



Original: English

No. ICC-01/21-01/25

Date: 16 October 2025

PRE-TRIAL CHAMBER I

Before:

**Judge Iulia Antoanella Motoc, Presiding
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

Public redacted version of ‘Decision on the appointment of experts for the purpose of a medical examination pursuant to rules 113 and 135 of the Rules of Procedure and Evidence and related matters’, 24 September 2025, ICC-01/21-01/25-279-Conf

Decision to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

☒ The Office of the Prosecutor

☒ Counsel for the Defence

☐ 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

Mr Osvaldo Zavala Giler

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☒ Detention Section

☐ Victims Participation
and Reparations Section

☒ Other

[REDACTED]

[REDACTED]

[REDACTED]

PRE-TRIAL CHAMBER I of the International Criminal Court issues the present decision on the appointment of experts for the purpose of a medical examination pursuant to rules 113 and 135 of the Rules of Procedure and Evidence (the ‘Rules’) and related matters.

I. Procedural history

1. On 18 August 2025, the Defence filed the ‘Defence Request for an Indefinite Adjournment’,¹ requesting that the Chamber (i) order ‘that all legal proceedings, including the hearing on the confirmation of charges, be adjourned indefinitely’; or, in the alternative, (ii) ‘convene a status conference for the purpose of litigating whether the Chamber should, if at all, exercise its discretion pursuant to Rules 113, 135(1), and 135(3) of the Rules of Procedure and Evidence’.
2. On 26 August 2025, the Chamber issued the ‘Order to the Registry for a report from the Medical Officer of the Detention Centre’.²
3. On 27 August 2025, the Defence requested reconsideration of the 26 August 2025 Order.³
4. On 2 September 2025, the Registry filed the ‘Registry Report on the Assessment by the Medical Officer of the Detention Centre’.⁴
5. On 8 September 2025, the Chamber, by majority, Judge María del Socorro Flores Liera dissenting, postponed the hearing on the confirmation of charges until further notice pursuant to rule 121(7) of the Rules.⁵
6. On the same day, the Chamber, by majority, Judge María del Socorro Flores Liera dissenting, issued the ‘Order pursuant to rules 113 and 135 of the Rules of Procedure and Evidence’⁶ (i) rejecting the Defence Reconsideration Request; (ii) instructing the Registry to submit a shortlist of experts to conduct a medical examination by no later than 15 September 2025; and (iii) inviting the parties and participants to submit observations on the Registry’s shortlist by no later than 18 September 2025.
7. On 15 September 2025, the Registry filed the ‘Registry Submission of a Shortlist of Medical Experts pursuant to ICC-01/21-01/25-268-Conf’,⁷ submitting that, ‘[h]aving regard to

¹ ICC-01/21-01/25-230-Conf, with confidential annexes A, B.

² ICC-01/21-01/25-243-Conf.

³ ICC-01/21-01/25-244-Conf.

⁴ ICC-01/21-01/25-263-Conf, with confidential *ex parte* annex.

⁵ Decision postponing the hearing on the confirmation of charges, ICC-01/21-01/25-267.

⁶ ICC-01/21-01/25-268-Conf (the ‘8 September 2025 Order’).

⁷ ICC-01/21-01/25-270-Conf, with confidential annexes I and II (the ‘Registry Shortlist Submission’).

the information available on the record and the advice of the [Medical Officer]’, (i) ‘it recommends that a panel including the following types of experts may assist the Chamber: an expert in forensic psychiatry, neurology and elderly care medicine’; and (ii) it identified and shortlisted in Annex II (the ‘Registry’s Shortlist’) eleven experts that are on the List of Experts of the ICC (the ‘List of Experts’). The Registry also refers to one expert who is currently not on the List of Experts but who has expertise in neurology, noting that ‘the List of Experts did not include a neurologist and this area of expertise was considered relevant to assist the Chamber in the current matter’.

8. On 18 September 2025, the Prosecution filed its observations on the Registry Shortlist Submission,⁸ indicating that it ‘supports the appointment of a multidisciplinary panel of experts’ and suggesting ‘that it should consist of at least three experts in the fields of forensic psychiatry, neuropsychology, and behavioural neurology’. In particular, it recommends the appointment ‘of (i) [REDACTED] (or, alternatively of [REDACTED] if [REDACTED] becomes unavailable), as a forensic psychiatrist, (ii) of [REDACTED] as neuropsychologist, and (iii) of [REDACTED] as behavioural neurologist’. Additionally, or alternatively, it recommends ‘[REDACTED] and/or [REDACTED]’.

9. On the same day, the Defence filed its observations on the Registry Shortlist Submission,⁹ asserting that ‘[t]he Defence has already submitted the expertise that it believes appropriate, and other than corroboration, it is not clear why further expertise is required’. Notwithstanding, the Defence suggests three experts that, in its view, are ‘best suited to provide independent expertise’ as per recommendation of two external medical practitioners. The Defence further suggests that ‘at the appropriate time, a hearing be held in which any expert appointed by the Chamber and the parties is subject to forensic examination, and that the parties be permitted to present submissions – oral or written – subsequent to such hearing’.

10. On the same day, the Office of Public Counsel for Victims (‘OPCV’) filed its observations on the Registry Shortlist Submission,¹⁰ agreeing with the Prosecution that ‘a panel of experts [...] with expertise in forensic psychiatry, neuropsychology, and behavioural neurology should be appointed’, but disagreeing with ‘the appointment of an expert in

⁸ Prosecution’s Observations on the “Registry Submission of a Shortlist of Medical Experts pursuant to ICC-01/21-01/25-268-Conf” (ICC-01/21-01/25-270-Conf), ICC-01/21-01/25-276-Conf (the ‘Prosecution Observations’).

⁹ Defence Observations on Registry Submission ICC-01/21-01/25-270-Conf, ICC-01/21-01/25-274-Conf (the ‘Defence Observations’).

¹⁰ Observations on behalf of Victims on the “Registry Submission of a Shortlist of Medical Experts pursuant to ICC-01/21-01/25-268-Conf”, ICC-01/21-01/25-275-Conf.

gerontology as suggested by the Registry'. In particular, the OPCV indicates that [REDACTED], [REDACTED], and [REDACTED] possess relevant credentials and expertise.

II. Determination

11. As a preliminary matter, the Chamber notes that a substantial portion of the Defence Observations are devoted to unsolicited submissions regarding the procedure that may follow after the medical examination is carried out and the experts' medical reports submitted, suggesting *inter alia* to hold a hearing and to permit submissions from the parties. These observations are premature at this stage of the proceedings and the Chamber will not consider them further.

A. Appointment of medical experts

12. At the outset, the Chamber clarifies that, in appointing experts, it will only consider those who are included in the Registry's Shortlist and have indicated their availability for the assignment. Emphasising the need 'to ensure the shortlisted experts' impartiality and neutrality', the 8 September 2025 Order did not invite or instruct the parties and participants to indicate additional experts for appointment: the Chamber will therefore disregard the suggestions made in that regard by the Prosecution and the Defence,¹¹ and instructs the Registry not to further act on their basis.

13. With regard to the required qualifications and expertise of the shortlisted experts, in light of the information provided in the Registry Shortlist Submission and related annexes based on the factors enumerated by the Chamber,¹² as well as the observations from the parties and participants thereon and the other relevant filings on the record, the Chamber considers that, in order for it to determine whether Mr Duterte is fit to take part in the pre-trial proceedings, it is appropriate to appoint a multidisciplinary panel composed of the following experts identified by the Registry:

- (i) [REDACTED], possessing expertise in forensic psychiatry;
- (ii) [REDACTED], possessing expertise in neuropsychology; and
- (iii) [REDACTED], possessing expertise in geriatric and behavioural neurology, and experience in 'the examination of an elderly person on fitness to participate in judicial proceedings'.

¹¹ See Prosecution Observations, para. 9; Defence Observations, paras 4-5.

¹² 8 September 2025 Order, paras 26-27.

14. The Chamber notes that [REDACTED] is currently not admitted to the Court's List of Experts. While this does not affect [REDACTED] medical ability to take up the present assignment, noting rules 113(2) and 135(3) of the Rules, the Chamber hereby instructs the Registry to expeditiously proceed with the admission of [REDACTED] to the List of Experts by no later than 26 September 2025.

15. In light of the above, the Chamber hereby appoints [REDACTED], [REDACTED] and, once admitted to the List of Experts, [REDACTED] (together, the 'Panel') for the purpose of undertaking the medical examination as detailed below.

B. Directions on the medical examination

16. The Chamber emphasises that the question of whether a suspect is fit to take part in the pre-trial proceedings is a question of law that falls exclusively within the remit of the Chamber's legal determination, and which does not depend, in and of itself, on whether the suspect has particular medical conditions, but rather on whether he or she is able to effectively exercise his or her procedural rights.

17. In light of the above, and in order for the Chamber to properly adjudicate on any issues as to Mr Duterte's fitness, the Chamber instructs the Panel to proceed with a medical examination of Mr Duterte and provide its assessment on the following issues:

- (i) whether and, if so, at what level Mr Duterte suffers from any medical condition which might have an effect on his ability to follow and take part in the ongoing pre-trial proceedings, including the confirmation of charges hearing; and
- (ii) whether any special measures or adjustments are recommended to address any medical condition of Mr Duterte, also in light of any prognosis, during the pre-trial proceedings, including the confirmation of charges hearing.

18. The Panel is therefore required to provide its assessment on the abovementioned issues for the purpose of assisting the Chamber's legal assessment by focusing *inter alia* on Mr Duterte's capacities which are necessary for the meaningful exercise of his procedural and fair trial rights, including the extent to which he is able to understand the charges, the evidence and the conduct, purpose and possible consequences of the pre-trial proceedings, and instruct Counsel for the preparation and conduct of his defence at the pre-trial stage.

19. The Chamber instructs the Registry to provide all necessary assistance and information to the Panel in order for it to undertake the medical examination.

20. In particular, the Registry, in consultation with the Medical Officer of the Detention Centre and in accordance with the applicable legal framework, shall provide the Panel with all relevant documents and materials, including: (i) Mr Duterte's medical record, including any new materials added to it following the issuance of the present decision; and (ii) all relevant filings on the case record.¹³ At this stage, and absent a request from the Panel to this effect, the Chamber does not deem it necessary to provide the Panel with the transcripts of phone calls, public statements of individuals who recently interacted with Mr Duterte or public recordings of Mr Duterte's speeches made shortly prior to his arrest.¹⁴

21. The Registry informed the Chamber that 'the medical file is currently partially in English and partially in the Dutch language', and provided an estimated timeframe for the translation process.¹⁵ The Chamber notes that [REDACTED] has indicated that [REDACTED] understands the Dutch language, while [REDACTED] and [REDACTED] have not. Therefore, the Chamber hereby instructs the Registry to: (i) immediately transmit the medical record, with its constituting materials in their original language, to the Panel; and (ii) translate the relevant materials comprised in the medical record from Dutch into English by no later than 10 October 2025, and transmit such translated materials to the Panel on a rolling basis. The Chamber further instructs the Registry to ensure that any new materials added to the medical record following the issuance of the present decision are expeditiously translated, if need be, and transmitted to the Panel.

22. The Chamber instructs the Panel to only utilise the information it receives for the purpose of formulating its reports, and orders it not to divulge any information without prior approval of the Chamber. Moreover, in order to maintain the impartiality of the Panel, the parties and participants shall refrain from any contact with the appointed experts.

23. The Panel shall provide the Registry with a report, jointly to the extent possible and as considered appropriate. The joint or individual reports of the Panel shall be filed on the record by the Registry by no later than 31 October 2025. The Registry is instructed to liaise with the Defence so as to address any potential issues regarding the confidentiality of the information contained in the report(s) and, as applicable, either file the report(s) as confidential or with

¹³ See ICC-01/21-01/25-199-Conf-AnxA; ICC-01/21-01/25-199-Conf-AnxB; ICC-01/21-01/25-199-Conf-AnxC; ICC-01/21-01/25-230-Conf; ICC-01/21-01/25-230-Conf-AnxA; ICC-01/21-01/25-230-Conf-AnxB; ICC-01/21-01/25-253-Conf; ICC-01/21-01/25-257-Conf-Exp; ICC-01/21-01/25-263-Conf-Exp; ICC-01/21-01/25-263-Conf-Exp-Anx1.

¹⁴ Contra Prosecution Observations, para. 16.

¹⁵ Registry Submission, para. 30.

confidential redacted version(s). Redactions shall not be applied to findings, conclusions or recommendations which relate to Mr Duterte's ability to follow and take part in the pre-trial proceedings.

24. The Defence, the Prosecution and the OPCV may file observations of up to 10 pages on the Panel's report(s) by no later than 5 November 2025, bearing in mind that, following the 8 September 2025 Order and the triggering of the procedure set out under rules 113 and 135 of the Rules, no further submissions on the merits of Mr Duterte's health situation are expected from the parties.

FOR THESE REASONS, THE CHAMBER HEREBY

ORDERS that a medical examination of Mr Duterte be conducted in accordance with the present decision;

APPOINTS [REDACTED], [REDACTED] and, once admitted to the List of Experts, [REDACTED], to constitute a Panel to undertake the aforementioned medical examination;

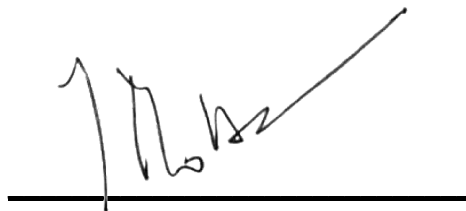
INSTRUCTS the Registry to proceed with the admission of [REDACTED] to the List of Experts by no later than 26 September 2025;

INSTRUCTS the Registry to make the necessary arrangements and provide all necessary assistance to facilitate the conduct of the examination, pursuant to paragraphs 19-21 above;

INSTRUCTS the Panel to submit a report, jointly to the extent possible and as considered appropriate, to the Registry, which shall then file the joint or individual reports of the Panel by no later than 31 October 2025, in accordance with paragraph 23 above; and

ORDERS the Defence, the Prosecution and the OPCV to file observations, if any, on the Panel's report(s) by no later than 5 November 2025, in accordance with paragraph 24 above.

Done in English. A French translation will follow. The English version remains authoritative.



Judge Iulia Antoanella Motoc, Presiding



**Judge Reine Adélaïde Sophie Alapini-
Gansou**



Judge María del Socorro Flores Liera

Dated this Thursday, 16 October 2025

At The Hague, The Netherlands