

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

No.: **ICC-01/21-01/25**
Date: **10 November 2025**

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

Public redacted version of “Prosecution’s Observations on the “Registry’s Second Observations on ‘Defence Request for the Disqualification of [REDACTED]’, ICC-01/21-01/25-280-Conf, 25 September 2025” (ICC-01/21-01/25-293-Conf) and on “Registry Submission of a Shortlist of Experts in Neuropsychology pursuant to ICC-01/21-01/25-288-Conf” (ICC-01/21-01/25-294-Conf)”, 15 October 2025, ICC-01/21-01/25-301-Conf

Source: Office of the Prosecutor

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I. INTRODUCTION

1. Pursuant to the Chamber's instructions of 13 October 2025,¹ the Prosecution provides its observations on (i) the "Registry's Second Observations on "Defence Request for the Disqualification of [REDACTED]", ICC-01/21-01/25-280-Conf, 25 September 2025"² and on (ii) the "Registry Submission of a Shortlist of Experts in Neuropsychology pursuant to ICC-01/21-01/25-288-Conf".³

2. The Prosecution maintains its position⁴ that [REDACTED] appointment to the panel of experts ("Panel") should be revoked in light of previous,⁵ as well as additional,⁶ information that she is under an ongoing suspension [REDACTED]. The Prosecution further submits that the Chamber should immediately appoint another neuropsychologist recommended by the Registry⁷ to replace [REDACTED] in the Panel. It is the Prosecution's view that [REDACTED] or, alternatively, [REDACTED] and/or [REDACTED], or [REDACTED], would be particularly suitable candidates in this specific case. The appointed neuropsychologist's inclusion in the Registry's List of Experts should be expedited.

II. CONFIDENTIALITY

3. Pursuant to regulation 23*bis*(2) of the Regulations of the Court, this document is filed as "Confidential", as it responds to submissions of the same classification.

III. PROSECUTION'S SUBMISSIONS

a. [REDACTED] appointment to the Panel should be revoked

4. As previously stated,⁸ [REDACTED] appointment to the Panel should be revoked because she is under an ongoing suspension [REDACTED]. Additional information provided by the Registry further clarifies that, as a result of the suspension "[REDACTED] is currently unable

¹ Chamber's e-mail dated 13 October 2025 at 10:38.

² Registry's Second Observations on "Defence Request for the Disqualification of [REDACTED]", ICC-01/21-01/25-280-Conf, 25 September 2025, ICC-01/21-01/25-293-Conf ("Registry's Second Observations").

³ Registry Submission of a Shortlist of Experts in Neuropsychology pursuant to ICC-01/21-01/25-288-Conf, ICC-01/21-01/25-294-Conf ("Registry's Shortlist of Neuropsychologists").

⁴ Prosecution's Response to the "Defence Request for the Disqualification of [REDACTED]" (ICC-01/21-01/25-280-Conf), ICC-01/21-01/25-284-Conf, paras. 1, 4, and 9.

⁵ Defence Request for the Disqualification of [REDACTED], ICC-01/21-01/25-280-Conf, paras. 10-11 and its Annexes A-C.

⁶ Registry's Second Observations, ICC-01/21-01/25-293-Conf, paras. 21, 24.

⁷ Registry's Shortlist of Neuropsychologists, ICC-01/21-01/25-294-Conf, para. 15; *see also* Annex I to the Registry's Shortlist of Neuropsychologists, ICC-01/21-01/25-294-Conf-AnxI, and Annex II to the Registry's Shortlist of Neuropsychologists, ICC-01/21-01/25-294-Conf-AnxII.

⁸ Prosecution's Response to the "Defence Request for the Disqualification of [REDACTED]" (ICC-01/21-01/25-280-Conf), ICC-01/21-01/25-284-Conf, paras. 1, 4, and 9.

to practice [REDACTED]” and that “the allegations against [REDACTED] relate to breaches of patient confidentiality and concerns regarding threatening, harassing and coercive behaviour”.⁹ Furthermore, it is estimated that a final determination of this matter will only take place “in [REDACTED] 2026”.¹⁰

5. Given [REDACTED] ongoing suspension, the serious nature of the allegations against her, and the timeframe envisaged for the resolution of the relevant domestic proceedings, the Prosecution maintains that her appointment to the Panel should be revoked.

b. Observations regarding specific experts in neuropsychology

6. The Chamber should appoint one of the other experts recommended by the Registry to replace [REDACTED] in the Panel as soon as possible. While all six experts recommended by the Registry seem to possess the necessary qualifications, it is the Prosecution’s view that [REDACTED] or, alternatively, [REDACTED] and/or [REDACTED], or [REDACTED] would be most suitable for appointment to the Panel tasked with assessing Mr. Duterte’s fitness.

7. [REDACTED] is a highly experienced neuropsychologist¹¹ with extensive experience in providing legal medical reports and expert witness testimony to judicial bodies in multiple jurisdictions.¹² His CV states, *inter alia*, that he receives “[REDACTED]” and that he has “[REDACTED]”.¹³ Although [REDACTED] indicates that he would only be available after 9 November 2025,¹⁴ he also provides a very concise estimate of the time necessary to produce his report,¹⁵ minimising any resulting delays. The Registry should be directed to request [REDACTED] to inform them, should an opportunity for him to commence the assignment arise sooner.

8. [REDACTED] and [REDACTED] CVs demonstrate expertise in assessing mental capacity in forensic contexts¹⁶ and their individual, or joint, expertise would be valuable. In

⁹ Registry’s Second Observations, ICC-01/21-01/25-293-Conf, para. 24.

¹⁰ Registry’s Second Observations, ICC-01/21-01/25-293-Conf, para. 24.

¹¹ Annex II to the Registry’s Shortlist of Neuropsychologists, ICC-01/21-01/25-294-Conf-AnxII, p. 92-94.

¹² Annex I to the Registry’s Shortlist of Neuropsychologists, ICC-01/21-01/25-294-Conf-AnxI, p. 4; Annex II to the Registry’s Shortlist of Neuropsychologists, ICC-01/21-01/25-294-Conf-AnxII, p. 94.

¹³ Annex II to the Registry’s Shortlist of Neuropsychologists, ICC-01/21-01/25-294-Conf-AnxII, p. 94.

¹⁴ Annex I to the Registry’s Shortlist of Neuropsychologists, ICC-01/21-01/25-294-Conf-AnxI, p. 4.

¹⁵ Annex I to the Registry’s Shortlist of Neuropsychologists, ICC-01/21-01/25-294-Conf-AnxI, p. 4, where [REDACTED] states that his assessment “[REDACTED]” and “[REDACTED]”.

¹⁶ Annex II to the Registry’s Shortlist of Neuropsychologists, ICC-01/21-01/25-294-Conf-AnxII, p. 82-87.

particular, [REDACTED] CV indicates that her tasks included, “[REDACTED]”¹⁷ and “[REDACTED]”.¹⁸ [REDACTED] CV also contains references to particularly relevant experience, including “[REDACTED]”.¹⁹ These experts’ joint nomination may enhance the impartiality of the assessment. The Prosecution notes that they indicated availability from 30 October to 2 November 2025, with the assessment that a report “[REDACTED]”.²⁰

9. [REDACTED] also appears to possess the necessary skills and competencies. His CV reflects work experience primarily in [REDACTED].²¹ He has experience in, *inter alia*, “[REDACTED]”.²² The Prosecution however also notes that [REDACTED] would only be available in “[REDACTED]” and does not provide an estimate of the time needed to produce his report.²³

10. In relation to [REDACTED], the Prosecution notes that, while he is a qualified neuropsychologist, he appears to be primarily focused on child neuropsychology.²⁴ Further, the reference to “[REDACTED]”²⁵ he provides, which is mentioned in Annex I to the Registry’s Shortlist of Neuropsychologists, would benefit from additional details in order to assess whether it is sufficiently relevant to the specific nature of this case.

11. Finally, in relation to [REDACTED], the Prosecution observes that he is a highly qualified expert in the field of neuropsychology, with extensive experience, including in providing expert testimony and reports to judicial bodies.²⁶ However, the Prosecution also notes that both [REDACTED]²⁷ and Defence expert [REDACTED],²⁸ are affiliated researchers of [REDACTED].²⁹ Given the possibility that criticism of the Defence expert reports may be part of the appointed experts’ assessment, it may be advisable to appoint experts who are not affiliated with [REDACTED] as the Defence expert, in order to mitigate any potential perception of bias.

¹⁷ Annex II to the Registry’s Shortlist of Neuropsychologists, ICC-01/21-01/25-294-Conf-AnxII, p. 82.

¹⁸ Annex II to the Registry’s Shortlist of Neuropsychologists, ICC-01/21-01/25-294-Conf-AnxII, p. 83.

¹⁹ Annex II to the Registry’s Shortlist of Neuropsychologists, ICC-01/21-01/25-294-Conf-AnxII, p. 85.

²⁰ Annex I to the Registry’s Shortlist of Neuropsychologists, ICC-01/21-01/25-294-Conf-AnxI, p. 3.

²¹ Annex II to the Registry’s Shortlist of Neuropsychologists, ICC-01/21-01/25-294-Conf-AnxII, p. 95-97.

²² Annex II to the Registry’s Shortlist of Neuropsychologists, ICC-01/21-01/25-294-Conf-AnxII, p. 95.

²³ Annex I to the Registry’s Shortlist of Neuropsychologists, ICC-01/21-01/25-294-Conf-AnxI, p. 4.

²⁴ Annex II to the Registry’s Shortlist of Neuropsychologists, ICC-01/21-01/25-294-Conf-AnxII, p. 88-90.

²⁵ Annex I to the Registry’s Shortlist of Neuropsychologists, ICC-01/21-01/25-294-Conf-AnxI, p. 4.

²⁶ Annex I to the Registry’s Shortlist of Neuropsychologists, ICC-01/21-01/25-294-Conf-AnxI, p. 2; Annex II to the Registry’s Shortlist of Neuropsychologists, ICC-01/21-01/25-294-Conf-AnxII, p. 2-81.

²⁷ [REDACTED] (last accessed on 15 October 2025); [REDACTED] (last accessed on 15 October 2025).

²⁸ [REDACTED] (last accessed on 15 October 2025); [REDACTED] (last accessed on 15 October 2025).

²⁹ [REDACTED] (last accessed on 15 October 2025); [REDACTED] (last accessed on 15 October 2025).

IV. CONCLUSION

12. For the above reasons, the Prosecution requests the Chamber to: (i) revoke [REDACTED] appointment to the Panel, and (ii) immediately appoint another neuropsychologist recommended by the Registry³⁰ to the Panel. The Prosecution submits that [REDACTED] or, alternatively, [REDACTED] and/or [REDACTED], or [REDACTED], would be most suitable candidates for this specific Panel. The appointed expert's inclusion in the Registry's List of Experts should be expedited.

A handwritten signature in black ink, appearing to read 'Mame Mandiaye Niang', written over a horizontal line.

Mame Mandiaye Niang, Deputy Prosecutor

Dated this 10th day of November 2025

At The Hague, the Netherlands

³⁰ Registry's Shortlist of Neuropsychologists, ICC-01/21-01/25-294-Conf, para. 15; *see also* Annex I to the Registry's Shortlist of Neuropsychologists, ICC-01/21-01/25-294-Conf-AnxI, and Annex II to the Registry's Shortlist of Neuropsychologists, ICC-01/21-01/25-294-Conf-AnxII.