

ANNEX 16

PUBLIC

From: Pre-Trial Chamber I Communications
Sent: 11 September 2025 15:37
To: D36 Duterte Defence Team; V50 LRV Team OPCV; Court Management-Court Records
Cc: OTP Philippines Team; Office of the Director DJSS; Associate Legal Officer-Court Officer; Pre-Trial Chamber I Communications
Subject: [ICC-01/21-01/25 – Confidential] Decision regarding filing ICC-01/21-01/25-257-Red

Dear Counsel,
Dear colleagues,

On 4 September, the Defence requested by email to remove the Office of Public Counsel for Victims' (the 'OPCV') filing ICC-01/21-01/25-257-Red from the Court's public website, asserting that it 'disclosed the nature of the confidential issue sub judice', namely Mr Duterte's fitness (the 'Defence Request'). On the same day, the Registry temporarily restricted access to this filing and removed it from the Court's website.

Following the Chamber's issuance of the public 'Decision postponing the hearing on the confirmation of charges' (ICC-01/21-01/25-267), on 9 September 2025 the OPCV requested the Chamber to 'instruct the Registry to re-publish [filing ICC-01/21-01/25-257-Red] on the ICC website' (the 'OPCV Request'), to which the Defence responded that it 'has not objection'.

In light of the above, and the fact that public redacted versions of filings no. 230 and 253 are now on the case record, the Chamber finds it appropriate to reject the Defence Request and grant the OPCV Request.

Accordingly, the Registry is hereby instructed to lift the temporary access restrictions applied to filing ICC-01/21-01/25-257-Red and to re-publish it on the Court's website.

Thank you and kind regards,
On behalf of Pre-Trial Chamber I

From: Nick Kaufman [REDACTED]
Sent: 09 September 2025 17:37
To: Pre-Trial Chamber I Communications [REDACTED]
Cc: [REDACTED]; D36 Duterte Defence Team [REDACTED]; OTP Philippines Team [REDACTED]; Office of the Director DJSS [REDACTED]; V50 LRV Team OPCV [REDACTED]; Associate Legal Officer-Court Officer [REDACTED]; Court Management-Court Records [REDACTED]
Subject: Re: [URGENT] Request for immediate removal of Court public website of filing ICC-01/21-01/25-257-Red

Dear Pre-Trial Chamber,

In light of the decision of yesterday vacating the date for the confirmation hearing and the fact that the Pre-Trial Chamber published the fact Mr Duterte is pleading lack of fitness to stand trial (something which I shall address in response to Mr Nicholls's mail sent at 17:25), the Defence has no objection.

Regards,

Nick Kaufman
Counsel for Rodrigo Roa Duterte

From: [REDACTED]
Sent: Tuesday, September 9, 2025 5:33 PM
To: Pre-Trial Chamber I Communications [REDACTED]
Cc: D36 Duterte Defence Team [REDACTED]; OTP Philippines Team [REDACTED]; Office of the Director DJSS [REDACTED] V50 LRV Team OPCV [REDACTED]; Associate Legal Officer-Court Officer [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED] Nick Kaufman [REDACTED]; Court Management-Court Records [REDACTED]
Subject: RE: [URGENT] Request for immediate removal of Court public website of filing ICC-01/21-01/25-257-Red

Dear Pre-Trial Chamber,
 Following the decision on the postponement of the confirmation hearing notified yesterday, the Legal Representative respectfully requests the Chamber to instruct the Registry to re-publish the public redacted version of her Response to the Indefinite Adjournment Request on the ICC website.

Kind regards,
 [REDACTED]

From: [REDACTED]
Sent: 04 September 2025 13:38
To: Pre-Trial Chamber I Communications [REDACTED]
Cc: D36 Duterte Defence Team [REDACTED]; OTP Philippines Team [REDACTED]; Office of the Director DJSS [REDACTED] V50 LRV Team OPCV [REDACTED]; Associate Legal Officer-Court Officer [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; Nick Kaufman [REDACTED]; Court Management-Court Records [REDACTED]
Subject: RE: [URGENT] Request for immediate removal of Court public website of filing ICC-01/21-01/25-257-Red

Dear Pre-Trial Chamber,
 The Legal Representative has taken great care to remove any part of reference in her submission that could potentially reveal or be construed to reveal the matter *sub judice*.

Having considered the Defence's observations, the Legal Representative submits that the reference to an "indefinite adjournment" does not reveal said matter.

Other Chambers of this Court have entertained requests for indefinite adjournments in circumstances unrelated to a determination of a suspect/accused's health. Indeed, parties have used the terms 'stay of proceedings', 'temporary stay' and 'adjournment' interchangeably when seeking the various forms of suspension of proceedings, including alleged procedural improprieties rising to the level of serious infringements of the defendant's right to a fair trial (See e.g. Ntaganda, ICC-01/04-02/06-2335, paras. 10-13). In other cases, Defendants have sought 'adjournments' related to "important and fundamental development in relation to 'key evidence'" (See e.g. Kenyatta, ICC-01/09-02/11-812, para. 3). Similarly, at the Special Tribunal for Lebanon, trying persons *in absentia*, requests for 'adjournments' were submitted by the Defence (See e.g. STL-11-01/T/TC, decision of 15 June 2016).

Therefore, the Legal Representative disagrees with the assertion that the reference to an 'indefinite adjournment' necessarily reveals that the Chamber is adjudicating a matter relating to the Suspect's fitness, as well as with the submission that the use of the word 'adjournment' can only relate to this matter and that, by extension, the OPCV filing reveals a confidential matter.

While the Legal Representative has not opposed the temporary removal of the filing as a matter of precaution, she posits that the document does not reveal any confidential information and should therefore be maintained in its current version on the public website.

Kind regards,

From: Nick Kaufman [REDACTED]
Sent: 04 September 2025 12:06
To: Court Management-Court Records [REDACTED]; Pre-Trial Chamber I Communications [REDACTED]
Cc: D36 Duterte Defence Team [REDACTED]; OTP Philippines Team [REDACTED]; Office of the Director DJSS [REDACTED]; V50 LRV Team OPCV [REDACTED]; Associate Legal Officer-Court Officer [REDACTED]
Subject: Re: [URGENT] Request for immediate removal of Court public website of filing ICC-01/21-01/25-257-Red

Dear Pre-Trial Chamber,

I do not object to a PRV and am not seeking to keep the entirety of OPCV submissions confidential.

I am merely objecting at the present moment in time to the terminology "indefinite adjournment".

If OPCV can reproduce a redacted version without reference to this concept, we will not object.

If the Pre-Trial Chamber should rule in due course on either fitness requiring an adjournment or interim release on the grounds that cognitive issues neutralise risk factors, then we would request that observations from the parties be sought in advance of publication in the Court website.

Regards,

Nick Kaufman
 Counsel for Rodrigo Roa Duterte

From: [REDACTED]
Sent: Thursday, September 4, 2025 11:57 AM
To: CMS.CourtOfficer [REDACTED] [REDACTED] [REDACTED] Court Management-Court Records [REDACTED] Pre-Trial Chamber I Communications [REDACTED]
Cc: D36 Duterte Defence Team [REDACTED] OTP Philippines Team [REDACTED] Office of the Director DJSS [REDACTED] V50 LRV Team OPCV [REDACTED] Associate Legal Officer-Court Officer [REDACTED]
Subject: Re: [URGENT] Request for immediate removal of Court public website of filing ICC-01/21-01/25-257-Red

Dear Pre-Trial Chamber I,
 Dear all,

The Prosecution's position regarding the issue of confidentiality of submissions relating to the Defence request for an adjournment based on allegations that Mr Duterte is unfit to stand trial was relayed in filing ICC-01/21-01/25-253-Conf, para. 5.

As stated, the Prosecution's view is that there is no justification to keep the entirety of these submissions confidential. Similar issues were raised publicly (save for specific medical details of the suspects or accused) in previous cases before this Court (as noted in footnote 8 of the Prosecution's submission). Moreover, should there be an adjournment in proceedings as a result of the Defence Request, the public should be informed of the reason for it.

Best regards,
 [REDACTED]

From: CMS.CourtOfficer [REDACTED]
Sent: Thursday, September 4, 2025 11:29 AM
To: [REDACTED] [REDACTED] Court Management-Court Records [REDACTED] Pre-Trial Chamber I Communications [REDACTED]
Cc: D36 Duterte Defence Team [REDACTED] OTP Philippines Team [REDACTED] Office of the Director DJSS [REDACTED] V50 LRV Team OPCV [REDACTED] Associate Legal Officer-Court Officer [REDACTED]
Subject: RE: [URGENT] Request for immediate removal of Court public website of filing ICC-01/21-01/25-257-Red

Dear Pre-Trial Chamber I,

Dear all,

In line with standard practice and as a precautionary measure, please be informed that public access to filing ICC-01/21-01/25-257-Red has been temporarily restricted and removed from the ICC website by the Registry, pending the Pre-Trial Chamber's determination on the matter.

Kind regards,

CMS

From: [REDACTED]
Sent: 04 September 2025 11:10
To: Court Management-Court Records [REDACTED]; Pre-Trial Chamber I Communications [REDACTED]
Cc: D36 Duterte Defence Team [REDACTED]; OTP Philippines Team [REDACTED]; Office of the Director DJSS [REDACTED]; V50 LRV Team OPCV [REDACTED]; Associate Legal Officer-Court Officer [REDACTED]; Bossette, Caroline [REDACTED]
Subject: [URGENT] Request for immediate removal of Court public website of filing ICC-01/21-01/25-257-Red

Dear Pre-Trial Chamber I,

The Defence urgently requests the withdrawal of the Public Redacted Version of the OPCV's Response to the Defence Request for an Indefinite Adjournment (ICC-01/21-01/25-257-Red) from the Court's public website.

The term "adjournment" can only have one meaning within the statutory framework of the Court, which refers to the medical condition of the accused, according to Rule 135(4) of the Rules. The relevant part, which refers to the medical examination of the accused, reads:

"Where the Trial Chamber is satisfied that the accused is unfit to stand trial, it shall order that the trial be **adjourned**. The Trial Chamber may, on its own motion or at the request of the prosecution or the defence, review the case of the accused. In any event, the case shall be reviewed every 120 days unless there are reasons to do otherwise. If necessary, the Trial Chamber may order further examinations of the accused. When the Trial Chamber is satisfied that the accused has become fit to stand trial, it shall proceed in accordance with rule 132".

The OPCV clearly misconstrued the nature of the Defence application by equating it to a request for a stay of proceedings and has thereby disclosed the nature of the confidential issue *sub judice*.

The Defence also seeks the immediate removal of the filing from the ICC website so as not to disclose the nature of Mr Duterte's condition to the general public.

Best regards,

[REDACTED]

On behalf of Nick Kaufman

Counsel for Rodrigo Roa Duterte