

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Defence Observations on Mr Rodrigo Roa Duterte's Detention

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. SUBMISSIONS

1. Following an order on 15 July 2026 from the Trial Chamber to submit observations pursuant to Rule 118(2),¹ the Defence informed the Chamber, parties and participants on 4 September 2024 that “it does not intend to submit observations at this time”, but that it anticipated coming back as required after the question of the accused’s fitness to stand trial had been settled.²
2. On 11 September 2026, the Trial Chamber acknowledged the Defence’s submission that it did not intend to submit observations on Mr Duterte’s detention at this time, but “bearing in mind the obligation of the Chamber to rule on this matter by the upcoming 120-day time limit pursuant to Rule 118(2) of the Rules” noted that “the Defence may address this issue in writing no later than 14 September 2026”.³
3. The Defence raised the issue of Mr Duterte’s fitness on 25 May 2026,⁴ and requested that Mr Duterte undergo a medical examination to assess his fitness to stand trial. The parties have now made submissions on the findings of the medical experts⁵ and a decision of the Trial Chamber is pending. The questions of fitness and detention are necessarily linked. Should Mr Duterte be found unfit to stand trial and the proceedings consequently adjourned, this would be relevant to the assessment of whether there has been a material change in circumstances.⁶

¹ Email, Trial Chamber to the parties, “[ICC-01/21-01/25 - Public] Order to submit observations pursuant to Rule 118(2) of the Rules”, 15 July 2026, 14:09. All references to “Rule” in the present submission are to the International Criminal Court Rules of Procedure and Evidence.

² Email, Defence to Trial Chamber, “Re: [ICC-01/21-01/25 - Public] Order to submit observations pursuant to Rule 118(2) of the Rules”, 4 September 2026, 17:33.

³ Email, Trial Chamber to the parties, “[ICC-01/21-01/25 - Public] Agenda items for status conference on 16 September 2026”, 11 September 2026, 11:21.

⁴ Public Redacted Version of “Defence’s request for medical examination pursuant to Rule 135”, [ICC-01/21-01/25-450-Red](#), 25 May 2026.

⁵ Public redacted version of ‘Decision appointing experts for the purpose of a medical examination pursuant to Rule 135 of the Rules of Procedure and Evidence’, 12 June 2026, ICC-01/21-01/25-462-Conf, [ICC-01/21-01/25-462-Red](#), 12 June 2026, para. 40. See also Transcript of Status Conference, [ICC-01/21-01/25-T-010-ENG](#), 23 June 2026, p. 5, line 7.

⁶ Decision on the Review of Rodrigo Roa Duterte’s Detention, [ICC-01/21-01/25-447](#), 22 May 2026, para. 10. See also *Said*, First review of the detention of Mr Mahamat Said Abdel Kani, [ICC-01/14-01/21-382](#), 29 June 2022, para 23; *Bemba*, 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”, [ICC-01/05-01/08-631-Red](#), 2 December 2009, paras 1, 60.

4. The Defence anticipates exercising its right under Rule 118(2) to seek a review of the detention regime once the Trial Chamber has determined Mr Duterte's fitness to stand trial, if the circumstances merit it.



Mr Peter Haynes, KC
Counsel for Mr Rodrigo Roa Duterte

Dated this 14th day of September 2026
At The Hague, the Netherlands