

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Original: **20 October 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

**Public Redacted Version of the “Urgent Defence Request to Disqualify Dr
[REDACTED]” (ICC-01/21-01/25-304-Conf)**

Source: Defence for Mr Rodrigo Roa Duterte

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

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Duterte Defence Team

☐ Legal Representatives of the Victims

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☐ Unrepresented Victims

☐ Unrepresented Applicants
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☒ The Office of Public Counsel for Victims

☐ The Office of Public Counsel for the Defence

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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 The Pre-Trial Chamber was subsequently obliged to revoke Dr [REDACTED]’s appointment,² after the Defence pointed out that she had failed to disclose disciplinary proceedings that had been initiated against her for “breaches of patient confidentiality and concerns regarding threatening, harassing and coercive behaviour”.³ Instead of thanking the Defence for its alertness, the Pre-Trial Chamber “deplored” Counsel’s reference to the fact that all three experts that it had selected were, in fact, those desired by the Prosecution.⁴
2. In lieu of Dr [REDACTED], the Pre-Trial Chamber has now appointed Dr [REDACTED].⁵ This appointment was made on the basis of a list prepared by the Registry at short notice and without consultation with the parties.⁶ The Registry identified a number of professionals, of whom three are recognised leaders in their profession with a wealth of practical experience and strong

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, paras. 13, 15. This submission is filed as confidential *ex parte* Defence and Prosecution only, pursuant to Regulation 23bis(1) of the [Regulations of the Court](#), because it details confidential communications with a third party, who has only agreed to disclosure of his identity and communication to the Pre-Trial Chamber and the Prosecution. The Defence intends to file a public redaction version of this present submission forthwith.

² Decision on the ‘Defence Request for the Disqualification of [REDACTED]’ and related matters, [ICC-01/21-01/25-303-Conf](#), 17 October 2025 (“[Decision on Disqualification](#)”), para. 18 (“the Chamber considers that the current situation of Dr [REDACTED], and her failure to inform the Registry thereof, render the circumstances surrounding her assignment such that it is inappropriate and impossible to proceed with Dr [REDACTED] remaining as a member of the Panel to undertake Mr Duterte’s medical examination”).

³ [Decision on Disqualification](#), para. 17.

⁴ Order in relation to the ‘Defence Request for the Disqualification of [REDACTED]’, [ICC-01/21-01/25-288-Conf](#), 3 October 2025, para. 10.

⁵ [Decision on Disqualification](#), paras. 20-22.

⁶ 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](#), 10 October 2025, para. 15.

records of academic research (Prof. [REDACTED],⁷ Prof. [REDACTED],⁸ and Prof. [REDACTED]⁹). The Prosecution and Defence even agreed on the suitability of Dr [REDACTED], who could have examined Mr Duterte at an earlier date than that proposed by Dr [REDACTED], who is only available from mid-November.¹⁰

3. Disregarding, however, the recommendations of the parties, and without any explanation whatsoever, the Pre-Trial Chamber selected an individual who qualified only six years ago and has no record whatsoever of any academic publication other than the 2015 publication listed in Annex II and a doctoral thesis published in 2018.¹¹ His *curriculum vitae* discloses nothing of significance, and he blandly asserts: “I do have experience in providing assessment reports for the courts in what we refer to as ‘Capacity’ in [REDACTED]”.¹²
4. The standards and expectations that guide expert appointments at the Court are provided on the ICC website, where it is stated, *inter alia*, that “all experts included on the ICC list must maintain high standards of professional and personal integrity”.¹³ Applicants must also refrain from “acts contrary to honour, probity and morals”.¹⁴

⁷ Annex II to the 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-AnxII](#), 10 October 2025 (“[Annex II to Shortlist](#)”), p. 22-45.

⁸ [Annex II to Shortlist](#), p. 94. See also [REDACTED].

⁹ [Annex II to Shortlist](#), p. 90.

¹⁰ Annex I to the 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-AnxI](#), 10 October 2025 (“[Annex I to the Shortlist](#)”), p. 4.

¹¹ [Annex II to Shortlist](#), p. 97. See also [REDACTED]. By contrast, Professor [REDACTED] CV lists over 260 publications. Professor [REDACTED] indicated that he has authored more than 300 articles, chapters, and books while Professor [REDACTED] has reported 10 publications from 2017 to 2024 alone.

¹² [Annex I to the Shortlist](#), p. 4.

¹³ International Criminal Court, “[Experts](#)”, International Criminal Court Website (emphasis added).

¹⁴ See Registry’s Observations on “Defence Request for the Disqualification of [REDACTED]”, ICC-01/21-01/25-280-Conf, 25 September 2025, [ICC-01/21-01/25-285-Conf](#), 30 September 2025, para. 19.

5. The Court's requirements are consistent with other guidelines issued on the role of court-appointed experts in judicial proceedings, which similarly emphasise the necessity of "an extremely high standard of expertise [...] but also the expert's independence and impartiality".¹⁵ Bias is grounds for disqualification in most jurisdictions,¹⁶ even where the bias is not directly relevant to the expertise being sought or the work being provided.¹⁷ In the context of forensic psychology, bias can significantly permeate clinical judgements of all kinds, including assessments of personality, psychodiagnoses, or even treatment decisions.¹⁸
6. Similarly, professionalism is expected of an independent expert appointed by this Court. While not an employee, the appointment of an independent expert by the Court necessarily reflects upon the institution itself. Persons associated with the Court are expected to reflect the highest standards of "efficiency, competence and integrity",¹⁹ and are expected to "exhibit respect for all cultures" and "the dignity and worth of the human person".²⁰ Any type of public action or pronouncement that would adversely reflect on the Court or

¹⁵ European Commission for the Efficiency of Justice, "[Guidelines on the role of court-appointed experts in judicial proceedings of Council of Europe's Member States](#)", 12 December 2014 ("[European Commission's Guidelines](#)"), para. 6.

¹⁶ [European Commission's Guidelines](#), para. 128 ("[i]f the expert breaches his/her duty to remain independent, it has to be possible for the parties to request the judge to decline him/her because of bias"). The European Commission Guidelines reflect principles derived from the practice of the various Member States.

¹⁷ Indeed, political discourse and speech may now lead to dismissal even where irrelevant to the type of work, offered outside of the workplace, and emanating from private or personal social media accounts. See e.g. *USA, Neel v. New York University*, Index No. 655743/2023, NYSCEF No. 1 (Sup. Ct. N.Y. Cnty. Nov. 16, 2023), where a hospital terminated the director of its cancer center for political messaging about the war in Gaza, contending that such public posts could cause reputational damage to the hospital.

¹⁸ M. Commons *et al.*, "[Expert Witness Perceptions of Bias in Experts](#)", 32(1) *Journal of the American Academy of Psychiatry and the Law*, 70-75 (2004), p. 70.

¹⁹ [Staff Regulations for the International Criminal Court](#), Article 1, Regulation 1.1(d)

²⁰ [Staff Regulations for the International Criminal Court](#), Article 1, Regulation 1.2(a).

its interests, by any person affiliated with (and not necessarily employed by) the Court,²¹ is prohibited.²²

7. The appointed expert must therefore possess the requisite integrity, experience, and skills. The Prosecution, itself, has argued that the selected expert should boast not only extensive medical expertise and forensic experience on the issue of competency but should also have experience providing testimony in front of various courts (and, ideally, international tribunals).²³ Dr [REDACTED] falls far short of such lofty expectations. He has significantly less experience than the other experts proffered by the Registry in its updated shortlist²⁴ and is not available until later than the other experts. In fact, he is the only candidate who has not provided an estimate as to the timeline to produce a report.²⁵ In short, the Pre-Trial Chamber has provided no logical reason for choosing this individual over three significantly more accomplished experts, including one for which both the Prosecution and Defence expressed a preference.
8. Despite a notable dearth of academic publications by this so-called ‘expert’, there is, however, a clinical psychologist based in [REDACTED] by the name of Dr [REDACTED], who has been extremely prolific on social media.²⁶ The

²¹ This applies not only to permanent staff appointments but also to temporary and low-level assignments, such as interns and visiting professionals.

²² [Staff Regulations for the International Criminal Court](#), Article 1, Regulation 1.2(f).

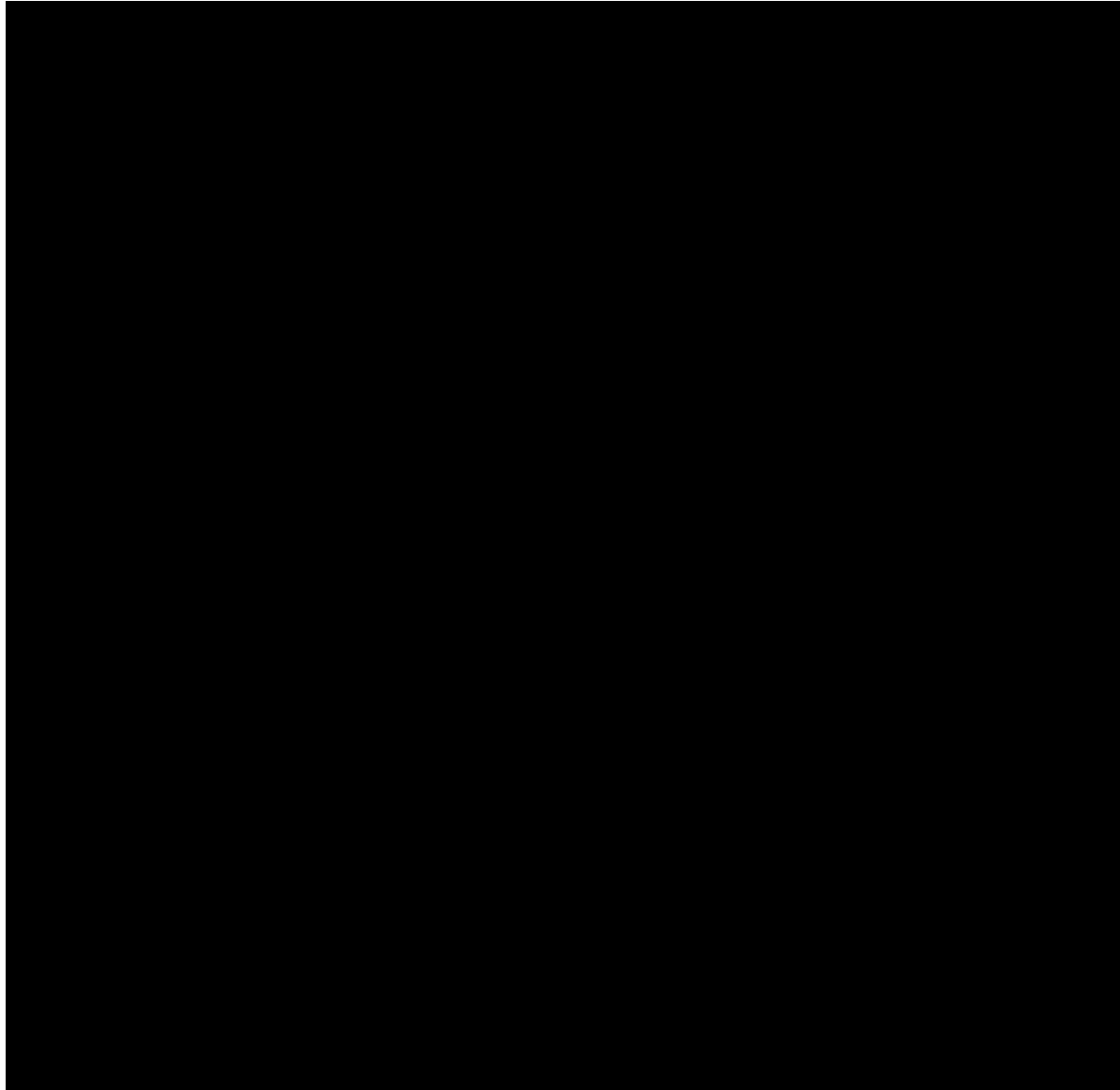
²³ Prosecution’s Response to the “Defence Request for an Indefinite Adjournment” (ICC-01/21-01/25-230-Conf), [ICC-01/21-01/25-253-Conf](#), 28 August 2025, para. 14 ([a]ny such expert(s) appointed by the Chamber should have extensive experience not only in the fields of medicine relevant to Mr Duterte’s medical conditions, but also forensic experience in the issue of fitness to stand trial and, consequently, experience in providing expert reports and testimony before various courts. In particular, any additional expert(s) should be familiar with legal proceedings in general and sufficiently familiar with proceedings at this Court, or at other international courts or tribunals and if appropriate, provide recommendations on any specific measures or adjustments that can be applied to facilitate Mr Duterte’s participation in the proceedings.”)

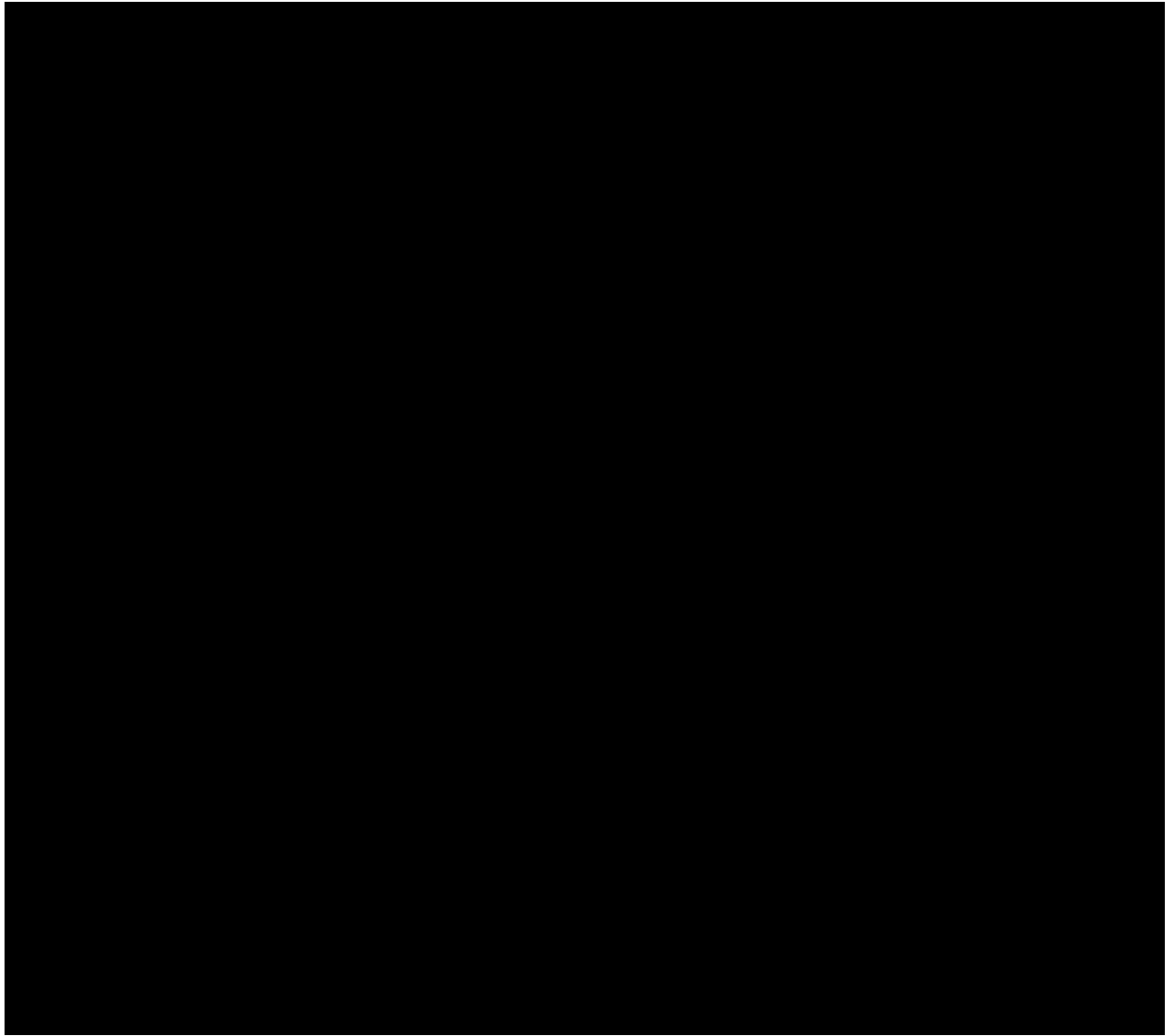
²⁴ [European Commission’s Guidelines](#), para. 123 (“[i]f an expert is discovered to be permanently unqualified because of lacking expertise, the status of agreed expert as expert may be refused or can also be revoked”).

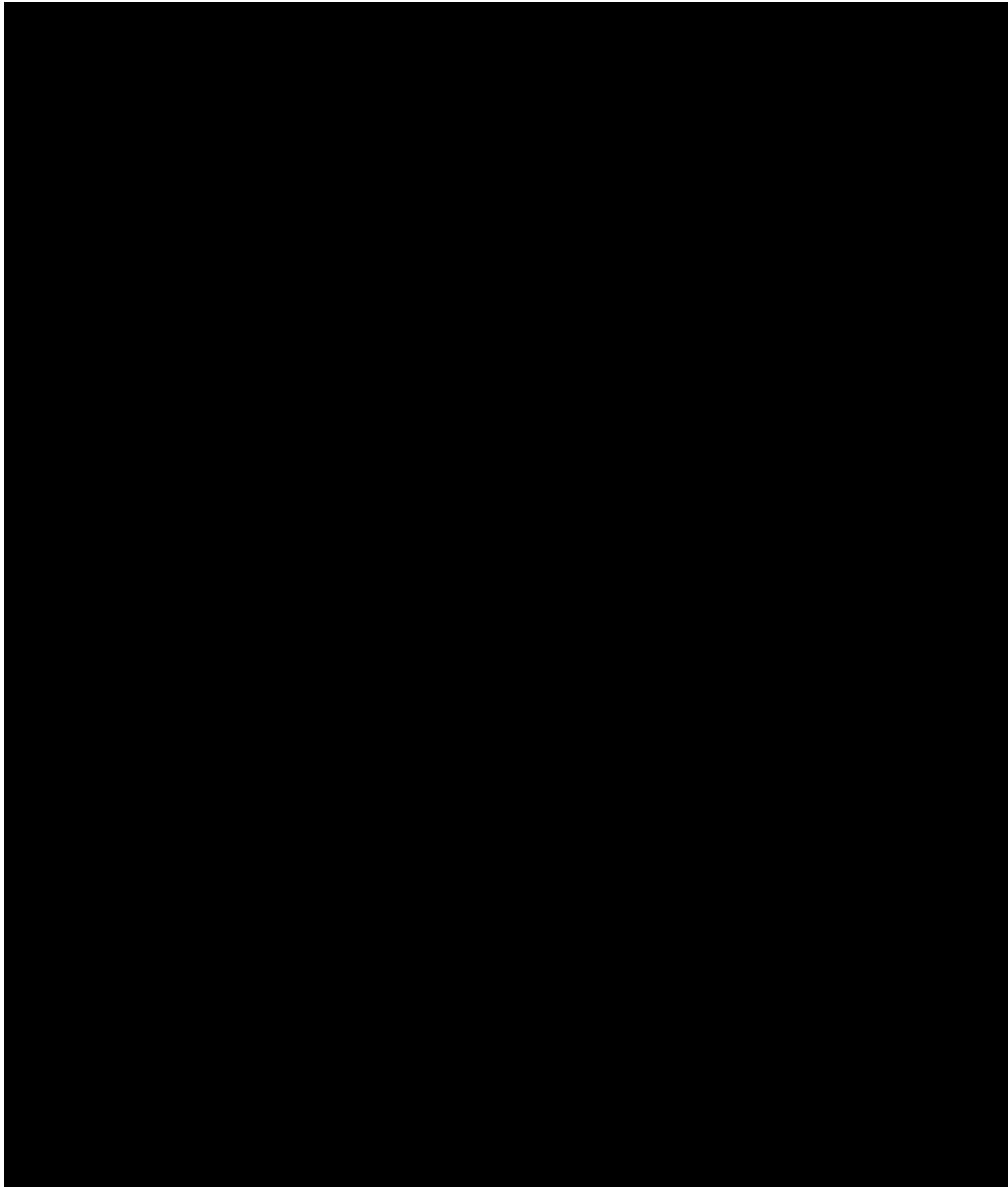
²⁵ [Annex I to the Shortlist](#), p. 4.

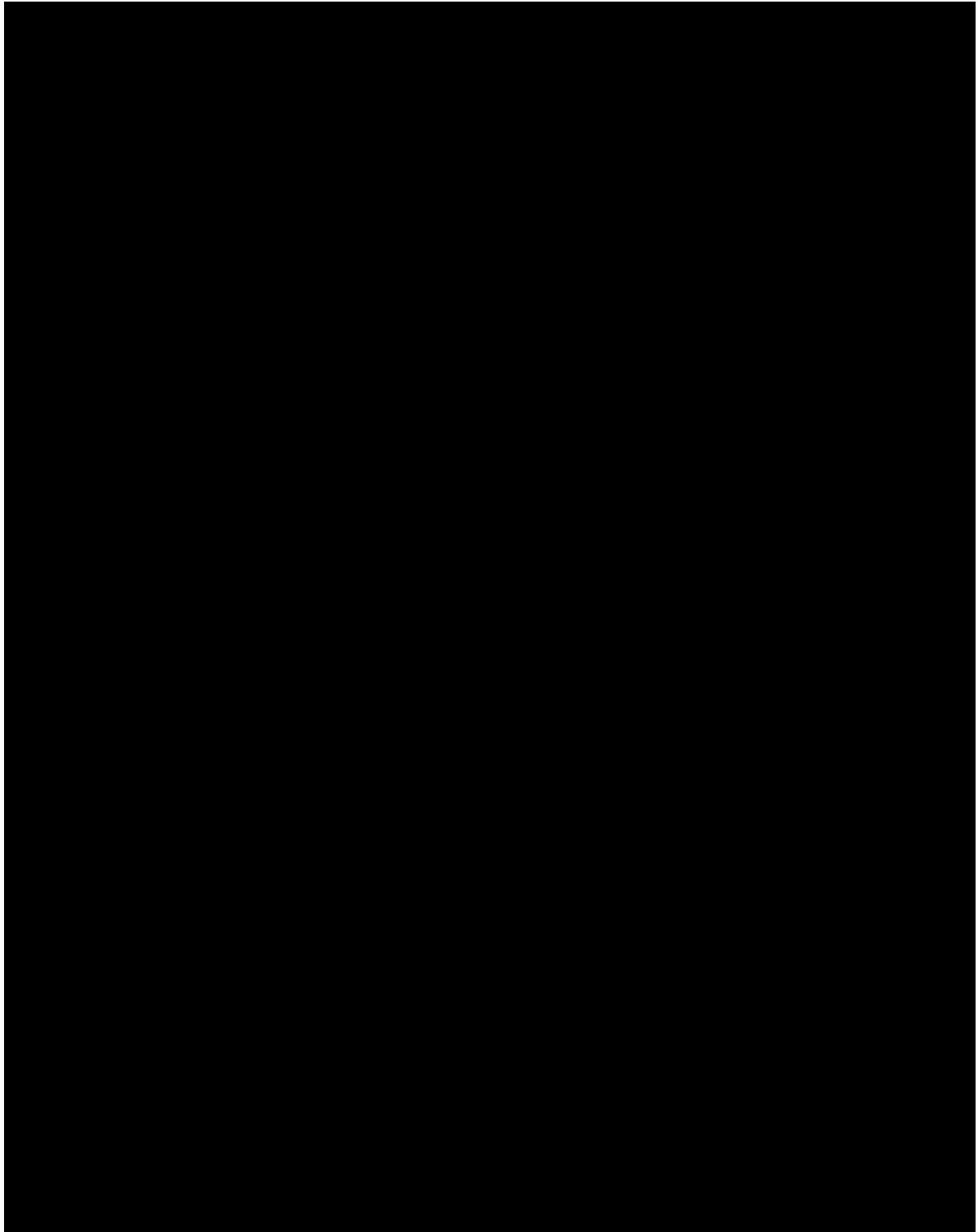
²⁶ [REDACTED].

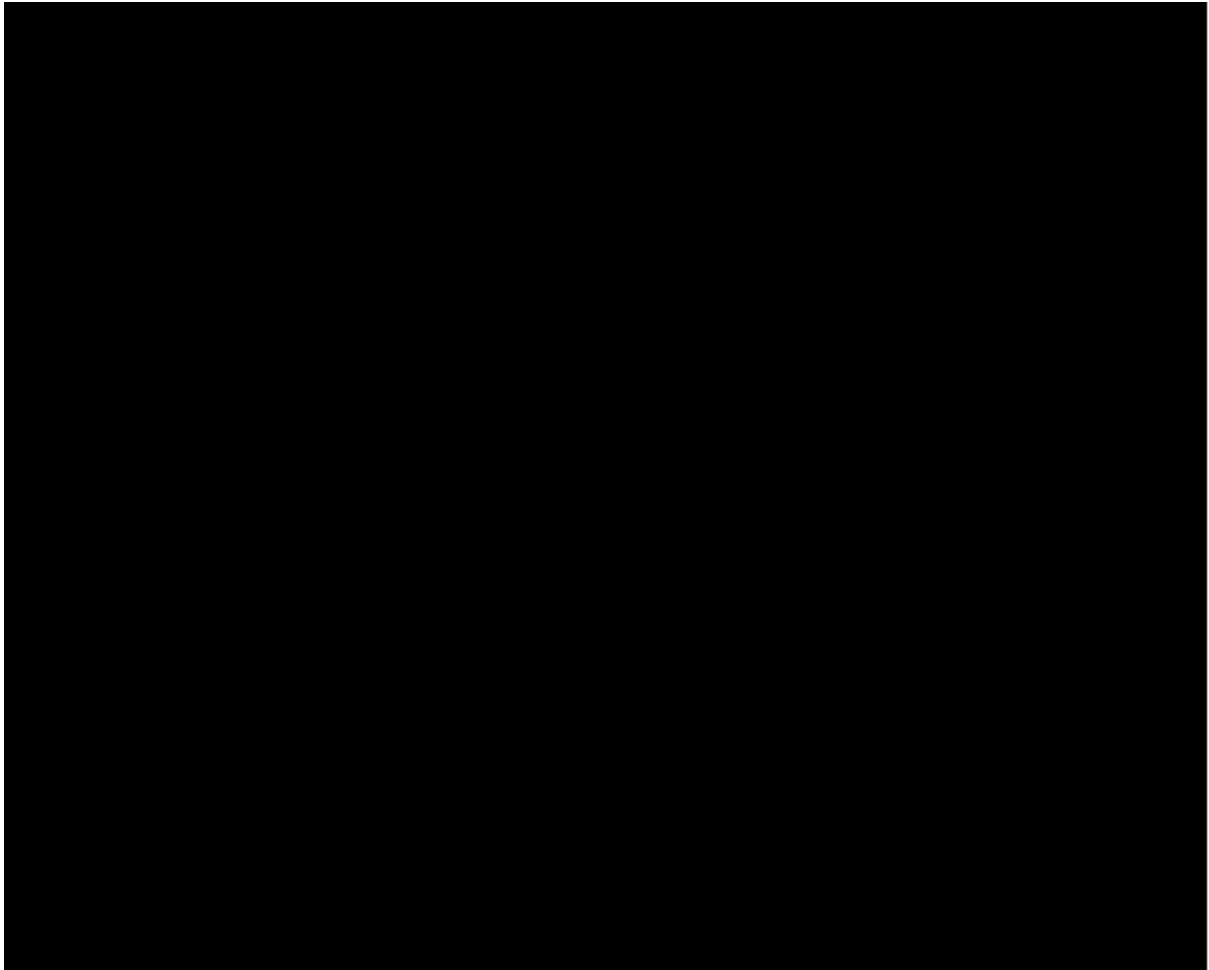
Defence provides below merely a few examples of this individual's sickeningly offensive reposted 'tweets' and replies to 'tweets' from only the last year, in order to demonstrate this practitioner's manifest lack of professionalism, respectability, and suitability to provide expertise at the International Criminal Court. These 'tweets' are presented as screenshots out of a fear that they may later be deleted on account of their shocking indecency and crude language.

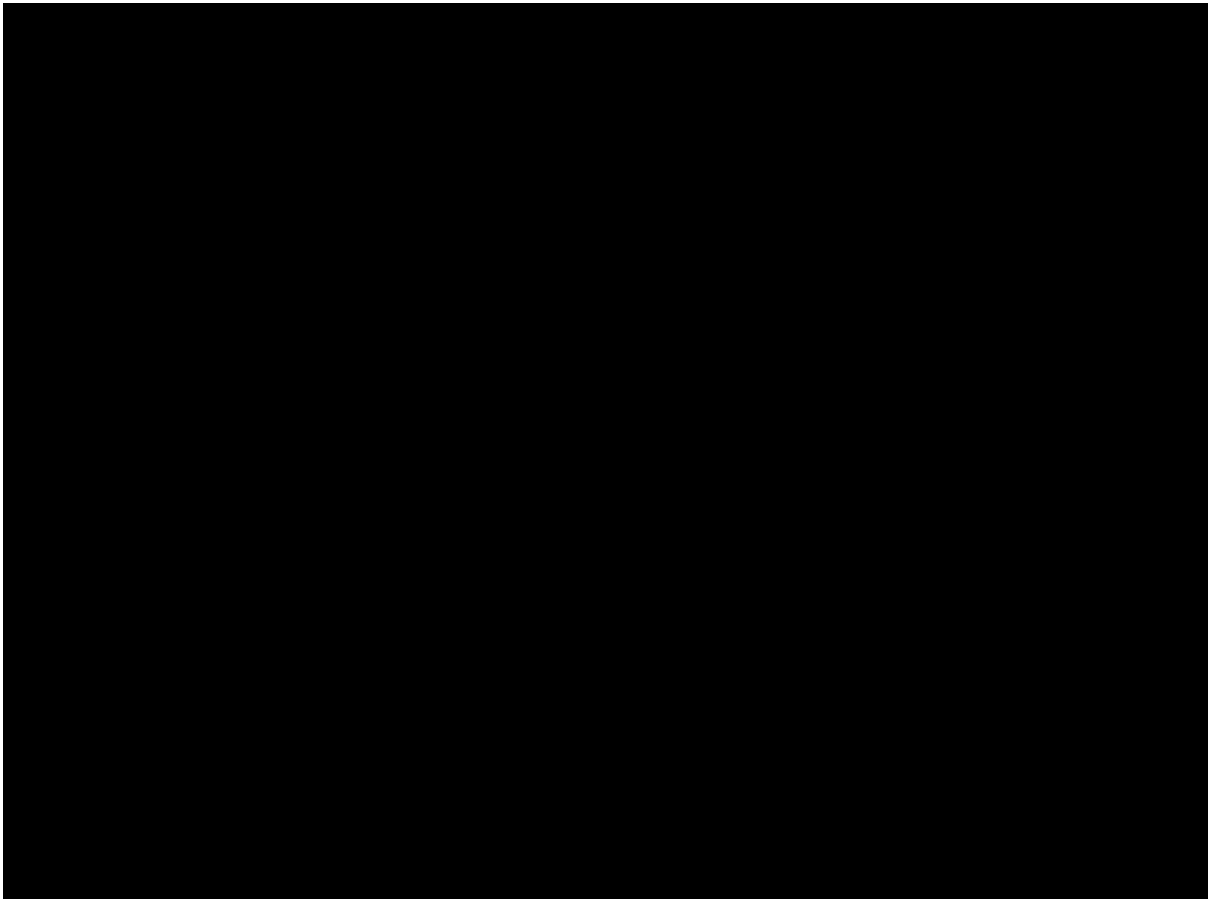
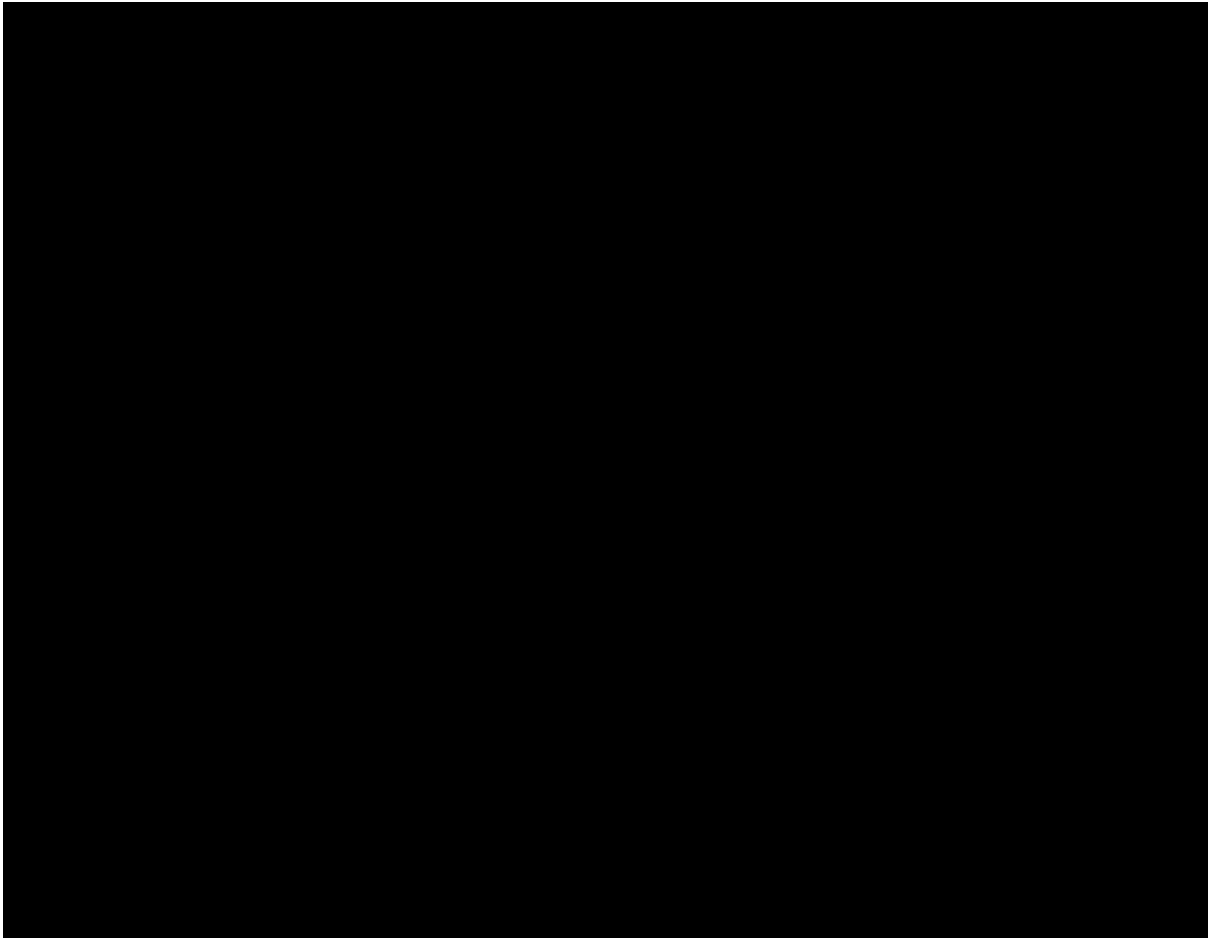


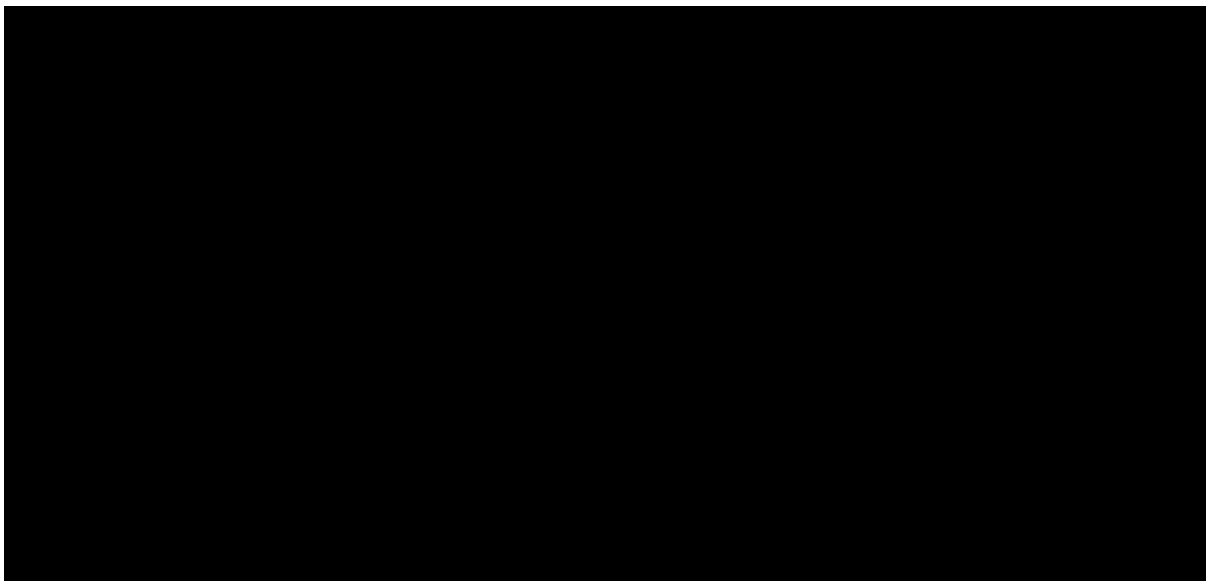
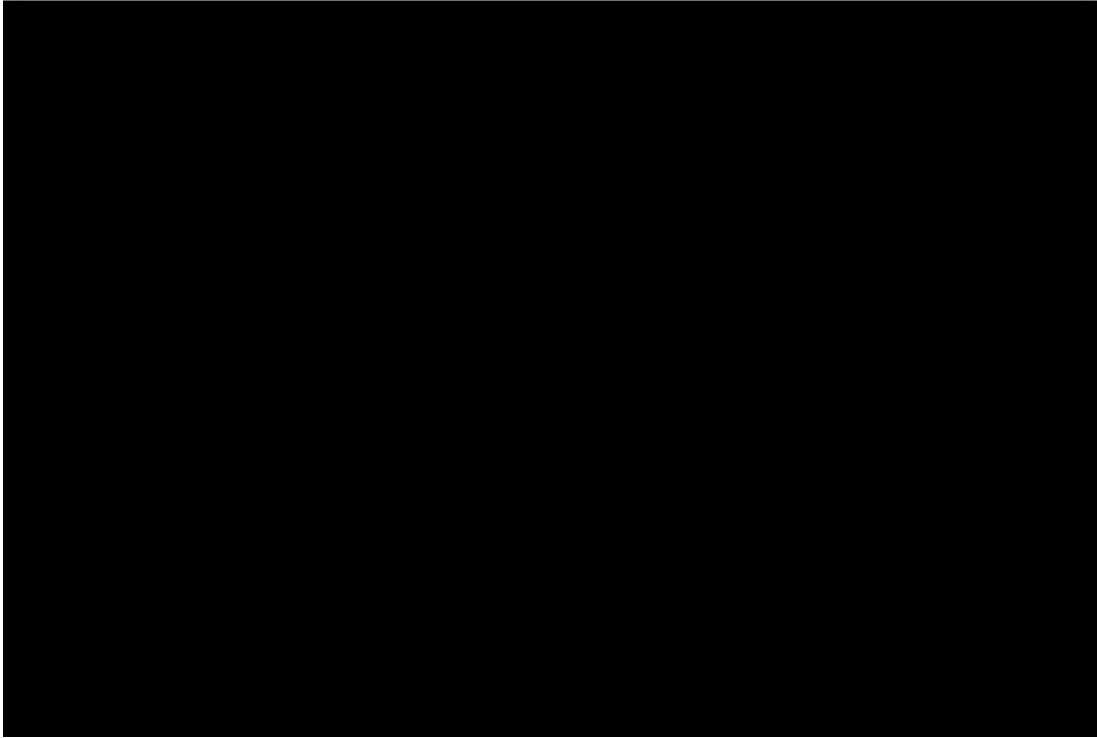


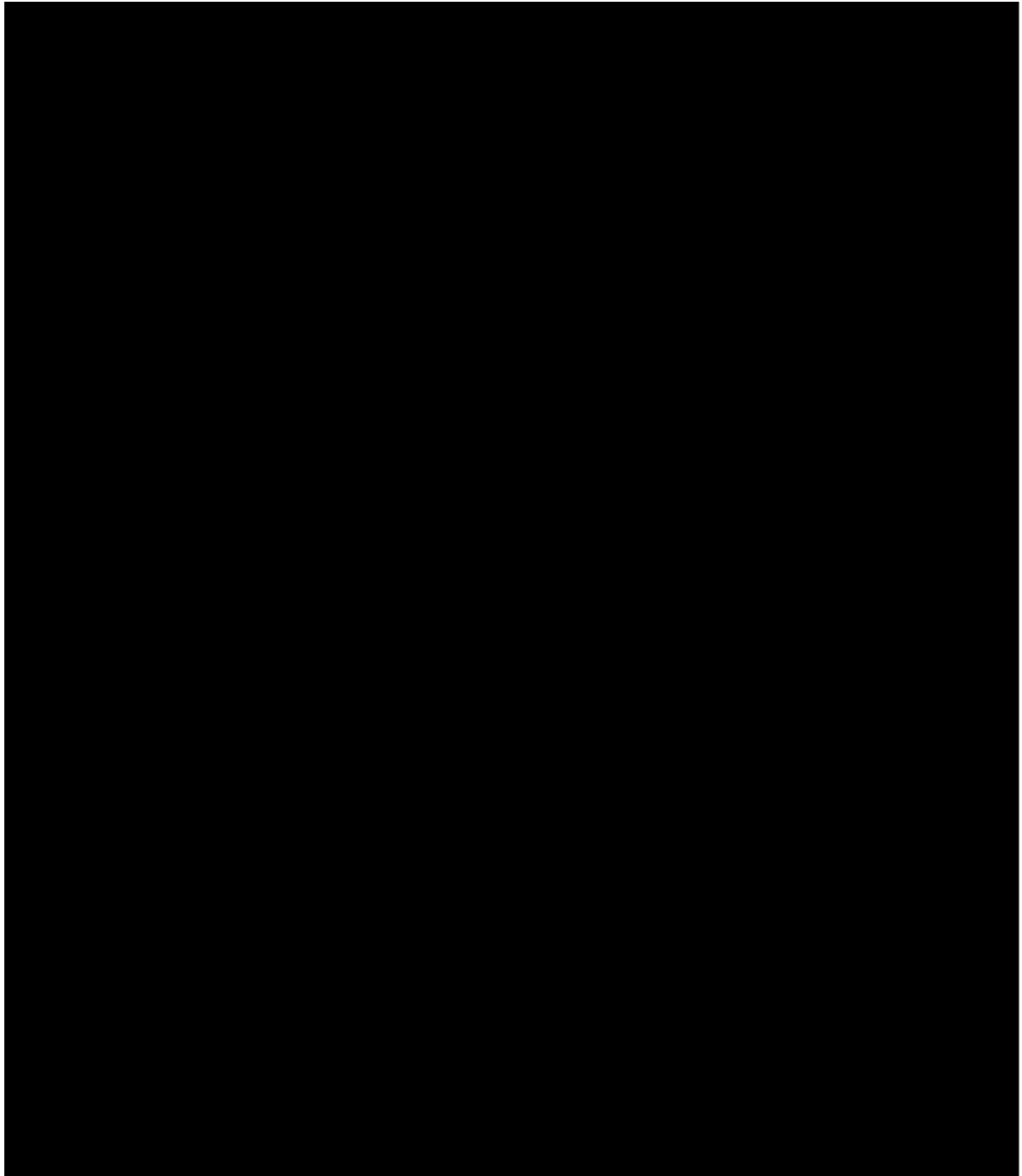












9. Like Dr [REDACTED], Dr [REDACTED] is affiliated with the [REDACTED] (“[REDACTED]”), which sets out the standards of conduct, performance, and ethical rules by which their registrants must abide. The [REDACTED] requires its registrants to use “media-sharing [REDACTED] responsibly”²⁷ and demands respect for professional boundaries.²⁸ If the posts presented above are indeed those attributable to the Pre-Trial Chamber’s preferred ‘expert’, the [REDACTED] standards have not been met. These public posts have been pervasive and prolific. One can also surmise from the content and target of his posts that this ‘expert’, for more reasons than stated in this filing, would be incapable of providing truly independent and impartial expertise, free from political or other bias, as would be expected of any expert appointed to assist this Court.
10. In an attempt to obtain more information on him, Counsel wrote to [REDACTED], where Dr [REDACTED] qualified as a psychologist. Counsel sets out [REDACTED]’s response below.²⁹

[REDACTED]

11. At every juncture, the Defence has acted diligently, despite unreasonable bureaucratic hurdles hampering its efforts to secure the clinical examinations requisite to its expert reports or even, simply, the results of Mr Duterte’s medical tests held at the Detention Centre.³⁰ On 18 August 2025, the Defence presented both a neuropsychological report³¹ and a finalised neurological

²⁷ [REDACTED].

²⁸ [REDACTED].

²⁹ [REDACTED].

³⁰ Urgent Defence Request to Obtain Mr Duterte’s Medical Records, [ICC-01/21-01/25-182-Conf-Exp](#), 4 July 2025.

³¹ Annex B to the Defence Request for an Indefinite Adjournment, [ICC-01/21-01/25-230-Conf-AnxB](#), 18 August 2025.

report.³² This, coupled with the findings of the psychologist appointed by the ICCDC Medical Officer, should have been sufficient for the Pre-Trial Chamber to adjourn the proceedings – especially since it has not articulated its need for “further information” to clarify Mr Duterte’s cognitive situation.

12. Since then, however, the process has stagnated with the Pre-Trial Chamber, which has deemed it necessary to seek “further information”, without ever specifically defining the type of information required or providing a clear mandate to those engaged to provide the additional expertise sought. The Defence has requested a status conference no less than **four times**³³ to streamline the process and to avoid the waste of valuable time while Mr Duterte remains detained. These requests have been rejected, and no report will be prepared on Mr Duterte’s competence until December 2025 at the earliest.
13. The Defence considers the language in the cited posts to be so offensive, inappropriate, disrespectful, and unprofessional that it seems self-evident that the Registry cannot be aware of it. After all, one cannot imagine that the Registry would have communicated such a candidacy to the Pre-Trial Chamber, if attributable to Dr [REDACTED], had it known of such vitriol. The

³² Annex A to the Defence Request for an Indefinite Adjournment, [ICC-01/21-01/25-230-Conf-AnxA](#), 18 August 2025.

³³ Defence Notification, [ICC-01/21-01/25-271-Conf](#), 16 September 2025, 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); Defence Request for Reconsideration of Order ICC-01/21-01/25-243-Conf, [ICC-01/21-01/25-244-Conf](#), 27 August 2025, 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”); Defence Request for an Indefinite Adjournment, [ICC-01/21-01/25-230-Conf](#), 18 August 2025, 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”); Urgent Defence Request for a Status Conference under rule 121(2)(b), [ICC-01/21-01/25-192-Conf](#), 14 July 2025, 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”).

consequence of this, however, is perhaps even more disconcerting: That, for the second time in little more than one month, and subsequent to the mortification surrounding Dr [REDACTED]'s appointment which rendered the present shortlist necessary, the Pre-Trial Chamber's mechanism for ensuring the appointment of suitable experts has abjectly failed.

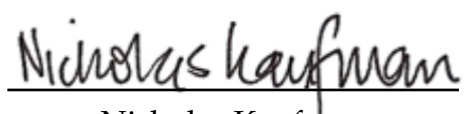
14. The appointment of Dr [REDACTED] in the current geopolitical situation afflicting the Court, even without reference to the distasteful social media activity set out above – from which not even the current President of the European Commission, an ardent supporter of the International Criminal Court, has escaped unscathed³⁴ – is inappropriate. Controversial public speech is not unfettered. Expression of political thought or opinion is one thing; doing so in an offensive or disparaging manner is quite another. The use of offensive or discriminatory language has led to dismissal where, for example, it was feared that offensive language used in public posts could cause reputational damage to an institution.³⁵
15. The Pre-Trial Chamber must consider whether the tweeted reposts and replies, if attributable to Dr [REDACTED], are commensurate with the public's expectations of a Court-appointed expert. The Court must toe the line between protected personal activity and shielding its currently beleaguered reputation by allowing itself to be associated with – and possibly to be seen as endorsing – such bias and vulgarity. The Defence submits that the impugned tweets are

³⁴ LaPresse, [“USA, von der Leyen: ‘Support for the ICC, it must be free to act without pressure’”](#), LaPresse Where the News Is, 6 June 2025 (“[t]he Commission fully supports the International Criminal Court and its officials. The ICC brings the perpetrators of the world's most serious crimes to justice and gives a voice to victims. It must be free to act without pressure. We will always support global justice and respect for international law.’ This was written on social media by the President of the European Commission, Ursula von der Leyen”).

³⁵ See e.g. *USA, Neel v. New York University*, Index No. 655743/2023, NYSCEF No. 1 (Sup. Ct. N.Y. Cnty. Nov. 16, 2023), where NYU Langone Health terminated Dr Benjamin Neel from his position as the director of its cancer center for reposting anti-Hamas messages on social media that included caricatures of Arab people, as well as a message that questioned Hamas's reporting of the death toll in Gaza. The hospital contended that such public posts could cause reputational damage to the hospital.

so fundamentally inconsistent with the values of this Court – integrity, professionalism, and impartiality³⁶ – that the author and recycler thereof cannot, and should not, be added to the list of experts as proposed.

16. To conclude, the Pre-Trial Chamber is requested immediately to **REVOKE** the mandate that it has provided to Dr [REDACTED] without him being afforded access to Mr Duterte's private medical information.
17. The Pre-Trial Chamber is, also, requested to **ORDER** the Registrar to refrain from admitting Dr [REDACTED] to the list of ICC experts.
18. Finally, the Defence repeats its request that the Pre-Trial Chamber immediately **ADJOURN** the proceedings currently being conducted against Mr Duterte on the grounds of his current lack of fitness to stand trial.


 Nicholas Kaufman
 Counsel for Rodrigo Roa Duterte

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

³⁶ See Annex I to Administrative Instruction, "[The Core Competencies of the ICC](#)", Ref. ICC/AI/2019/003, 22 February 2019. The [Core Values of the Office of the Prosecutor](#), likewise, are dedication; integrity, and respect. Similarly, albeit in the context of ICC staff, Article 1, Regulation 1.1(d) of the [Staff Regulations for the International Criminal Court](#) emphasises the necessity of "securing staff of the highest standards of efficiency, competence and integrity".