

**Cour
Pénale
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**International
Criminal
Court**

Original: **English**

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

Date of original:

25 September 2025

Date: **7 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

With Confidential Annexes A, B and C

**Public Redacted Version of “Defence Request for the Disqualification of
[REDACTED]” (ICC-01/21-01/25-280-Conf)**

Source: Defence for Mr Rodrigo Roa Duterte

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

☒ The Office of the Prosecutor

☒ Counsel for the Defence
Duterte Defence Team

☐ 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

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REGISTRY

Registrar
Osvaldo Zavala Giler

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☒ Detention Section

☐ Victims Participation and
Reparations Section

☐ Other

I. INTRODUCTION

1. On 24 September 2025, the Pre-Trial Chamber appointed Dr [REDACTED] to act as an expert neuropsychologist on a panel intended to assess Mr Duterte's fitness to take part in the pre-trial proceedings.¹ This appointment should be revoked immediately.

II. PROCEDURAL HISTORY

2. On 18 August 2025, the Defence filed a request for indefinite adjournment of legal proceedings on the basis of Mr Duterte's unfitness to stand trial as a result of cognitive impairment. The Defence requested, in the alternative, that the Pre-Trial Chamber convene a status conference to decide whether it should exercise its discretion under Rules 113, 135(1), and 135(3).²
3. On 8 September 2025, the Chamber ordered the Registry to submit a shortlist of experts to assess whether and to what degree Mr Duterte suffers from any medical condition potentially affecting his ability to participate in the legal proceedings, including the confirmation of charges hearing, and whether the medical condition could be addressed by any special measures or adjustments.³
4. After email consultation with the parties on 12 September 2025, in which the Prosecution indicated it "favoured" Dr [REDACTED], Dr [REDACTED], and

¹ 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, [ICC-01/21-01/25-279-Conf](#), 24 September 2025 ("[Decision on the Appointment of Experts](#)"), para. 13 (ii). This submission is classified as **confidential** pursuant to Regulation 23bis(1) of the [Regulations of the Court](#) as it refers to confidential, or identifying, information as well as to submissions bearing the same classification. The Defence will file a public redacted version if so ordered by the Pre-Trial Chamber. All references to "Article" or "Rule" are to the Rome Statute and the ICC Rules of Procedure and Evidence, respectively, unless otherwise indicated.

² Defence Request for an Indefinite Adjournment, [ICC-01/21-01/25-230-Conf](#), 18 August 2025 ("[Request for Indefinite Adjournment](#)"), paras. 35-36.

³ Order pursuant to rules 113 and 135 of the Rules of Procedure and Evidence, [ICC-01/21-01/25-268-Conf](#), 8 September 2025 ("[Order](#)"), para. 24.

Dr [REDACTED],⁴ the Registry submitted on 15 September 2025 the shortlist of medical experts, which included Dr [REDACTED].⁵

5. The Defence, for its part, indicated that “it should not be understood that the Defence endorses the suitability of any one of the experts identified to provide the expertise sought”.⁶ This declaration was made because the time afforded the parties – a mere three days – was insufficient for the Defence to obtain the documentary proof necessary to substantiate this present request.⁷
6. On 24 September 2025, after instructing the Registry not to act upon the parties’ recommendations for additional experts,⁸ the Chamber appointed Dr [REDACTED], Dr [REDACTED], and Dr [REDACTED] – all of whom, [REDACTED], were suggested by the Prosecution.⁹

III. APPLICABLE LAW

7. Regulation 56 of the Regulations of the Registry outlines the procedure for the application and acceptance of experts onto the list of experts,¹⁰ including the type of documentation that must be furnished by the expert to validate their qualifications and expertise in their field. While the Registrar must verify the

⁴ Email, Prosecution to Registry and Defence, “Registry consultation pursuant to Order on experts”, 12 September 2025, 15:57 (“the Prosecution would be in favour of proposing the following experts for appointment into the Panel”).

⁵ Registry Submission of a Shortlist of Medical Experts pursuant to ICC-01/21-01/25-268-Conf, [ICC-01/21-01/25-270-Conf](#), 15 September 2025 (“[Registry Shortlist](#)”), para. 13.

⁶ Defence Observations on Registry Submission ICC-01/21-01/25-270-Conf, [ICC-01/21-01/25-274-Conf](#), 18 September 2025 (“[Defence Observations](#)”), para. 2.

⁷ [Order](#), paras. 24 (“[t]he Majority therefore orders the Registry to submit to the Chamber, by no later than **15 September 2025**, a shortlist of experts”); 28 (“[t]he Defence, the Prosecution and the OPCV shall submit observations, if they so wish, on the shortlist of experts submitted by the Registry by no later than **18 September 2025**”) (our emphasis).

⁸ [Decision on the Appointment of Experts](#), para. 12 (“the Chamber will therefore disregard the suggestions made in that regard by the Prosecution and the Defence, and instructs the Registry not to further act on their basis”).

⁹ [Decision on the Appointment of Experts](#), para. 13.

¹⁰ Regulations of the Registry, [Regulation 56](#).

information, it is incumbent on an expert already on the list to “immediately inform the Registrar” of any changes thereto.¹¹

8. A decision by the Chamber as to whether a person is an expert is discretionary.¹² A party is entitled to request, and the Chamber empowered, to remove an expert whose qualifications are in doubt. Established Court practice allows parties to raise objections to proposed expert witnesses at an early stage,¹³ while the Chambers Practice Manual suggests that issues on “experts and related procedure, including instruction of experts”, should be determined at the first status conference.¹⁴ Chambers have also found it efficient and appropriate to seek submissions by the parties in relation to contested experts, prior to the expert’s appearance, if any, before the Court.¹⁵

¹¹ Regulations of the Registry, [Regulation 56\(5\)](#) (“[a]n expert already included in the list of experts **shall** immediately inform the Registrar of any changes in relation to the information he or she provided”) (emphasis added).

¹² *Ruto & Sang*, Decision on Sang Defence Application to exclude Expert Report of Mr Hervé Maupeu, [ICC-01/09-01/11-844](#), 7 August 2013, para. 12. See also Regulations of the Court, [Regulation 44\(1\)](#).

¹³ *Al Hassan*, Directions on the conduct of proceedings, [ICC-01/12-01/18-789-AnxA](#), para. 68 and 70 (“[o]bjections, if any, shall be filed within 10 days of notification of any such application and shall set out [...] any challenge to the [...] expert’s report; [...] any challenge to the qualifications of a witness as an expert [...]). See also *Ntaganda*, Decision on the conduct of proceedings, [ICC-01/04-02/06-619](#), 2 June 2015 (“[Ntaganda Conduct of Proceedings Decision](#)”).

¹⁴ See [Chambers Practice Manual](#), paras. 73, 74(iv).

¹⁵ *Ntaganda*, Order requesting parties’ submissions on expert witnesses, [ICC-01/04-02/06-994](#), 10 November 2015, para. 8 (“[t]he Chamber further recalls that it may entertain a pre-submission objection, should it consider that the proceedings would be more efficient when litigating admissibility in advance of submission. In the present circumstances, the Chamber considers it appropriate to seek the parties’ submissions in relation to the Contested Experts and their reports, prior to their appearance before the Court). See also [Ntaganda Conduct of Proceedings Decision](#), paras. 37-38 (allowing the Defence to file a notice challenging the qualifications of the witnesses as an expert).

IV. SUBMISSIONS

9. The Defence does not accept that the list of experts managed by the Registry is, in any way, independent, neutral, or comprised of individuals possessing the necessary expertise required to assess Mr Duterte's fitness to stand trial.¹⁶
10. Putting aside the integration of the philosophy of [REDACTED] into her current practice and the fact that she describes herself as a "clinical psychotherapist",¹⁷ the appointment of Dr [REDACTED] to an expert panel by this Pre-Trial Chamber is nothing short of alarming. Dr [REDACTED] is presently under active suspension by the [REDACTED] – the adjudicatory arm of the [REDACTED]¹⁸ – which makes independent decisions about whether health professionals are fit to practice.¹⁹ Adjudication (including suspension) by the [REDACTED] takes place pursuant to a legal process, which is itself only instituted **after** an independent investigation by the [REDACTED]. The [REDACTED] is a regulatory body, with which those who work in health and care professions in [REDACTED] (including practitioner psychologists) **must**, by law, be registered. Notably, the [REDACTED]'s stated mission is to regulate the standards of care in order to "protect the public".²⁰

¹⁶ [Decision on the Appointment of Experts](#), para. 12 ("[e]mphasising the need 'to ensure the shortlisted experts' impartiality and neutrality'"). See also *Al Hassan*, Decision on Prosecution's proposed expert witnesses, [ICC-01/12-01/18-989-Red](#), 5 August 2020, para. 14 ("[t]he Chamber considers that expert witnesses are persons 'who, by virtue of some specialised knowledge, skill or training can assist the Chamber in understanding or determining an issue of a technical nature that is in dispute'"). See also para. 16 ("[t]he Chamber must consider whether: (i) the witness is an expert as defined above; (ii) the testimony in the subject area of expertise would be of assistance to the Chamber; (iii) the content of the report and/or the anticipated testimony falls within the area of expertise of the witness; and (iv) the content of the report and/or the anticipated testimony does not usurp the functions of the Chamber as the ultimate arbiter of fact and law").

¹⁷ [REDACTED].

¹⁸ The [REDACTED] is a regulator of health and care professions in [REDACTED] whose role is to protect the public, and with which all practitioner psychologists **must** be registered.

¹⁹ [REDACTED].

²⁰ [REDACTED].

11. Perhaps even more troublingly, Dr [REDACTED]'s suspension – first ordered on [REDACTED] – has been reviewed and upheld **four** times since,²¹ with the [REDACTED] recently extending the suspension for a further [REDACTED], until (at least) [REDACTED].²² None of this information, however, appears to have been reported to the ICC Registry by Dr [REDACTED] when it contacted her about a possible appointment.

12. The Defence is concerned that Dr [REDACTED] seems not to have informed the Registry of her ongoing suspension. The Defence is even more perturbed by the fact that the Prosecution, the OPCV, and even the Pre-Trial Chamber did not carry out a basic Google search on this individual, which would have revealed the fact of her current suspension. The Registry indicated in its observations of 15 September that all the experts it contacted, including Dr [REDACTED], had “confirmed their availability and interest to provide their respective expertise to the Chamber”.²³ This means that, when the ICC Registry reached out to Dr [REDACTED], at a time when she was under **active suspension**,²⁴ she not only failed to inform them of her suspension – as, presumably, would be her professional duty – but instead indicated that she was “immediately available” in the coming months.²⁵ This goes beyond passive omission and puts into question the standards adopted by the Registry to maintain an ongoing review of its experts.

²¹ See **Annex A**, [REDACTED].

²² See **Annex B**, [REDACTED].

²³ [Registry Shortlist](#), paras. 15-17. See also Annex II to 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-AnxII](#), 15 September 2025 (“[Annex II to the Registry Shortlist](#)”).

²⁴ Dr [REDACTED]'s suspension was extended by the [REDACTED] on [REDACTED] August 2025 until [REDACTED] May 2026. The decision was stamped on [REDACTED] August 2025, at least two weeks before the Registry contacted Dr [REDACTED] about the possibility of appointment as an ICC expert.

²⁵ [Annex II to the Registry Shortlist](#), p. 2.

13. All experts on the ICC List of Experts are supposed to “maintain high standards of professional and personal integrity”.²⁶ Appointed experts must meet the Court’s standards of impartiality and independence, and are obliged to fully disclose conflicts or material facts. An expert has a professional obligation to disclose any matters that could possibly affect his or her nomination. A failure to disclose such information can be legitimate grounds to challenge the expert’s reliability or removal from the appointed position, with serious professional misconduct possibly leading to disqualification or removal from the List entirely.²⁷
14. Dr [REDACTED]’s failure to disclose pertinent information reflects a lack of candour that raises substantial concerns in respect of her fitness to hold any position of trust. It suggests a willingness to obfuscate relevant facts and undermines any confidence one might otherwise have had in her integrity, ethical standards, and respect for regulatory obligations.
15. Dr [REDACTED] also appears not to have been responsive to the Registry’s follow-up communications.²⁸ Incidentally, she was the only one of the twelve experts with whom the Registry had to follow up; even so, she did not respond. Her lack of responsiveness, coupled with what could well be considered bad faith in failing to inform the Registry of her suspension, displays an absence of professionalism that should not be permitted at this Court.
16. Finally, the Defence notes that Dr [REDACTED] appears to harbour a certain degree of contempt for judicial processes, refusing to attend mandatory

²⁶ See ICC Webpage presentation on [Experts](#) wishing to be added on the List.

²⁷ See ICC Regulations of the Registry, [Regulation 56\(7\)](#) (“[t]he Registrar shall remove an expert from the list of experts where he or she: (a) [n]o longer meets the requirements under sub-regulation 1; (b) [h]as been found guilty of an offence against the administration of justice as described in article 70, paragraph 1; or (c) [h]as been permanently interdicted from exercising his or her functions before the Court in accordance with rule 171, sub-rule 3”).

²⁸ [Annex II to the Registry Shortlist](#), p. 2.

hearings despite having been properly served and notified. She indicated in an email to the [REDACTED] Panel investigating the professional allegations against her that she would not [REDACTED] and did “[REDACTED]”.²⁹

17. An expert suspended by a domestic regulatory board, and who displays such open contempt for judicial proceedings, should not be allowed to [REDACTED] the Registry’s List of Experts and cannot be permitted to provide expertise at the ICC. The Defence does not accept that expertise emanating from Dr [REDACTED] will be, as submitted by the Prosecution, of the utmost “objectivity, independence and quality”.³⁰ Indeed, given that the Chamber has chosen to ignore³¹ the Defence’s submissions on the relevant procedure for the fitness litigation, including the parties’ right to forensic examination,³² the Defence cannot be certain that the parties will ever be afforded the opportunity to test her credibility or evidence.
18. On this note, it is unclear as to why the Chamber is seeking extra expertise at all. Nothing in the Chamber’s reasoning justifies the provision of additional expertise other than an implicit reticence to accept expertise emanating from the Defence. This is also reflected in the attitude adopted by the Prosecution, which immediately opposed the medical opinions proffered by the Defence without having consulted any expert of its own.
19. Short of a hearing in which the entire panel is subject to forensic examination, it is entirely plausible that the Chamber risks drawing expertise on what is arguably the most important – and fair trial – issue from individuals who have not been thoroughly vetted. Dr [REDACTED] was subject to the same

²⁹ See **Annex C**, [REDACTED].

³⁰ Email, Prosecution to Registry and Defence, “Registry consultation pursuant to Order on experts”, 12 September 2025, 15:57.

³¹ [Decision on the Appointment of Experts](#), para. 11.

³² [Defence Observations](#), para. 14.

verification procedure as were the other experts; that is to say, one that depends on their own candour. Without extensive due diligence conducted on the entire panel – delaying proceedings yet further – the Chamber runs the same risk in respect of the other experts, especially if the relevant information is not accessible to the public.

20. In any event, Dr [REDACTED]'s failure to mention her disciplinary proceedings has far-reaching consequences beyond her own appointment. Should the Chamber be minded to review her suitability on the panel in light of the information provided herein, it will be necessary to seek the lifting of a gag order imposed by a foreign disciplinary panel. This will considerably delay the current proceedings without any guarantee that the disclosure sought will even be granted. This means the current deadlines will likely have to be postponed.³³ And while it is not he who bears responsibility for these delays, it is still Mr Duterte who will pay the price for someone else's dishonesty.
21. **Accordingly, the Defence reiterates its request that Mr Duterte be immediately afforded interim release while the specifics of the competency proceedings continue to be litigated.** Administrative delay should not occasion the continued abrogation of his liberty.³⁴ Once the panel of experts is finalised, the Defence will shoulder all expenses in respect of the Panel's travel to examine Mr Duterte.³⁵ Recognising the right to interim release while competency litigation is conducted will achieve the appropriate balance between respect for Mr Duterte's fundamental rights and the interests of

³³ [Decision on the Appointment of Experts](#), paras. 23-24.

³⁴ *Mbarushimana*, Reasons for "Decision on the appeal of the Prosecutor of 19 December 2011 against the 'Decision on the confirmation of the charges' and, in the alternative, against the 'Decision on the Prosecution's Request for stay of order to release Callixte Mbarushimana' and on the victims' request for participation" of 20 December 2011, ICC-01/04-01/10-483, 24 January 2012, para. 34 ("[a]ny delay for procedural reasons in the delivery of this admissibility decision could have an effect on the release of Mr Mbarushimana and potentially could jeopardize his fundamental right to liberty"). *See also* Defence Notification, [ICC-01/21-01/25-271-Conf](#), 16 September 2025 ("[Defence Notification](#)"), para. 5.

³⁵ *See generally* [Defence Notification](#).

justice. It will also ensure that Mr Duterte's pre-trial detention is not seen as punitive.

22. Incidentally, and on the issue of delay, the Defence notes the Prosecution's recent attempts at rewriting history by accusing it of deliberately delaying the fitness proceedings.³⁶ This is a deplorable allegation that ignores reality, especially since the Defence has, from the outset, continually apprised the Chamber and parties of Mr Duterte's declining cognitive condition.³⁷ Indeed, the first Defence communication to the Chamber on the issue was transmitted even before the initial appearance,³⁸ only to be downplayed by an unsubstantiated comment from the Pre-Trial Chamber that Mr Duterte is "fully mentally aware and fit".³⁹
23. The Defence has consistently acted diligently and in good faith, despite unreasonable bureaucratic hurdles hampering its efforts to secure the clinical examinations necessary for its expert reports or even just the results of Mr

³⁶ Prosecution's response to "Defence Notification" (ICC-01/21-01/25-271-Conf), [ICC-01/21-01/25-277-Conf](#), 18 September 2025, paras. 2 ("[t]he Defence has unnecessarily delayed the proceedings by waiting until five months after Mr Duterte's initial appearance, following the deadline for the Prosecution's pre-trial disclosure, the Document Containing the Charges and the Pre-Confirmation Brief, to file its challenge regarding his fitness to stand trial"); 4 ("[g]iven the significant delays caused by the Defence, it cannot now, in earnest, point to a potential five week delay to argue that the length of Mr Duterte's pre-trial detention militates in favour of his release").

³⁷ See in respect of *filings*: Defence Request for Reconsideration of Order ICC-01/21-01/25-243-Conf, [ICC-01/21-01/25-244-Conf](#), 27 August 2025 ("[Request for Reconsideration](#)"); Renewed Request for Interim Release, [ICC-01/21-01/25-231-Conf](#), 18 August 2025; [Request for Indefinite Adjournment](#); [Defence Notification](#); Urgent Defence Request for a Status Conference under rule 121(2)(b), [ICC-01/21-01/25-192-Conf](#), 14 July 2025 ("[Request for Status Conference](#)").

See also the following *email* communications: Defence to OPCV, "The Prosecutor vs. Rodrigo Roa Duterte: ICC-01/21-01/25-150-Conf-Exp + Conf-Exp-Anxs - Urgent Request for Interim Release", 14 June 2025, 9:47; Defence to Pre-Trial Chamber, "ICC-01/21-01/25: Duterte: ex parte Prosecution and Defence only: Competence", 5 June 2025, 14:53; Defence to Prosecution, "[REDACTED] - Preliminary Report", 4 June 2025, 12:11.

³⁸ Annex 7 to the Report on decisions and orders issued by way of email for the period February 2025 - April 2025, [ICC-01/21-01/25-133-Conf-Anx7](#), 14 May 2025, p. 5 (an email from Counsel to Pre-Trial Chamber I, "ICC-01/21-01/25 URGENT Request for Postponement of the Initial Appearance", 14 March 2025, 6:48, para. 7).

³⁹ Transcript of the initial appearance, [ICC-01/21-01/25-T-002-ENG](#), 14 March 2025, p. 8, lines 24-25.

Duterte's medical tests held at the Detention Centre.⁴⁰ The Defence requests for status conferences to determine the appropriate procedures to litigate competency have been reiterated no less than **four times**,⁴¹ which the Prosecution has either opposed⁴² or ignored.⁴³ The Prosecution cannot, now or ever, in good faith suggest that any fault lies with Mr Duterte or the Defence.

V. CONCLUSION AND RELIEF REQUESTED

24. The Defence requests the Pre-Trial Chamber to **REVOKE** the appointment of Dr [REDACTED] to the panel of independent ICC experts in light of her active and ongoing suspension in [REDACTED] by her professional regulatory body and [REDACTED].

⁴⁰ Urgent Defence Request to Obtain Mr Duterte's Medical Records, [ICC-01/21-01/25-182-Conf-Exp](#), 4 July 2025.

⁴¹ [Request for Reconsideration](#), para. 9 ("[t]he Defence also repeats its request that the Pre-Trial Chamber convene an immediate status conference to determine the appropriate procedure and timeline for litigating Mr Duterte's plea as to a lack of fitness to stand trial"); [Request for an Indefinite Adjournment](#), para. 36 ("[t]he Defence renews its request to 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"); [Defence Notification](#), para. 4 ("[f]or the sake of clarity, and in light of the newly received [REDACTED] information, the Defence formally notifies the Pre-Trial Chamber that it will raise the issue of [REDACTED] **as bar to the holding of a hearing on the confirmation of charges**. The status conference requested would facilitate the procedure for allowing this matter to be litigated appropriately") (emphasis in original); [Request for Status Conference](#), para. 8 ("[i]n light of the aforementioned, the Pre-Trial Chamber is respectfully requested to convene a status conference on or before 25 July 2025 to discuss issues affecting Mr Duterte's fitness to stand trial and to determine whether the current confirmation schedule remains practicable").

⁴² Prosecution's Response to the "Defence Request for an Indefinite Adjournment" (ICC-01/21-01/25-230-Conf), [ICC-01/21-01/25-253-Conf](#), 28 August 2025, para. 4 ("[t]he Chamber should also reject the Defence request, in the alternative, to "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)". Convening a status conference would further delay the adjudication of this issue") (internal footnote omitted); Prosecution's response to "Urgent Defence Request for a Status Conference under rule 121(2)(b)", [ICC-01/21-01/25-194-Conf](#), 15 July 2025, para. 7 ("the Prosecution requests that the Chamber reject the Defence's Request").

⁴³ The Prosecution did not submit a response to the Defence Notification nor did it address the Defence's request for a status conference in its response to the Defence's Request for Reconsideration. See Prosecution's Observations on the "Defence Request for Reconsideration of Order ICC-01/21-01/25-243-Conf" (ICC-01/21-01/25-244-Conf), [ICC-01/21-01/25-251-Conf](#), 28 August 2025.

25. Finally, and in light of the delay which will now be occasioned by the need to identify and appoint a more appropriate neuropsychologist, the Defence requests that the Pre-Trial Chamber **ORDER** Mr Duterte's immediate interim release.

A handwritten signature in black ink, reading "Nicholas Kaufman", written over a horizontal line.

Nicholas Kaufman
Counsel for Rodrigo Roa Duterte

Dated this 7th day of November 2025
At The Hague, The Netherlands