

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/21-01/25
Date: 18 December 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 Redacted Version of ICC-01/21-01/25-337-Conf

**Observations on behalf of Victims
on the Joint and Individual Reports of the Panel of Experts**

Source: Office of Public Counsel for Victims

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

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☐ 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

I. INTRODUCTION

1. The Principal Counsel of the Office of Public Counsel for Victims (the “OPCV”), appointed to represent the collective interests of potential victims until the mandate of the team of common legal representatives takes effect (the “Legal Representative”),¹ hereby files her observations on the “Registry Transmission of the Panel of Experts’ Joint and Individual Reports” (the “Joint and Individual Reports”).²

2. Upon careful review of the Joint and Individual Reports, the Legal Representative considers that the Experts appointed by Pre-Trial Chamber I (the “Chamber”) essentially agree that [REDACTED]. In particular, the Experts unanimously found that [REDACTED] at the pre-trial stage under article 67(1) of the Statute. Therefore, the relevant legal criteria for Mr Duterte’s fitness to participate in the confirmation of charges hearing are fulfilled according to the established jurisprudence of the Court. The Experts’ conclusions allow the Chamber to determine that the Suspect is fit to fully engage and participate in the pre-trial proceedings, including the confirmation of charges hearing pursuant to articles 61 and 64(2) of the Statute. Consequently, the confirmation of charges hearing should be held as soon as possible in light of the Victims’ right to the expeditious conduct of the proceedings.

¹ See the “Order on the conduct of confirmation proceedings” (Pre-Trial Chamber I), [No. ICC-01/21-01/25-114](#), 17 April 2025, paras. 68-69.

² See the “Registry Transmission of the Panel of Experts’ Joint and Individual Reports”, [No. ICC-01/21-01/25-327-Conf](#), with Confidential Annexes [I](#), [II](#), [III](#), and [IV](#), 5 December 2025 (the “Joint and Individual Reports”).

II. PROCEDURAL BACKGROUND

3. On 18 August 2025, the Defence filed a request for an indefinite adjournment of the proceedings against Mr Duterte.³

4. On 8 September 2025, Pre-Trial Chamber I (the “Chamber”), by majority, instructed the Registry to, *inter alia*, submit a shortlist of experts to determine the current health condition of Mr Duterte (the “Medical Examination Order”).⁴

5. On 15 September 2025, the Registry submitted a shortlist of experts.⁵ On 24 September 2025, the Chamber appointed three experts to constitute a Panel to undertake the medical examination of Mr Duterte (the “Panel”).⁶

6. On 3 November 2025, having ruled on two requests for disqualification,⁷ the Chamber further decided to: (i) appoint another expert as a member of the Panel;

³ See the “Defence Request for an Indefinite Adjournment”, [No. ICC-01/21-01/25-230-Conf](#), 18 August 2025. A public redacted version [No. ICC-01/21-01/25-230-Red](#) was notified on 11 September 2025. See also, the “Prosecution’s Response to the ‘Defence Request for an Indefinite Adjournment’”, [No. ICC-01/21-01/25-253-Conf](#), 28 August 2025. A public redacted version [No. ICC-01/21-01/25-253-Red](#) was notified on 11 September 2025; and the “Victims’ Response to the ‘Defence Request for an Indefinite Adjournment’”, [No. ICC-01/21-01/25-257-Conf-Exp](#), 29 August 2025. A lesser public redacted version [No. ICC-01/21-01/25-257-Red2](#) was notified on 8 October 2025.

⁴ See the “Order pursuant to rules 113 and 135 of the Rules of Procedure and Evidence” (Pre-Trial Chamber I), [No. ICC-01/21-01/25-268-Conf](#), 8 September 2025, paras. 24-27 (reclassified as “public” pursuant to Pre-Trial Chamber I’s instruction dated 7 October 2025) (the “Medical Examination Order”).

⁵ See the “Registry Submission of a Shortlist of Medical Experts pursuant to ICC-01/21-01/25-268-Conf”, [No. ICC-01/21-01/25-270-Conf](#), 15 September 2025. A public redacted version [No. ICC-01/21-01/25-270-Red](#) was filed on 9 October 2025. See also, the “Defence Observations on Registry Submission ICC-01/21-01/25-270-Conf”, [No. ICC-01/21-01/25-274-Conf](#), 18 September 2025. A public redacted version [No. ICC-01/21-01/25-274-Red](#) was filed on 8 October 2025; the “Observations on behalf of Victims on the ‘Registry Submission of a Shortlist of Medical Experts pursuant to ICC-01/21-01/25-268-Conf’”, [No. ICC-01/21-01/25-275-Conf](#), 18 September 2025. A public redacted version [No. ICC-01/21-01/25-275-Red](#) was filed on 8 October 2025; and the “Prosecution’s Observations on the ‘Registry Submission of a Shortlist of Medical Experts pursuant to ICC-01/21-01/25-268-Conf’”, [No. ICC-01/21-01/25-276-Conf](#), 18 September 2025. A public redacted version [No. ICC-01/21-01/25-276-Red](#) was filed on 9 October 2025.

⁶ See the “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” (Pre-Trial Chamber I), [No. ICC-01/21-01/25-279-Conf](#), 24 September 2025. A public redacted version [No. ICC-01/21-01/25-279-Red](#) was filed on 16 October 2025.

⁷ See the “Order in relation to the ‘Defence Request for the Disqualification of [REDACTED]’” (Pre-Trial Chamber I), [No. ICC-01/21-01/25-288-Conf](#), 3 October 2025. A public redacted version [No. ICC-01/21-01/25-288-Red](#) was notified on 14 November 2025; and the “Decision on the ‘Urgent Defence Request to Disqualify [REDACTED]’ and related matters”, (Pre-Trial Chamber I), [No. ICC-01/21-01/25-316-Conf](#), 3

(ii) extend the time limit for the Panel to submit the expert report(s) to 5 December 2025; and (iii) order the Defence, the Prosecution and the Legal Representative to file observations on said report(s) by 12 December 2025.⁸

7. On 5 December 2025, the Registry filed the Joint and Individual Reports.⁹

III. CLASSIFICATION

8. Pursuant to regulation 23*bis* (1) and (2) of the Regulations of the Court, the present submission is classified as confidential because it refers to the content of documents which bear the same classification. A public redacted version will be filed in due course.

IV. OBSERVATIONS

9. The Legal Representative recalls that, in the Medical Examination Order, the Chamber instructed the Panel to determine and assess, in particular: (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 said proceedings.¹⁰

10. While the Experts generally agree that [REDACTED].¹¹ The Experts also largely agree that [REDACTED] during Court proceedings.¹²

11. Moreover, in relation to Mr Duterte's capacities which are necessary for the meaningful exercise of his procedural and fair trial rights, the Experts found

November 2025. A public redacted version [No. ICC-01/21-01/25-316-Red](#) was notified on 12 November 2025.

⁸ See the "Decision on the 'Urgent Defence Request to Disqualify [REDACTED]' and related matters", *supra* note 7.

⁹ See the Joint and Individual Reports, *supra* note 2.

¹⁰ See the Medical Examination Order, *supra* note 4.

¹¹ See Annex I to the Joint and Individual Reports, *supra* note 2, paras. 5.4-5.7.

¹² *Idem*, paras. 5.9-5.12.

[REDACTED].¹³ In particular, [REDACTED].¹⁴ [REDACTED].¹⁵ [REDACTED] share his opinion.¹⁶

12. Therefore, the Legal Representative observes that the relevant legal criteria for Mr Duterte's fitness to participate in the confirmation of charges hearings are fulfilled according to the established jurisprudence of the Court.¹⁷ In particular, [REDACTED] there exist no obstacles that would prevent Mr Duterte from meaningfully exercising his procedural rights because of [REDACTED]. Indeed, under the relevant jurisprudence of the Court, absence of such obstacles is determinative of the matter.¹⁸

13. In particular, the Legal Representative stresses that, although [REDACTED].¹⁹ As recently confirmed in the *Saïd* case, such capacity is pivotal, "*when viewed overall and in a reasonable manner*",²⁰ to allow a Chamber to be satisfied that a Suspect's state of health is such as to declare him or her fit to stand trial.²¹

14. Consequently, on the basis of the Panel's conclusions, the Chamber is in a position to positively determine that Mr Duterte is able to fully engage and participate in the pre-trial proceedings, including the confirmation of charges hearing pursuant to articles 61 and 64(2) of the Statute.²²

¹³ *Idem*, paras. 5.20-5.25.

¹⁴ *Idem*, paras. 5.16-5.17.

¹⁵ *Idem*, paras. 5.20-5.21.

¹⁶ *Idem*, paras. 5.22-5.25.

¹⁷ See the "Decision on Mr Said's Fitness to Stand Trial", (Trial Chamber VI), [No. ICC-01/14-01/21-667-Red](#), 15 December 2023, paras. 43-44.

¹⁸ *Idem*, para. 35, citing the "Decision appointing experts for the purpose of a medical examination pursuant to Rule 135 of the Rules of Procedure and Evidence", (Trial Chamber X), [No. ICC-01/12-01/18-1006-Red](#), 24 March 2021, para. 33. See also, the "Decision on the Defence notice on Mr Al Hassan's unfitness to stand trial", (Trial Chamber X), [No. ICC-01/12-01/18-952-Red](#), 2 September 2020, para. 33; the "Decision on the Defence Request to Order a Medical Examination of Dominic Ongwen" (Trial Chamber IX), [No. ICC-02/04-01/15-637-Red](#), 16 December 2016, para. 7; the "Decision on the fitness of Laurent Gbagbo to stand trial", (Trial Chamber I), [No. ICC-02/11-01/15-349](#), 27 November 2015, para. 33; and the "Decision on the fitness of Laurent Gbagbo to take part in the proceedings before this Court", (Pre-Trial Chamber I), [No. ICC-02/11-01/11-286-Red](#), 2 November 2012, para. 43.

¹⁹ See Annex I to the Joint and Individual Reports, *supra* note 2, paras. 5.20-5.25.

²⁰ See the "Decision on Mr Said's Fitness to Stand Trial", *supra* note 17, para. 35, citing the "Decision appointing experts for the purpose of a medical examination pursuant to Rule 135 of the Rules of Procedure and Evidence", *supra* note 18, para. 33.

²¹ See the "Decision on Mr Said's Fitness to Stand Trial", *supra* note 17, para. 35.

²² *Ibid.*

V. CONCLUSION

15. For the foregoing reasons, the Legal Representative respectfully requests the Chamber to find that Mr Duterte is fit to participate in the proceedings and to set the date for the confirmation of charges hearing without further delay in light of the Victims' right to the expeditious conduct of the proceedings.

A handwritten signature in black ink, reading "Paolina Massidda", with a horizontal line underneath the name.

Paolina Massidda
Principal Counsel

Dated this 18th day of December 2025

At The Hague, The Netherlands