

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date of original:

10 December 2025

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

**Public Redacted Version of “Urgent Request for Disclosure of Communications
between the Registry and the Independent Panel of Experts”**

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

☐ States' Representatives

☐ Amicus Curiae

REGISTRY

Registrar

Osvaldo Zavala Giler

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☐ Detention Section

☐ Victims Participation and
Reparations Section

☐ Other

I. INTRODUCTION

1. Pursuant to Articles 57(3)(b), 64(2), and 64(6)(f) of the Rome Statute, the Defence for Mr Rodrigo Roa Duterte respectfully requests Pre-Trial Chamber I to order the urgent disclosure of **all communications** between the Registry and the three experts appointed to assist the Pre-Trial Chamber in its determination of Mr Duterte's fitness to stand trial – Professors [REDACTED], [REDACTED], and [REDACTED] ("Experts").
2. The communications sought include any instructions or directives issued to the Experts in the form of emails, letters, and/or notes taken during telephone conversations as well as specific documents furnished to them for the purposes of their evaluations, such as ICC filings and Mr Duterte's medical records (together, the "Sought Communications").
3. The Sought Communications are material and necessary to the Defence's preparation of its observations on the Experts' individual and joint reports ("Reports").

II. PROCEDURAL HISTORY

4. On 24 September 2025 Pre-Trial Chamber appointed Professors [REDACTED] and [REDACTED] to assist in the determination of Mr Duterte's fitness to stand trial, ordering transmission to them of all relevant documentation.¹

¹ 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, [ICC-01/21-01/25-279-Red](#), 16 October 2025, paras. 13, 19-20. All references to "Article", "Rule", and "Regulation" in the present submission are to the [Rome Statute](#), ICC [Rules of Procedure and Evidence](#) ("RPE"), and the [Regulations of the Court](#), respectively, unless otherwise indicated. Pursuant to [Regulation 23bis\(1\)](#) of the Regulations of the Court, the present request is filed **confidentially** as it relates to submissions of the same classification.

5. On 17 October 2025, the Registry was instructed to transmit the Reports by 5 December 2025. The parties were ordered to file their observations thereon by 12 December 2025.²
6. On 3 November 2025, after revoking the appointments of Dr [REDACTED] and Dr [REDACTED],³ the Pre-Trial Chamber appointed Professor [REDACTED] and ordered that all relevant documentation be communicated to him.⁴
7. On 5 December 2025, the Registry transmitted the Reports to the parties.⁵ On the same day, the Defence requested from the Registry disclosure of the Sought Communications,⁶ to which the Registry responded on 9 December 2025 that it was “under no obligation to provide the requested information (directly to the Defence) in the absence of an order by the Chamber to this effect”.⁷

III. APPLICABLE LAW

8. Article 57(3)(b) of the Rome Statute empowers the Pre-Trial Chamber to, “[u]pon the request of a person who has been arrested or has appeared pursuant to a summons under article 58, issue such orders [...] as may be

² Public redacted version of ‘Decision on the ‘Defence Request for the Disqualification of [REDACTED]’ and related matters’, 17 October 2025, ICC-01/21-01/25-303-Conf, [ICC-01/21-01/25-303-Red](#), 14 November 2025 (“[Decision on the Disqualification of Dr \[REDACTED\]](#)”), para. 24.

³ [Decision on the Disqualification of Dr \[REDACTED\]](#); Public redacted version of “Decision on the ‘Urgent Defence Request to Disqualify [REDACTED]’ and related matters”, 3 November 2025, ICC-01/21-01/25-316-Conf, [ICC-01/21-01/25-316-Red](#), 14 November 2025 (“[Decision on Disqualification of Dr \[REDACTED\]](#)”).

⁴ [Decision on Disqualification of Dr \[REDACTED\]](#), paras. 15, 18.

⁵ Registry Transmission of the Panel of Experts’ Joint and Individual Reports, [ICC-01/21-01/25-327-Conf](#), 5 December 2025; Annex I to the Registry Transmission of the Panel of Experts’ Joint and Individual Reports, [ICC-01/21-01/25-327-Conf-AnxI](#), 5 December 2025; Annex II to the Registry Transmission of the Panel of Experts’ Joint and Individual Reports, [ICC-01/21-01/25-327-Conf-AnxII](#), 5 December 2025 (“[Report of Dr \[REDACTED\]](#)”); Annex III to the Registry Transmission of the Panel of Experts’ Joint and Individual Reports, [ICC-01/21-01/25-327-Conf-AnxIII](#), 5 December 2025 (“[Report of Dr \[REDACTED\]](#)”); Annex IV to the Registry Transmission of the Panel of Experts’ Joint and Individual Reports, [ICC-01/21-01/25-327-Conf-AnxIV](#), 5 December 2025 (“[Report of Dr \[REDACTED\]](#)”).

⁶ Email from Defence to the Division of Judicial Services, “FW: Reports Panel Of Experts”, 5 December 2025, 14:13.

⁷ Email from Division of Judicial Services to Defence, “FW: Reports Panel Of Experts”, 9 December 2025, 13:42.

necessary to assist the person in the preparation of his or her defence”.⁸ Article 64(2), meanwhile, obliges a Trial Chamber to “ensure that a trial is fair and expeditious and is conducted with full respect for the rights of the accused [...]”. A Chamber may also, pursuant to Article 64(6)(f), “rule on any other relevant matters” as may be necessary in the performance of its functions. Chambers at this Court have previously intervened where their intervention is required to ensure a fair and expeditious resolution to an ongoing issue,⁹ including to compel disclosure.¹⁰

IV. SUBMISSIONS

9. The Sought Communications would allow the Defence to better gauge the instructions transmitted to the Experts as well as the documents and information provided to them, beyond those referred to in the Reports.¹¹
10. Out of fairness, the Defence must be given the opportunity to comment on the precise nature and scope of the instructions given to the Experts and the manner in which these instructions were communicated to them.¹² The Defence further submits that to be able to meaningfully assess and provide observations on the Experts’ Reports, it must be aware of the entirety of the materials transmitted to the Experts,¹³ irrespective of whether or not that information or material was ultimately utilised in the production of the Reports. After all, that an expert chooses **not** to rely upon certain material or information specifically

⁸ [Rome Statute](#), Article 57(3)(b).

⁹ See *Bemba et al.*, Decision on Bemba Defence Request for Provisional Legal Assistance, [ICC-01/05-01/13-1977](#), 30 August 2016, para. 7, fn. 13.

¹⁰ *Ongwen*, Decision on the ‘Prosecution Request for Disclosure of Material Underlying the Defence Psychiatric Expert Report’, [ICC-02/04-01/15-709](#), 21 February 2017 (“[Ongwen Disclosure Decision](#)”), para. 18.

¹¹ [Report of Dr \[REDACTED\]](#), para. 1.7; [Report of Dr \[REDACTED\]](#), pp. 7-9; [Report of Dr \[REDACTED\]](#), paras. 24-35.

¹² *Katanga and Ngudjolo*, Decision on the disclosure of evidentiary material relating to the Prosecutor’s site visit to Bogoro on 28, 29 and 31 March 2009, [ICC-01/04-01/07-1515](#), 7 October 2009, para. 68.

¹³ See e.g. [Ongwen Disclosure Decision](#), para. 12.

provided to him in the production of his report could well be important for understanding and effectively assessing the report.¹⁴

11. Upon review of the Reports, it seems that the Experts did not rely on Mr Duterte's medical files from the Philippines that were issued [REDACTED] ([REDACTED]),¹⁵ and it is unclear whether the experts took these medical files into account in their individual reviews of Mr Duterte's clinical history. Indeed, the Experts mostly listed medical files from 2025 in their Reports,¹⁶ which necessarily raises concerns about the reliability of any analysis on Mr Duterte's [REDACTED] condition and [REDACTED].
12. Further, from a preliminary review, the Defence notes some contradictions between the conclusions reached by the Experts,¹⁷ on which meaningful observations and substantiation require the disclosure of the Sought Communications.
13. Under these circumstances, the Sought Communications are all the more essential for the Defence to understand not only the scope of the Expert's instructions but also the manner in which the Pre-Trial Chamber's instructions were communicated by the Registrar to them.

¹⁴ *Abd-Al-Rahman*, Decision on Defence's Request Pursuant to Article 64(6)(d) of the Rome Statute, [ICC-02/05-01/20-884](#), 27 February 2023, para. 19.

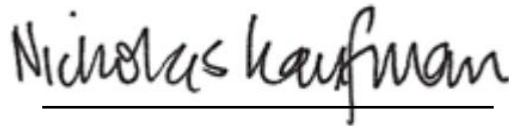
¹⁵ PHL-D36-0001-0117; PHL-D36-0001-0188; PHL-D36-0001-0401; PHL-D36-0001-0454. *See also* selected images of MRI head 2017: PHL-D36-0001-1538, and Interpretation of MRI of the brain 2022: PHL-D36-0001-1560.

¹⁶ [Report of Dr \[REDACTED\]](#), para. 1.7; [Report of Dr \[REDACTED\]](#), pp. 7-9; [Report of Dr \[REDACTED\]](#), paras. 24-35.

¹⁷ The Defence will provide submissions on the contradicting conclusions between the Experts in its forthcoming observations that will be submitted on 12 December 2025.

V. CONCLUSION AND RELIEF SOUGHT

14. In light of the above, the Defence respectfully and urgently requests the Pre-Trial Chamber to **ORDER** the Registry to disclose the Sought Communications, which are material and essential for the Defence to provide meaningful observations on the Reports.
15. Should the present request be granted, the Defence reserves its right to submit further observations on the Reports after 12 December 2025, once the Sought Communications are made available to the Defence.

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

Nicholas Kaufman
Counsel for Rodrigo Roa Duterte

Dated this 18th day of December 2025
At the Hague, the Netherlands