Q&A

THE DUTERTE ICC CASE: COMBATING DISINFORMATION AND PROMOTING VICTIMS' ACCESS TO INFORMATION

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This Q&A aims to address the disinformation surrounding the International Criminal Court (ICC) proceedings in the case of Rodrigo Duterte and to clarify key aspects related to the Court's jurisdiction, his arrest, concerns about victims' safety, and other relevant issues. It seeks to ensure victims have access to accurate information, so as to enable them to make informed decisions about their engagement and participation. Some of the questions discussed remain under consideration by ICC judges. This Q&A does not intend to speculate or make legal arguments regarding these matters, but rather to explain what the issues are.

What is the ICC case against Duterte?

In 2016, Rodrigo Duterte, a long-time mayor of Davao City, was elected President of The Philippines, following an electoral campaign based on a tough-on-drugs agenda. Within the first six months of his presidency, police or unknown armed attackers had killed about 7,000 Filipinos suspected or perceived to be selling, buying, or using drugs. By the end of his presidential term, the Philippine government officially acknowledged only 6,248 deaths linked to the drug campaign,[1] with the actual death toll estimated by human rights groups to be significantly higher.[2] The ICC Office of the Prosecutor estimated that between 12,000 and 30,000 civilians were killed in connection with the so-called "war on drugs" between July 2016 and March 2019.[3]

In February 2018, the Office of the Prosecutor (OTP) of the ICC announced that it would conduct a preliminary examination into the situation in The Philippines.[4] In March 2018, The Philippines sent a written notification of withdrawal from the Rome Statute.[5] In September 2021, the Court granted the Prosecutor's request to proceed with the investigation into crimes committed in the context of Duterte's 'war on drugs' between 1 November 2011 and 16 March 2019.[6]

In March 2025, Duterte was arrested by Philippine authorities based on an arrest warrant issued by ICC judges and surrendered to the custody of the Court.[7]

1 Rappler, Duterte's War on Drugs: The First Six Months.
2 Al Jazeera, Families of Duterte's drug war victims grieve, seek justice in Philippines, 13 March 2025.
3 ICC, Decision on the Prosecutor's request for authorisation of an investigation pursuant to Article 15(3) of the Statute.
4 ICC, Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, on opening Preliminary Examinations into the situations in the Philippines and in Venezuela, 8 February 2018.
5 ICC, ICC Statement on The Philippines' notice of withdrawal: State participation in Rome Statute system essential to international rule of law, 20 March 2018.
6 ICC, Situation in The Philippines: ICC Pre-Trial Chamber I authorises the opening of an investigation, 15 September 2021.
7 ICC Pre-Trial Chamber I, Warrant of Arrest for Mr Rodrigo Roa Duterte, 7 March 2025.

From 23 to 26 February 2026, the confirmation of charges hearing took place. Subsequently, on 23 April 2026, Pre-Trial Chamber I confirmed all charges against Duterte and committed him to trial.[8] He is charged with three counts of murder and attempted murder as crimes against humanity, allegedly committed as part of the 'war on drugs.' The Pre-Trial Chamber found substantial grounds to believe that the alleged crimes formed part of a widespread and systematic attack against the civilian population. The opening of the Trial is scheduled for 30 November 2026.

How are disinformation campaigns impacting victims' participation?

Duterte's arrest has been hailed as a historic moment for victims of the crimes committed in the context of the 'war on drugs' and their families. Challenging the long-standing climate of impunity, his arrest marks the first time the ICC is prosecuting an Asian Head of State.[9] It is a crucial first step on the path towards justice and accountability after years of tireless efforts by victims, their families, and civil society.[10]

However, Duterte's arrest was immediately followed by wide-scale and organised efforts to spread disinformation about the ICC, the case against Duterte, and his arrest, challenging the validity of the arrest and the proceedings.[11] Even the personal social media accounts of ICC Judge Iulia Antoanella Motoc, the Presiding Judge of the Pre-Trial Chamber that issued the arrest warrant, were targeted by threats and comments linked to the disinformation campaign.[12] The reach of the false information is further amplified by individuals who genuinely believe this misinformation is accurate and spread it to others.

This trend has continued in the months since the arrest, with new forms of disinformation emerging. For example, in February 2026, a digitally altered photograph depicting representatives of victims and their families circulated to suggest that they were benefiting financially from the proceedings.[13] Other examples in 2026 included AI-generated images falsely portraying Duterte as physically attending ICC hearings[14] and fabricated statements attributed to ICC judges.[15]

This disinformation and misinformation are already directly impacting the wellbeing of victims and risks harming their ability to exercise their rights before the Court, including their right to participate in the ICC proceedings:

8 ICC, Pre-Trial Chamber, Order setting the schedule and directions for the confirmation of charges hearing and convening the annual hearing on detention, 27 February 2026.
9 Leiden University, Salvador Santino Reglime in East Asia Forum: The Philippines confronts Duterte's authoritarian legacy at The Hague, 22 April 2025.
10 OMCT World Organisation Against Torture 2025, Philippines: Duterte's Arrest Marks a Historic Step Toward Justice for Victims of the 'War on Drugs,' 12 March 2025.
11 Rappler, More disinformation tactics return after Duterte's arrest: Discrediting the media, 20 March 2025.
12 Inquirer, Spike in hate content seen after Duterte arrest, 18 March 2025.
13 AFP, Photo of Duterte drug war victims' supporters altered with AI as ICC hearing kicks off | Fact Check, 26 February 2026.
14 AFP, AI-generated images falsely depict Rodrigo Duterte attending ICC hearing | Fact Check, 18 June 2026.
15 AFP, Fabricated ICC judge quote circulates after Duterte crimes against humanity trial date set | Fact Check, 8 June 2026.

- **First**, the disinformation campaign and online harassment against the victims and their families have negatively impacted their mental well-being and is causing retraumatisation.

- **Second**, the coordinated disinformation campaign targeting the media, the ICC, and other institutions limits victims' access to critical and reliable information about their rights and ways they can participate in the Court's proceedings.

- **Third**, the continued attacks on the ICC's credibility risk discouraging victims who had placed their hopes in the ICC from engaging with the Court such as through its outreach activities, applying to participate in the proceedings through a lawyer or providing information about the crimes they suffered.

Civil society organisations have reported that some victims who were previously interested in participating in ICC proceedings in different ways have considered withdrawing their participation as a result of online harassment, threats, and disinformation. These developments risk isolating victims from the Court and affecting their prospects for being informed about and contributing to meaningful justice and, if there is a conviction at the end of a trial, obtaining reparation.

These concerns have also been raised by the victims' legal representatives. In their submission filed on 13 October 2026, the legal representatives reported that victims who had spoken publicly about their experiences, particularly those who attended public events following Duterte's arrest, had been targeted online.[16] They further noted that the widespread circulation of disinformation concerning the anti-drug campaign and the ongoing proceedings had compounded victims' suffering, increased their anxiety and frustration, and undermined recognition of the harm they had endured.[17]

Is the ICC an independent court?

The ICC is an independent international court based in The Hague, The Netherlands. It tries persons accused of international crimes, specifically war crimes, crimes against humanity, genocide, and, in certain conditions, the crime of aggression. The OTP is responsible for receiving and investigating information related to alleged crimes, and the Chambers of ICC Judges make decisions throughout, including whether an investigation can proceed, whether someone should be arrested, whether a case should proceed to trial, and later on, whether the person(s) accused are guilty of any of the crimes charged.

Victims can take part in ICC proceedings in different ways. They can send information to the Prosecutor about crimes they believe took place, asking for them to be investigated. Later, if those crimes are part of charges brought against a suspect and affected them personally, they may also apply to be recognised as victims participating in the

16 ICC, Trial Chamber III, Public Redacted Version of "Victims' Trial Brief", 13 October 2026.
17 *Ibid.*

case. This means they can be represented by a lawyer who will share their views and concerns with the Court during the legal process, from early investigations to trial, appeal, and, if the accused is convicted, reparations stages.

If they want to participate in an active case against Duterte, victims must usually fill out a standard application form. The Court's Victims Participation and Reparations Section (VPRS) can help with this process. In most cases, participating victims do not travel to the Court. A lawyer can speak for them, and they can choose their own or ask the Court for help in finding one. VPRS consults victims regarding legal representation and, based on the victims' views and concerns, makes recommendations to the Chamber on the organisation of common legal representation for victims.

This is because, for reasons of efficiency and resources, the Trial Chamber asks that one team of lawyers represents the interests of all the participating victims in the proceedings, unless there is a potential conflict of interest between different victim groups. During the trial, some victims may be asked to testify as witnesses and give evidence about what they saw or experienced. If a person accused before the Court is convicted, victims can also ask the Court to order reparations to help them recover from the harm they suffered. There is also a Trust Fund for Victims that can provide support to victims.

Since its establishment on 1 July 2002, the ICC has examined, investigated or tried 33 cases, detained 22 persons, and issued 11 convictions against alleged perpetrators of international crimes. Persons who have been convicted are usually high-ranking individuals such as leaders of armed groups in the Democratic Republic of Congo, the former chief of the Timbuktu Islamic Police in Mali,[18] and the Brigade Commander of an armed rebel group in Uganda.[19]

Due to the nature of the crimes falling under the jurisdiction of the ICC, the Court engages with large numbers of victims. In the case of Dominic Ongwen, relating to international crimes committed in Uganda, for example, 116 witnesses and experts testified as witnesses or appeared in person before the Court, 4,905 victims were granted the right to participate in the proceedings and many more engaged in the Court's outreach activities.[20]

In the case alleged against Duterte, it is estimated that between 12,000 and 30,000 persons were killed in the context of the 'war on drugs'. But the Court tends to charge only a representative number of incidents and only victims of the specific killings Duterte is charged with will be eligible to participate in the case through a lawyer. However, the Court engages with affected communities more widely.

As of November 2026, the judges have authorised 539 victims to participate in the proceedings. Victims are represented by a single team of common legal representatives: Joel Butuyan and Gilbert Andres (external lawyers appointed to represent victims), and Paolina Massida (representative of the ICC's in-house Office of Public Counsel for the Victims, OPCV).

18 ICC, Al Hassan Case.
19 ICC, Ongwen Case.
20 ICC, Case Information Sheet.

What are some of the false claims used in the disinformation campaign?

FALSE

THE ICC HAS NO JURISDICTION OVER CRIMES OR ACTS COMMITTED IN THE PHILIPPINES BECAUSE OF THE PHILIPPINES' WITHDRAWAL FROM THE ROME STATUTE.

TRUE

THE ICC RETAINS JURISDICTION OVER ACTS OR CRIMES COMMITTED FROM 1 NOVEMBER 2011 TO 16 MARCH 2019.

Even though The Philippines is no longer a Member State of the ICC, the Court still has the power and authority to investigate and prosecute crimes that occurred while the country was still a Member State.[21] This period is between 1 November 2011 and 16 March 2019.[22]

The Philippines officially joined the ICC in November 2011 by becoming a State Party to the Rome Statute, the international treaty through which States created the Court. In March 2018, under the Duterte administration, the government submitted a notice to withdraw from the Rome Statute.[23]

However, the withdrawal did not immediately take effect. According to the Rome Statute, a country's withdrawal only becomes effective one year after the notice is received, unless the notification states a later date.[24] The Philippines' withdrawal thus took effect on 17 March 2019.

Despite the withdrawal having taken effect, the Rome Statute's provisions require that The Philippines must still comply with the obligations it had during the time it was a Member State.

On 22 April 2026, the Appeals Chamber, by majority, confirmed the Pre-Trial Chamber's decision of 23 October 2025, which rejected the defence's jurisdictional challenge and held that the Court retains jurisdiction over crimes committed while the Philippines was a State Party, despite its withdrawal. [25]

This also explains why the ICC Prosecutor is only investigating and prosecuting crimes committed in The Philippines between 1 November 2011 and 16 March 2019, even though similar crimes continued after those dates.

21 ICC Pre-Trial Chamber I, Decision on the Prosecutor's request for authorisation of an investigation pursuant to Article 15(3) of the Statute, ICC-01/21-12 15-09-2021, 15 September, 2021
22 ICC, Situation in The Philippines: Rodrigo Roa Duterte in ICC custody, 12 March 2025.
23 ICC, ICC Statement on The Philippines' notice of withdrawal: State participation in Rome Statute system essential to international rule of law, 20 March 2018.
24 Article 127, Rome Statute.
25 ICC, Pre-Trial Chamber I, Notification of the Republic of the Philippines' deferral request under article18(2), 18 November 2021.

FALSE

DESPITE THE ICC HAVING JURISDICTION OVER CRIMES COMMITTED FROM 1 NOVEMBER 2011 TO 16 MARCH 2019, IT DOES NOT HAVE THE POWER TO INITIATE A CASE AGAINST DUTERTE AS THE ARREST AND PROSECUTION COMMENCED ONLY AFTER THE PHILIPPINES' WITHDRAWAL TOOK EFFECT. IN OTHER WORDS, THE ICC DOES NOT HAVE JURISDICTION OVER DUTERTE'S CASE.

TRUE

ON 22 APRIL 2026, THE APPEALS CHAMBER UPHELD THE ICC'S JURISDICTION, AND ON 23 APRIL 2026 CHARGES WERE CONFIRMED AGAINST DUTERTE.

In September 2021, the ICC's Pre-Trial Chamber I (PTC I) authorised the Prosecutor to commence a formal investigation into the situation in The Philippines. In response, the Philippine government sought to delay or halt the investigation by challenging the Court's jurisdiction.[26] The Appeals Chamber declined to issue a definitive ruling on this matter. It found that the argument had not been properly raised in the appeal and therefore did not require resolution at that stage.[27] Of the five judges of the ICC's Appeals Chamber, the majority decided the Prosecutor could resume investigations. However, two judges expressed the dissenting view that, because the investigation was initiated only after The Philippines' withdrawal from the Rome Statute had taken effect, the Court no longer retained the authority to proceed with its investigation. The reasoning of this minority of the judges was that while the preliminary examination began while The Philippines was still a State Party, the subsequent step, the investigation, was initiated too late. [28]

On 1 May 2025, the lawyers representing Duterte made a submission to the Judges of the Pre-Trial Chamber challenging the jurisdiction of the Court, raising arguments similar to those expressed by the minority (dissenting) Judges.[29] This submission was opposed by the Prosecutor[30] and by the counsel currently representing the views and concerns of the victims.[31]

On 23 October 2025, the Pre-Trial Chamber rejected these arguments, finding that the investigation had begun before the Philippines' withdrawal took effect.[32] Duterte appealed this decision.

On 22 April 2026, the Appeals Chamber, by majority, dismissed Duterte's appeal and upheld the Court's jurisdiction over the case.[33] The following day, Pre-Trial Chamber I confirmed all charges against Duterte and committed him to trial. [34]

26 ICC, Notification of the Republic of the Philippines' deferral request under article 18(2), ICC-01/21-14, 18, November, 2021.
27 ICC, Judgment on the appeal of the Republic of the Philippines against Pre-Trial Chamber I's "Authorisation pursuant to article 18(2) of the Statute to resume the investigation," ICC-01/21-77, par. 55, 18 July 2023.
28 ICC, Dissenting Opinion Of Judge Perrin De Brichambaut and Judge Lordkipanidze**,** ICC-01/21-77-OPI, pars. 31 - 35, 18 July 2023.
29 The Prosecutor vs. Rodrigo Roa Duterte, Defence Challenge with Respect to Jurisdiction, ICC-01/21-01/25-121, 10 May 2025.
30 The Prosecutor vs Rodrigo Roa Duterte, Public redacted version of Prosecution response to "Defence Challenge with Respect to Jurisdiction" ICC-01/21-01/25-146-Red, 9 June 2025.
31 ICC, Victims' Observations on the Defence Challenge with Respect to Jurisdiction, ICC-01/21-01/25-145, 9 June 2025.
32 ICC, Pre-Trial Chamber I, Decision on the Defence Challenge to the Jurisdiction of the Court, 23 October 2025.
33 ICC, Judgment on the appeal of Mr Rodrigo Roa Duterte against Pre-Trial Chamber's "Decision on the Defence Challenge to the Jurisdiction of the Court" of 23 October 2025, 22 April 2026.
34 ICC, Pre-Trial Chamber I, Public Redacted Version of "Decision on the confirmation of charges against Mr Rodrigo Duterte", 23 April 2026.

FALSE

VICTIMS SHOULD NOT PURSUE CASES BEFORE PHILIPPINE COURTS, BECAUSE IT WILL CAUSE THE ICC TO LOSE JURISDICTION.

TRUE

PROSECUTION BY THE COURTS IN THE PHILIPPINES WILL NOT AFFECT THE ICC'S JURISDICTION UNLESS THEY GENUINELY PURSUE THE SAME PERSONS FOR THE SAME CRIMES.

When deciding whether or not to proceed with a case, the ICC considers whether or not local courts are genuinely investigating and prosecuting the same person for the same crimes. The Court does not replace national justice systems and must give them primacy. It can only step in when national systems are either not investigating or prosecuting the same case that is before the ICC, or when the national system is taking action but in fact is unwilling or unable to investigate or prosecute genuinely. This is the "principle of complementarity," which means that the ICC is intended to complement, not to replace, national criminal justice systems.

Complementarity can only prevent the ICC from trying Duterte if an investigation is brought against Duterte in The Philippines, if that case relates to substantially the same conduct as those he is charged with at the ICC, and if the Philippine authorities are not "unwilling or unable" to genuinely carry out the investigation or prosecution. The Philippines has failed to investigate international crimes committed during the 'war on drugs', or prosecute Duterte for his alleged involvement in those crimes. This was confirmed in January 2023 by the Pre-Trial Chamber, which ruled[35] the Philippines has not been conducting concrete, genuine, and effective investigations into these crimes. Only if this situation were to change would a further assessment of complementarity succeed, and such a challenge cannot be made after a trial begins.

Secondly, the ICC only prosecutes very few alleged perpetrators, prioritizing high-ranking individuals. Many other persons, at different levels in the hierarchy, may bear responsibility for crimes committed during the 'war on drugs'. A small number may be accused by the ICC in the future, but many others will not.

Against this backdrop, victims should not hold back from filing complaints in The Philippines. If a few other persons are accused before the ICC in the future, the Court would make the same assessment of whether or not they are being genuinely investigated or prosecuted for the same crimes in The Philippines.

FALSE

THE ICC VIOLATED THE ROME STATUTE BY NOT ALLOWING DUTERTE TO BE BROUGHT TO PHILIPPINE COURTS BEFORE HIS SURRENDER.

TRUE

THIS HAS NOT BEEN DEFINITIVELY SETTLED BY THE COURT.

Article 59 of the Rome Statute sets out the procedure a State must follow when arresting and surrendering a wanted suspect to the ICC. It requires that the arrested individual be brought before a domestic court or judge to determine whether the warrant applies to the individual, whether the arrest complied with legal procedures, and whether the person's rights have been upheld. The provision also allows the arrested person to apply for temporary release prior to surrender to the Court.[36]

35 Pre-Trial Chamber I, Public Redacted Version of "Authorisation pursuant to article 18(2) of the Statute to resume the investigation" ICC-01/21-56-Red, par. 98, 26 January 2023.
36 Article 59, Rome Statute.

In the case of Duterte, this Article 59 procedure was not followed, prompting legal debate on the consequences of non-compliance and as to whether Article 59 was applicable to his arrest at all. These discussions generally fell into two categories:

- **First Position** - Article 59 of the Rome Statute did not need to be followed because The Philippines was no longer bound by the Rome Statute after its withdrawal. Therefore the Philippine government properly surrendered Duterte to the ICC by relying on an applicable domestic law, Republic Act 9851 (Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity), which permits a person to be transferred to the ICC when it is already conducting an investigation or prosecution;

- **Second Position** - The Rome Statute outlines a process for arrest and transfer that includes bringing the arrested person before a court in the custodial State. Since Duterte was not presented before a Philippine court, this view submits that Article 59 was not fulfilled.

The Court has addressed the interpretation of Article 59 in past decisions. In the case of Dominic Ongwen in relation to Uganda, the Court held that Article 59 does not require the custodial State to strictly follow the procedure set out there before transferring a person into ICC custody.[37] In that case, it was sufficient that national authorities identified Ongwen as the subject of the warrant, informed him of the existence of the warrant, and transferred him to the Court.

In another case, the Court noted that if the failure to follow article 59 results in a severe breach of the rights of the accused so as to undermine the ability to present a defence, a fair trial may no longer be possible and the case may be affected.[38]

The propriety of Duterte's arrest and surrender is likely to come before the Court's judges for resolution. During his initial appearance before the Court in March 2025, his legal counsel raised the issue, but the Chamber declined to make a ruling at that stage, indicating that the matter could be addressed in the proceedings leading up to the confirmation of charges hearing scheduled for September 2025.[39]

Since then, the proceedings have continued, notwithstanding this argument. Pre-Trial Chamber I rejected the Defence's requests for interim release on 26 September 2025,[40] a decision subsequently upheld the Appeals Chamber on 28 November 2025.[41] The Appeals Chamber also confirmed the Court's jurisdiction on 22 April 2026,[42] and on 23 April 2026, the Pre-Trial Chamber I confirmed all charges against Duterte and committed him to trial.[43]

While these decisions have allowed the proceedings to move forward, they should not be understood as a final determination on the lawfulness of Duterte's arrest and surrender.

37 ICC, Decision on the applicability of article 101 of the Rome Statute in the proceedings against Dominic Ongwen, par 10, 7 July 2015.
38 ICC, Judgment on the Appeal of Mr. Thomas Lubanga Dyilo against the Decision on the Defence Challenge to the Jurisdiction of the Court pursuant to article 19 (2) (a) of the Statute of 3 October 2006, ICC-01/04-01/06 (OA4), par. 37, 14 December 2006.
39 ICC, Initial Appearance, ICC-01/21-01/25-T-002-ENG, page 9, lines 14 - 24, 14 March 2025.
40 ICC, Pre-Trial Chamber, Public redacted version of "Decision on the Defence's Urgent Request for Interim Release" and 'Renewed Request for Interim Release', 26 September 2025, 10 October 2025.
41 ICC, Appeals Chamber, Judgment on the appeal of Mr Rodrigo Rua Duterte against the decision of Pre-Trial Chamber I entitled "Decision on the Defence's 'Urgent Requests for Interim Release' and 'Renewed Request for Interim Release'", 28 November 2025.
42 ICC, Appeals Chamber, Judgment on the appeal of Mr Rodrigo Roa Duterte against Pre-Trial Chamber's "Decision on the Defence Challenge to the Jurisdiction of the Court" of 23 October 2025, 22 April 2026.
43 ICC, Public Redacted Version of 'Decision on the confirmation of charges against Mr Rodrigo Roa Duterte', 23 April 2026.

FALSE

THE WARRANT OF ARREST ONLY ALLEGED THE KILLING OF 43 INDIVIDUALS, WHICH IS TOO SMALL TO CONSTITUTE CRIMES AGAINST HUMANITY.

TRUE

THE NUMBER OF VICTIMS OF UNDERLYING OFFENCES IS NOT THE SOLE DETERMINING FACTOR FOR CRIMES AGAINST HUMANITY. JUDGES FOUND THAT THERE WAS A WIDESPREAD OR SYSTEMATIC ATTACK AGAINST A CIVILIAN POPULATION, AND THE INCIDENTS LISTED IN THE CHARGES ARE NOT INTENDED TO REPRESENT ITS FULL SCOPE.

Duterte has been arrested for the crime against humanity of murder.[44] Under the Rome Statute, this crime is defined as the intentional killing of "one or more persons" committed as part of a "widespread or systematic attack against a civilian population."[45] This means that what matters is not the number of killings charged in a particular case, but the context in which they occurred. They must form part of a broader attack on civilians that is either widespread or systematic. This broader attack will often involve large numbers of victims. The specific case might only concern a small number of them, but this can still be a crime against humanity if this smaller number of killings is part of the broader attack.

The Elements of Crimes of the ICC, the document that sets out exactly what must be proven for each crime, also make clear that even a single killing can qualify as a crime against humanity if it is committed as part of such an attack.[46] It is that broader attack, not the specific number of victims, that qualifies the conduct.

In Duterte's case, the PTC judges[47] ruled that the incidents described in the Prosecutor's application for an arrest warrant support the finding that there are reasonable grounds to believe that there was an attack and that it was both widespread and systematic, noting that the violence took place over several years and appeared to have resulted in thousands of deaths.

This approach was further developed in the Chamber's decision confirming the charges against Duterte on 23 April 2026. The judges found substantial grounds to believe that the contextual elements of crimes against humanity were established, concluding that the attack was both widespread and systematic. They considered evidence of frequent killings over an extended period and across a broad geographical area, as well as evidence of a coordinated pattern of violence and an underlying policy to "neutralize" alleged criminals through violent crimes, including murder.[48]

Importantly, the confirmation decision also clarified that the incidents and victims listed in the charges were not intended to represent the full scope of the alleged criminality. The Prosecutor does not have the means to investigate and prosecute all the crimes which occur in a situation of mass violence, and so usually suspects are charged with crimes which reflect only a "sample" of incidents. Ideally, the sample would be somewhat representative of the different types of harm experienced by victims but sometimes, cases before the ICC are criticised for not achieving this. In making a finding of whether there was a "widespread or systematic" attack, the judges can refer to other facts not directly the focus of the specific incidents investigated, but demonstrating a wider pattern of violence. In its public statement on Duterte's arrest, the ICC confirmed that the Chamber had considered the broader pattern of violence, even though the arrest warrant focuses on a limited number of incidents.

44 ICC Pre-Trial Chamber, Warrant of Arrest for Mr Rodrigo Roa Duterte, 7 March 2025.
45 Article 7, Rome Statute.
46 Article 7 (1) (a), Elements of Crimes.
47 ICC Pre-Trial Chamber I, Warrant of Arrest for Mr. Rodrigo Roa Duterte, ICC-01/21, par. 11, 7 March 2025.
48 ICC, Pre-Trial Chamber I, Public Redacted Version of "Decision on the confirmation of charges against Mr Rodrigo Roa Duterte", 23 April 2026.

This approach is consistent with the Court's practice in other situations. A narrow case may be brought to make proceedings more focused and manageable, but it does not mean that the broader scale of the alleged crimes is disregarded. The focus remains on proving that those selected incidents were part of a widespread or systematic attack against civilians, which is what defines a crime against humanity.

In addition to the above, the Prosecutor has since then added new incidents to the charges, seven of which have been approved by the judges.[49] This brings the total number of incidents covered by the case to 56. While this further illustrates the scale of the alleged crimes and allows more victims to join the proceedings, it does not change the central point: the incidents included in the charges represent only part of the broader pattern of violence and do not reflect the total number of victims affected.

FALSE

THE CHARGES ALLEGED IN THE ARREST WARRANT LIMITED TO THE CRIMES AGAINST HUMANITY OF MURDER AND PERTAINING TO 43 KILLINGS CANNOT BE EXPANDED.

TRUE

THE CHARGES AGAINST DUTERTE HAVE NOW BEEN CONFIRMED, BUT THEY MAY STILL BE AMENDED WITH THE PERMISSION OF THE TRIAL CHAMBER AND BEFORE THE TRIAL BEGINS ON 30 NOVEMBER 2026.

Under the ICC's legal framework, there are two ways in which the charges can be amended:

a) The Prosecutor can continue to investigate and seek to amend the charges before the confirmation of charges hearing that precedes a trial, as long as the defence is given due notice. The Chambers Practice Manual, issued by the ICC Judges notes that the Prosecutor may expand the factual basis of the charges beyond the warrant, and adds provisions intended to allow the defence to prepare. If the Prosecutor decides to do so, therefore, he may submit additional evidence to the Pre-Trial Chamber and request the inclusion of new charges or additional killings before the confirmation of charges hearing.

b) At the end of the confirmation hearing, the Judges themselves can decide to amend the charges because the evidence appears to establish a different crime, or to ask the Prosecutor to continue investigations.

Once the charges are confirmed, and until the trial begins, the Prosecutor can still amend them, but only with the permission of the Pre-Trial Chamber and after having notified the accused.

It is rare for ICC judges to allow new charges to be brought after a suspect has arrived in The Hague. The Prosecutor also typically limits cases to a sample of incidents, rather than filing charges for every possible incident that may qualify as a crime. This approach helps keep proceedings focused and manageable.[50]

In Duterte's case, the arrest warrant covered the crime against humanity of murder.[51] The Prosecutor had also requested the inclusion of torture and rape as crimes against humanity,[52] but the PTC Judges found that those allegations did not show a sufficient connection to the broader attack against civilians. As a result, they were not included in the warrant.[53]

49 ICC, Trial Chamber III Public Redacted Version of Decision on the Defence's motions on the charges, 9 October 2026.
50 ICC, Policy paper on case selection and prioritisation, 15 September 2016.
51 ICC Pre-Trial Chamber I, Warrant of Arrest for Mr Rodrigo Roa Duterte, 7 March 2025.
52 ICC, Public redacted version of "Prosecution's urgent application under article 58 for a warrant of arrest against Rodrigo Roa DUTERTE", 10 February 2025, ICC-01/21-80-US-Exp, par. 74 - 76, 13 March 2025.
53 ICC Pre-Trial Chamber I, Warrant of Arrest for Mr Rodrigo Roa Duterte, par. 12, 7 March 2025.

On 23 April 2026, Pre-Trial Chamber confirmed three counts of crimes against humanity (murder and attempted murder) and committed Duterte to trial.[54] The scope of the charges, defined by a specific period and a set of incidents, can therefore still be the subject of requests and decisions as the case moves forward, and any expansion would depend on the Court's assessment.

Since the charges were confirmed, the Prosecution has subsequently requested to add eight new incidents, numbered 50 to 57, which it sought to include in its Trial Brief. On 9 October 2026, Trial Chamber III approved seven of these.[55] The judges excluded the eighth incident because it happened outside the time period covered by the charges.

Importantly, the Chamber did not formally amend the charges under Article 61(9) of the Rome Statute. Rather, it found that the seven additional incidents were already covered by the scope of the charges as confirmed. This illustrates that the incidents initially identified in the charging documents do not necessarily constitute an exhaustive list of alleged criminal conduct.

FALSE

DUTERTE COULD BE RELEASED IN THE INTERIM BEFORE TRIAL.

TRUE

DUTERTE'S REQUEST FOR INTERIM RELEASE WAS REJECTED BY THE JUDGES.

Under the Rome Statute, a person subject to an arrest warrant has the right to apply for interim release before the start of trial. This right is also available to Duterte. However, the granting of interim release is not automatic. It is up to the judges of the ICC to determine whether a person's continued detention is necessary:

1) To ensure the person will appear before the ICC for the trial;
2) To ensure they do not obstruct the investigation or the court proceedings;
3) To prevent the person from continuing to commit the crimes he is accused of committing or other related crimes within the jurisdiction of the ICC.[56]

On 12 June 2025, Duterte's lawyers requested the Court to allow his conditional release, raising, among other grounds, his advanced age.[57] This request was opposed by the OTP and the victims.

On 26 September 2025, the Pre-Trial Chamber rejected the Defence's requests for Duterte's interim release.[58] It found that his continued detention was necessary and that the conditions proposed for his release were not enough to address the risks it had identified. The Chamber also rejected the Defence's argument that Mr Duterte should be released for humanitarian reasons, on the grounds of his poor health.

The Defence raised three grounds of appeal.[59] It argued that the Chamber had wrongly found that he posed such a risk; had wrongly rejected the guarantees offered by the State willing to receive him; and finally, had failed to take humanitarian considerations into account. The Appeals Chamber rejected all three grounds of appeal raised by the Defence and unanimously confirmed the Pre-Trial Chamber's decision of 26 September 2025.[60]

54 ICC, Pre-Trial Chamber I, Decision on the 'Prosecution's Request for Reclassification of "Defence Response to Prosecution Request, 23 April 2026.
55 ICC, Trial Chamber III Public Redacted Version of Decision on the Defence's motions on the charges, 9 October 2026.
56 Article 58, Rome Statute.
57 The Prosecutor v Rodrigo Roa Duterte, Public Redacted Version of the "Urgent Request for Interim Release", ICC-01/21-01/25, 12 June 2025
58 ICC, Pre-Trial Chamber I, Decision on the Defence's 'Urgent Request for Interim Release' and 'Renewed Request for Interim Release', 10 October 2025.
59 ICC, Appeals Chamber, Public Redacted Version of "Appeal Brief on Interim Release", 28 October 2025.
60 ICC, Appeals Chamber, 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'", 28 November 2025.

FALSE

DUTERTE, IF CONVICTED, WILL SERVE HIS SENTENCE IN THE PHILIPPINES.

TRUE

IF DUTERTE IS CONVICTED, THE COURT WILL DECIDE WHERE HE MAY SERVE HIS SENTENCE.

Under the Rome Statute, if a defendant is convicted and sentenced to imprisonment, the ICC may choose a country from a list of countries willing to accept the convicted person. The ICC's Rules of Procedure and Evidence require the Court to take into consideration the principle that Member States of the ICC have a shared responsibility to enforce sentences of terms of imprisonment.[61]

The Rome Statute does not explicitly prohibit non-States Parties from being designated as countries where defendants can serve their sentences of imprisonment. However, all individuals convicted by the ICC to date have served or are serving their sentences in countries that are parties to the Rome Statute.[62] Further, only two convicted persons have served their sentences in their home countries. In 2015, at their own request, Thomas Lubanga Dyilo and Germain Katanga were transferred to the Democratic Republic of Congo, their country of nationality, to serve their sentences.[63] The ICC Presidency granted their request for transfer to the DRC after an agreement was signed with the DRC in which it accepted that they serve the remainder of their sentence there, and agreed to allow inspection of prison conditions by the International Committee of the Red Cross.[64]

It remains to be determined whether Duterte, if convicted, could serve his sentence of imprisonment in The Philippines if such a request were to be made.

FALSE

IF YOU APPLY TO PARTICIPATE IN THE PROCEEDINGS AS A VICTIM, YOUR NAME WILL BE DISCLOSED TO DUTERTE AND HIS LEGAL TEAM.

TRUE

VICTIMS CAN REMAIN ANONYMOUS THROUGHOUT THE PROCEEDINGS.

According to the Court's practice, victims who participate in the proceedings, but do not testify as witnesses, remain anonymous to the Defence at all times. Unless the Judges decide otherwise, their names and any other identifying information are not disclosed. Under the current system used by the Court to assess victims' applications for participation (the so called 'A-B-C- system') in the proceedings through a lawyer, only those applications that raise legal questions for the Chamber to determine, specifically unclear applications falling under Group C, will be shared with the defence, but only in redacted form, meaning that all information that could identify the victims or other third parties mentioned in the form is removed. Victims' applications assessed by the Registry to be clearly within or outside the scope of the case (Groups A and B) are transmitted solely to the Judges.

A very small number of victims who are also called to testify as witnesses in an eventual trial are treated differently. Their identities will eventually be disclosed to the Defence. All testimony is given voluntarily, and once any necessary protection measures are in place.

61 Chapter 12, Rules of Procedure and Evidence.
62 Individuals convicted by the ICC include Dominic Ongwen (serving sentence in Norway), Bosco Ntaganda (Belgium), Thomas Lubanga (Democratic Republic of Congo), Germain Katanga (Democratic Republic of Congo), and Ahmad Al Faqi Al Mahdi (United Kingdom). Source: ICC, Cases.
63 ICC, Thomas Lubanga Dyilo and Germain Katanga transferred to the DRC to serve their sentences of imprisonment, 19 December 2015.
64 ICC The Presidency, Decision designating a State of enforcement, ICC-01/04-01/06, 8 December 2015, p. 4, 8 December 2015.

The Court has mechanisms to protect both participating victims and witnesses, but the nature and extent of protection depends on their role in the case and the level of risk they face.

For victims seeking to participate in the proceedings through a lawyer, the VPRS anonymises application forms submitted by victims.[65] If the case proceeds to trial and the victim is not a witness, the main protection is continued redaction of their identity in any documents that are disclosed. These victims remain anonymous and are not required to appear in court. If the victim is also a witness and their identity must therefore be disclosed to the defence, stronger protection measures may be applied depending on the risks involved. These may include:

- Testifying anonymously or in closed (non-public) sessions;
- Psychosocial support;
- Protective measures for family members;
- Relocation to a safer location or country in extreme cases.

FALSE

IF SARA DUTERTE IS ELECTED PRESIDENT, SHE CAN NEGOTIATE WITH THE ICC TO DROP THE CHARGES AND STOP THE PROCEEDINGS AGAINST DUTERTE.

TRUE

THE ICC IS AN INDEPENDENT JUDICIAL BODY AND IS NOT SUBJECT TO POLITICAL CONTROL OR NEGOTIATION.

The ICC is an independent court whose mandate is exclusively judicial, not political. Its decisions are based on the Rome Statute, its Rules of Procedure and Evidence and international legal principles. These decisions are rendered by independent and impartial judges. The judges, in applying these rules, must not be swayed by political interference from The Philippines, other countries, or other actors or persons.

The ICC's legal framework is designed to ensure that everyone prosecuted before the Court, including Duterte, will be given an impartial and fair trial, free from political interference.

65 ICC, Information for Victims.

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