

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

*Original: English*

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

*Date: 7 January 2026*

**PRE-TRIAL CHAMBER I**

**Before:** Judge Iulia Antoanella Motoc , Presiding Judge  
Judge Reine Adélaïde Sophie Alapini-Gansou  
Judge María del Socorro Flores Liera

**SITUATION IN THE REPUBLIC OF THE PHILIPPINES**

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

**Public Document**

**Victims' Observations on the Review of Mr Duterte's Pre-Trial Detention  
pursuant to Rule 118(2) of the Rules of Procedure and Evidence**

**Source: Office of Public Counsel for Victims**

Document to be notified in accordance with regulation 31 of the *Regulations of the*

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## REGISTRY

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## I. PROCEDURAL BACKGROUND

1. The Principal Counsel of the Office of Public Counsel for Victims (the “OPCV”), appointed to represent the collective interests of potential Victims until the mandate of the team of common legal representatives takes effect (the “Legal Representative”),<sup>1</sup> hereby files her observations on the review of Mr Duterte’s pre-trial detention.

2. The Legal Representative submits that the continued detention of the Suspect is warranted as the conditions set forth in article 58(1) of the Rome Statute (the “Statute”) continue to be met.

3. The findings on said conditions remain valid and undisturbed as there have been no changes in circumstances within the meaning of article 60(3) of the Statute or rule 118(2) of the Rules of Procedure and Evidence (the “Rules”) since the Pre-Trial Chamber’s last decision on the matter in the context of the requests for interim release, as also recently confirmed on appeal.<sup>2</sup> Accordingly, no reasons exist which could justify a modification of the previous ruling and Mr Duterte shall remain in detention.

## II. PROCEDURAL BACKGROUND

4. On 7 March 2025, Pre-Trial Chamber I (the “Chamber”) issued a warrant of arrest for Mr Duterte.<sup>3</sup>

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<sup>1</sup> See the “Order on the conduct of confirmation proceedings” (Pre-Trial Chamber I), [No. ICC-01/21-01/25-114](#), 17 April 2025, paras. 68-69.

<sup>2</sup> See the “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”” (Appeals Chamber), [No. ICC-01/21-01/25-326-Red](#), 28 November 2025 (the “Judgment on Interim Release”).

<sup>3</sup> See the “Warrant of Arrest for Mr Rodrigo Roa Duterte” (Pre-Trial Chamber I), [No. ICC-01/21-01/25-83](#), 7 March 2025 (the “Warrant of Arrest”).

5. On 12 March 2025, Mr Duterte was surrendered to the Court by the Government of the Philippines.<sup>4</sup> According to article 60(2) of the Statute, he has been in detention since his surrender.
6. On 12 June 2025<sup>5</sup> and 18 August 2025,<sup>6</sup> the Defence requested that Mr Duterte be granted interim release (the “Requests”).
7. On 26 September 2025, the Chamber rejected the Requests.<sup>7</sup> The Defence appealed said decision on 14 October 2025.<sup>8</sup>
8. On 28 November 2025, the Appeals Chamber rejected Mr Duterte’s appeal (the “Judgement on Interim Release”).<sup>9</sup>
9. On 5 December 2025, the Chamber, by email, ordered the Prosecution and the OPCV to “*submit any observations for the purposes of and in connection with the forthcoming review of the detention of Mr Duterte pursuant to rule 118(2) of the Rules*”<sup>10</sup> by 7 January 2026. The Defence was instructed to file observations, including its reply to the Prosecution and the OPCV observations, by no later than 9 January 2026.<sup>11</sup>

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<sup>4</sup> See the “Decision on the Prosecution’s application under regulation 35 of the Regulations of the Court” (Pre-Trial Chamber I), [No. ICC-01/21-01/25-138](#), 20 May 2025, para. 1.

<sup>5</sup> See the “Urgent Request for Interim Release”, No. ICC-01/21-01/25-150-Conf, 12 June 2025. A public redacted version [No. ICC-01/21-01/25-150-Red](#) was filed on the same day.

<sup>6</sup> See the “Renewed Request for Interim Release”, No. ICC-01/21-01/25-231-Conf, 18 August 2025. A public redacted version [No. ICC-01/21-01/25-231-Red](#) was filed on 19 August 2025.

<sup>7</sup> See the “Decision on the Defence’s ‘Urgent Request for Interim Release’ and ‘Renewed Request for Interim Release’” (Pre-Trial Chamber I), No. ICC-01/21-01/25-282-Conf, 26 September 2025. A public redacted version [No. ICC-01/21-01/25-282-Red](#) was filed on 10 October 2025.

<sup>8</sup> See the “Appeal Brief on Interim Release”, No. ICC-01/21-01/25-298-Conf, 14 October 2025. A public redacted version [No. ICC-01/21-01/25-Red](#) was filed on 28 October 2025.

<sup>9</sup> See the Judgment on Interim Release, *supra* note 2.

<sup>10</sup> See the Email from the Chamber dated 5 December 2025 at 11:25.

<sup>11</sup> *Ibid.*

### III. SUBMISSIONS

#### 1. Applicable law

10. Article 60(3) of the Statute provides that:

*“The Pre-Trial Chamber shall periodically review its ruling on the release or detention of the person, and may do so at any time on the request of the Prosecutor or the person. Upon such review, it may modify its ruling as to detention, release or conditions of release, if it is satisfied that changed circumstances so require”.*

11. Pursuant to rule 118(2) of the Rules:

*“The Pre-Trial Chamber shall review its ruling on the release or detention of a person in accordance with article 60, paragraph 3, at least every 120 days and may do so at any time on the request of the person or the Prosecutor”.*

12. The main purpose of the periodic review of a ruling on detention is the analysis of any new information *vis-à-vis* its impact on the findings justifying the detention of a suspect. In this regard, the Appeals Chamber has held that *“in ‘carrying out a periodic review of a ruling on detention under article 60(3) of the Statute [a Chamber] must satisfy itself that the conditions under article 58(1) of the Statute, as required by article 60(2) of the Statute, continue to be met’. This inquiry by the Chamber carrying out the review is not dependent only upon the new information provided by the parties, but is a review of the current circumstances as a whole which underpin detention. It is the Chamber’s obligation to look at those circumstances and be satisfied that continued detention is necessary”*.<sup>12</sup>

#### 2. Observations on Mr Duterte’s pre-trial detention

13. The Legal Representative submits that, as recently reiterated by the Appeals Chamber,<sup>13</sup> the reasons for issuing the Warrant of Arrest and the specific conditions in subparagraphs 1(a) and (b) of article 58 of the Statute continue to be met as regards Mr Duterte and, therefore, his continued detention remains necessary.

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<sup>12</sup> See the “Judgment on the appeal of Mr Laurent Gbagbo against the decision of Trial Chamber I of 10 March 2017 entitled ‘Decision on Mr Gbagbo’s Detention’” (Appeals Chamber), [No. ICC-02/11-01-15-992-Red OA10](#), 19 July 2017, para. 38.

<sup>13</sup> See the Judgment on Interim Release, *supra* note 2.

14. The Appeals Chamber has clarified that Pre-Trial Chambers are fully authorised to make a prediction as to the likelihood of future events.<sup>14</sup> This jurisprudence has been confirmed in the recent Judgment on Interim Release. The question whether continued detention appears necessary “*revolves around the possibility, not the inevitability, of a future occurrence*”.<sup>15</sup> In light of the Appeals Chamber’s recent findings on Mr Duterte’s appeal against the decision on interim release,<sup>16</sup> there are very strong indications that the Suspect’s detention is required.

15. Indeed, there has been no change of circumstances in the sense of article 60(3) of the Statute. The current stage of the proceedings further elevates Mr Duterte’s incentives to flee since the risk of non-appearance increases as the proceedings advance.<sup>17</sup> This risk is particularly heightened following the conclusions of the Panel of Experts according to which the Suspect is essentially able to follow the proceedings<sup>18</sup>, which likewise indicates his ability to abscond.

16. Consequently, it is reasonable to expect that the Chamber will soon set the new date for the beginning of the confirmation of charges hearing and the prospect of said hearing militates in favour of continuing the Suspect’s detention in order to secure his attendance.

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<sup>14</sup> See the “Judgment on the appeal of Mr Aime Kilolo Musamba against the decision of Pre-Trial Chamber II of 14 March 2014 entitled ‘Decision on the ‘Demande de mise en liberté provisoire de Maître Aimé Kilolo Musamba’” (Appeals Chamber), [No. ICC-01/05-01/13-558 OA 2](#), 11 July 2014, para. 117.

<sup>15</sup> *Ibid.*

<sup>16</sup> See the Judgment on Interim Release, *supra* note 2, para. 47.

<sup>17</sup> See, *inter alia*, the “Third Review of the Decision on the Conditions of Detention of Germain Katanga” (Trial Chamber II), [No. ICC-01/04-01/07-1043-tENG](#), 6 April 2009, para. 13; and the “Decision on the review of detention of Mr Jean-Pierre Bemba Gombo pursuant to the Appeals Judgment of 19 November 2010” (Trial Chamber III), [No. ICC-01/05-01/08-1088](#), 17 December 2010, para. 40. See also, the “Decision on the ‘Defence Request for Interim Release’” (Pre-Trial Chamber I), [No. ICC-01/04-01/10-163](#), 19 May 2011, para. 42.

<sup>18</sup> See the “Public Redacted Version of ICC-01/21-01/25-337-Conf Observations on behalf of Victims on the Joint and Individual Reports of the Panel of Experts”, [No. ICC-01/21-01/25-337-Red](#), 18 December 2025, para. 2.

17. Moreover, the Appeals Chamber found no error in the Chamber's conclusion that documentation brought before it indicated that Mr Duterte has a propensity to interfere with investigations against him,<sup>19</sup> which the latter found to militate against granting interim release.<sup>20</sup>

18. The Appeals Chamber also found that the Chamber did not err when it considered that Mr Duterte benefited from a network of supporters and therefore posed a flight risk.<sup>21</sup> The nature of the information before the Chamber regarding Mr Duterte's network of supporters is such that it is not easily subject to change; and no information that would suggest a significant change in the circumstances has been brought to the attention of the Chamber since. Accordingly, none of these substantial factors previously taken into consideration by the Chamber in assessing Mr Duterte's flight risk have changed.

19. In addition to assessing the Suspect's likelihood of attending the confirmation of charges hearing if released, as well as possible ability to interfere with the investigation, and the gravity of the offence and possible duration of the sentence if convicted,<sup>22</sup> article 60(4) of the Statute requires the Chamber to consider the overall time spent in detention when conducting its review.

20. Said review involves two main considerations, the first being the determination of whether the overall period of pre-trial detention has been "*unreasonable*", and, in the affirmative, whether this was caused by an "*inexcusable delay*" attributed to the Prosecutor. Mr Duterte has been detained since his surrender to the Court in March 2025. However, taking into account the nature of issues litigated before the Chamber and the Appeals Chamber, the length of Mr Duterte's pre-trial detention is

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<sup>19</sup> See the Judgment on Interim Release, *supra* note 2, para. 52.

<sup>20</sup> See the "Public redacted version of "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" (Pre-Trial Chamber I), [No. ICC-01/21-01/25-282-Red](#), 10 October 2025, paras. 54, 57.

<sup>21</sup> See the Judgment on Interim Release, *supra* note 2, paras. 60-63.

<sup>22</sup> *Idem*, paras. 80-81.

not unreasonable; and, in any event, contrary to the Defence's insinuations,<sup>23</sup> none of the delays in the pre-trial proceedings have been caused by the Prosecutor.

21. When conducting its periodic review, a Chamber should also take into consideration the position of victims and witnesses. Specifically, the Chamber should consider the impact and prejudicial effect the release of a suspect facing charges of international crimes might have.<sup>24</sup>

22. The Legal Representative has on numerous occasions, since Mr Duterte's surrender, received information from Victims and from lawyers and civil society organisations supporting them. Victims have expressed fears about their safety and the safety of their families, as well as concerns about the possible increase of violence in the neighbourhoods in which they live, if the Suspect were released.

23. In light of the above considerations, the continued pre-trial detention of Mr Duterte remains both warranted and necessary.

Respectfully submitted.



**Paolina Massidda**  
**Principal Counsel**

Dated this 7<sup>th</sup> day of January 2026.

At The Hague, The Netherlands.

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<sup>23</sup> See the "Defence Request for an Expert Report on Article 58(1)(b) Risk Factors", [No. ICC-01/21-01/25-342](#), 19 December 2025, para. 6.

<sup>24</sup> See ICTY, *The Prosecutor v. Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pušić*, [Decision on "Prosecution's Appeal From 'Decision Relative à la demande de mise en liberté provisoire de l'accusé Petković'"](#) dated 31 March 2008, (Appeals Chamber), Case No. IT-04-74-AR65.7, 21 April 2008, para. 17. See also ICTY, *The Prosecutor v. Jadranko Prlić et al.*, [Decision on Prosecution Appeal of Decision on Provisional Release of Jadranko Prlić](#), (Appeals Chamber), Case No. IT-04-74-AR65.26, 15 December 2011, para. 10.