which would require the Chamber to modify its Decision. Instead, multiple changes in circumstances have increased the risk Mr Duterte presents under articles 58(1)(b)(i) and (ii) of the Statute.

1. There is an increase in risk under article 58(1)(b)(i) of the Statute

5. There are changes in circumstances that have increased the risk Mr Duterte presents under article 58(1)(b)(i) of the Statute, which are discussed below.

- (i) First, recent advancements in this case have increased the prospect of Mr Duterte facing trial. A definitive trial date has been set,³ and [REDACTED].⁴ These

¹ [ICC-01/21-01/25 - Public] Order to submit observations pursuant to Rule 118(2) of the Rules, Email from Trial Chamber III to Prosecution, Defence, Legal Representatives of the Victims and Detention Section, 15 July 2026 at 14:09 hrs.

² Decision on the Review of Rodrigo Roa Duterte's Detention, 22 May 2026, ICC-01/21-01/25-447.

³ Directions on the conduct of proceedings, 19 June 2026, ICC-01/21-01/25-471.

⁴ [REDACTED].

developments increase the likelihood of Mr Duterte facing trial and therefore increase the risk that he may abscond.⁵

- (ii) Second, the Prosecution has added eight additional incidents to Mr Duterte's charges since the date of the Decision.⁶ The number of incidents and victims, and therefore the prospect of a lengthy prison sentence, have increased, which militates in favour of Mr Duterte's continued detention.⁷

6. These changes in circumstances increase the risk Mr Duterte presents under article 58(1)(b)(i) of the Statute and thus militate in favour of his continued detention.

2. *There is an increase in risk under article 58(1)(b)(ii) of the Statute*

7. The Prosecution provided its List of Witnesses for trial to Mr Duterte on 31 August 2026.⁸ This is a changed circumstance that increases the risk Mr Duterte presents under article 58(1)(b)(ii) of the Statute.⁹ The List of Witnesses provides Mr Duterte with the names of the Prosecution's witnesses,¹⁰ as well as their expected testimony, and [REDACTED].¹¹ The question of the risks to witnesses "revolves around the possibility, not the inevitability, of a future occurrence".¹² Mr Duterte's history shows that he is able and has the means, either directly or through his associates, to interfere with [REDACTED].¹³ [REDACTED].¹⁴ The

⁵ Trial Chamber V, *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, Decision on the Second Yekatom Defence Motion for Interim Release, 7 September 2020, ICC-01/14-01/18-643-Red (the "Yekatom Decision on Interim Release"), para. 32.

⁶ Confidential Prosecution's Pre-Trial Brief, 4 September 2026, ICC-01/25-01/25-490-Conf, paras 161-164, 176-180, 234-235, 244-255, 293-295.

⁷ Pre-Trial Chamber I, Decision on the Defence's 'Urgent Request for Interim Release' and 'Renewed Request for Interim Release', 26 September 2025, ICC-01/21-01/25-282-Conf (public redacted version filed on 10 October 2025, ICC-01/21-01/25-282-Red) ("Pre-Trial Chamber Decision on Interim Release"), para. 51, citing, Appeals Chamber, *The Prosecutor v. Callixte Mbarushimana*, Judgment on the appeal of Mr Callixte Mbarushimana against the decision of Pre-Trial Chamber I of 19 May 2011 entitled "Decision on the 'Defence Request for Interim Release'", 14 July 2011, ICC-01/04-01/10-283, para. 21.

⁸ Confidential Annex A to Prosecution's Submission of the List of Witnesses and the List of Evidence, 31 August 2026, ICC-01/21-01/25-488-Conf-AnxA (the "Prosecution's List of Witnesses").

⁹ Yekatom Decision on Interim Release, para. 31.

¹⁰ [REDACTED].

¹¹ Prosecution's List of Witnesses.

¹² Pre-Trial Chamber Decision on Interim Release, para. 52, citing, Appeals Chamber, *The Prosecutor v. Germain Katanga*, Judgment In the Appeal by Mathieu Ngudjolo Chui of 27 March 2008 against the Decision of Pre-Trial Chamber I on the Application of the Appellant for Interim Release, 9 June 2008, ICC-01/04-01/07-572, para. 21; Appeals Chamber, *The Prosecutor v. Thomas Lubanga Dyilo*, Judgment on the appeal of Mr Thomas Lubanga Dyilo against the decision of Pre-Trial Chamber I entitled "Decision sur la demande de mise en liberte provisoire de Thomas Lubanga Dyilo", 13 February 2007, ICC-01/04-01/06-824, para. 137.

¹³ [REDACTED].

¹⁴ [REDACTED].

provision of the List of Witnesses, as well as the related List of Evidence, supports that Mr Duterte's continued detention is necessary to ensure he does not interfere with witnesses.¹⁵

IV. REQUESTED RELIEF

8. For the above reasons, the Prosecution respectfully requests that the Chamber order the continued detention of Mr Duterte in accordance with articles 60(2) and 58(1) of the Statute.



Mame Mandiaye Niang, Acting Prosecutor

Dated this 14th day of September 2026

At The Hague, the Netherlands

¹⁵ Yekatom Decision on Interim Release, para. 31.