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**International
Criminal
Court**



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12 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 “Defence Observations on the
Reports of the Panel of Experts (ICC-01/21-01/25-327-Conf)”**

Source: Defence for Mr Rodrigo Roa Duterte

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I. INTRODUCTION

1. Mr Duterte understands the nature of the criminal process, the role of the parties therein, and the concept of the charge of murder. Indeed, Mr Duterte is able to enter a plea – albeit of the most superficial nature in the sense that he can deny personally ordering an act of murder. In other words, Mr Duterte is capable of drawing on his personal long-term memory, to a limited degree, in order to recall major milestone events earlier in his life and aspects of his mayoral governance policy. These matters are not in dispute.
2. Mr Duterte’s short-term memory, however, is demonstrably impacted and the reasons for this, whether [REDACTED], are of no consequence. **He cannot retain information for more than a short space of time.** The Defence finds it impossible to work with Mr Duterte because his instructions change from day to day, depending on his deficient recollection of information provided to him only the day before. Furthermore, Mr Duterte is not capable of assessing evidence and comparing it with other evidence that he may have already been provided (and forgotten) or against information he would otherwise be expected to remember. To take a basic example, he may hear evidence in Court, but he will have forgotten it by the time he needs to compare it against other evidence. He is thus incapable of following a trial, of exercising appropriate discretion, and of making informed decisions or instructing Counsel **effectively**.
3. The criminal process is designed to ascertain the truth within the context of a fair trial. Such fairness is vitiated if the person being prosecuted is unable to defend himself or to **effectively** instruct those charged with his defence.

II. PROCEDURAL HISTORY

4. On 14 July 2025, the Defence requested a status conference to discuss issues affecting Mr Duterte’s fitness to stand trial.¹ The Prosecution objected,² and the Pre-Trial Chamber rejected the application.³

¹ Public Redacted Version of “Urgent Defence Request for a Status Conference under rule 121(2)(b)”, [ICC-01/21-01/25-192-Red2](#), 7 October 2025, para. 8. This submission is filed **confidentially** pursuant to [Regulation 23bis\(2\)](#) of the Regulations of the Court as it provides observations on filings bearing the same classification and contains confidential medical information.

² Prosecution’s response to “Urgent Defence Request for a Status Conference under rule 121(2)(b)”, [ICC-01/21-01/25-194](#), 15 July 2025, para. 7.

³ Decision on the ‘Urgent Defence Request for a Status Conference under rule 121(2)(b)’, [ICC-01/21-01/25-208](#), 22 July 2025, para. 6.

5. On 18 August 2025, relying on the findings of its own experts (and a neuropsychologist appointed by the ICCDC Medical Officer), the Defence sought an indefinite adjournment of all legal proceedings on the basis of Mr Duterte's lack of fitness to stand trial.⁴
6. On 8 September 2025, the Pre-Trial Chamber ordered further clinical examinations of Mr Duterte,⁵ finalising a panel of experts of its own choice on 3 November 2025.⁶ Subsequent thereto, the joint⁷ and individual reports of Professors [REDACTED],⁸ [REDACTED],⁹ and [REDACTED]¹⁰ ("Panel") were transmitted to the parties on 5 December 2025.¹¹

III. APPLICABLE LAW

7. Rule 135 empowers a Chamber to commission a medical examination of a suspect in order to discharge its obligations under Article 64 of the Rome Statute. This would include ensuring that a suspect understands the charges against him and that the proceedings are fair.¹² Fitness to stand trial is a purely legal question that falls within the sole responsibility of the Chamber.¹³ While medical experts may provide clinical findings and opinions, they are precluded from pronouncing on legal issues, including the ultimate determination of fitness.¹⁴

⁴ Public Redacted Version of the "Defence Request for an Indefinite Adjournment", [ICC-01/21-01/25-230-Red](#), 11 September 2025, para. 35.

⁵ Order pursuant to rules 113 and 135 of the Rules of Procedure and Evidence, [ICC-01/21-01/25-268](#), 8 September 2025 ("Order pursuant to Rules 113 and 135"), para. 23.

⁶ 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, para. 15.

⁷ 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.

⁸ 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 Professor [REDACTED]").

⁹ 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 Professor [REDACTED]").

¹⁰ 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 Professor [REDACTED]").

¹¹ Registry Transmission of the Panel of Experts' Joint and Individual Reports, [ICC-01/21-01/25-327-Conf](#), 5 December 2025, para. 8.

¹² *Gbagbo*, Decision on the fitness of Laurent Gbagbo to take part in the proceedings before this Court, [ICC-02/11-01/11-286-Red](#), 2 November 2012 ("*Gbagbo First Decision*"), para. 56.

¹³ 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, para. 16 ("[t]he Chamber emphasises that the question of whether a suspect is fit to take part in the pre-trial proceedings is a question of law that falls exclusively within the remit of the Chamber's legal determination").

¹⁴ *Al Hassan*, Decision on Mr Al Hassan's ongoing fitness to stand trial, [ICC-01/12-01/18-1467](#), 10 May 2021 ("*Al Hassan Decision*"), para. 68; *Gbagbo and Blé Goudé*, Order to conduct an examination of Mr Gbagbo under Rule 135 of the Rules, [ICC-02/11-01/15-253](#), 30 September 2015, para. 14.

8. The appropriate evidentiary standard in a fitness determination requires the Chamber to be satisfied that a suspect can meaningfully participate in a trial.¹⁵ This means that a suspect must not only possess an understanding of the essentials of the proceedings, but must also be able to exercise his fair trial rights **effectively**.¹⁶ Meaningful participation is demonstrated, *inter alia*, by the ability to understand the charges and the conduct, purpose and consequences of proceedings; to understand the evidence; to make an informed decision whether to testify; and, for the purpose of this debate, to instruct counsel in the preparation of his defence.¹⁷ These factors cannot be considered in isolation, but must instead be assessed reasonably¹⁸ and holistically.¹⁹ **This would include providing the parties with an opportunity to test the expert's evidence prior to the Chamber's determination on competency.**²⁰

IV. SUBMISSIONS

i) The reports are not dispositive

9. The reports provided by the Panel and the joint executive summary are not dispositive nor can they be dispositive. The Pre-Trial Chamber declined to accept the Defence's expert opinions and decided that it was necessary to seek further medical examination, without articulating why such additional information was necessary.²¹ The Defence presumes that the Pre-Trial Chamber, to its credit, wanted to benefit from the opinions of professionals other than those selected by the Defence and *not* that it was hoping for alternative findings as to Mr Duterte's cognitive faculties in order to reject the Defence expertise. Nowhere, however, did the Pre-Trial Chamber indicate that the Panel was meant to be decisive and the final word on Mr Duterte's competency. Nor can the

¹⁵ [Gbagbo First Decision](#), para. 56.

¹⁶ *Gbagbo and Blé Goudé*, Decision on the fitness of Laurent Gbagbo to stand trial, [ICC-02/11-01/15-349](#), 27 November 2015 ("[Gbagbo Second Decision](#)"), para. 36.

¹⁷ *Said*, Decision on Mr Said's Fitness to Stand Trial, [ICC-01/14-01/21-667-Red](#), 15 December 2023 ("[Said Decision](#)"), para. 35. See also [Al Hassan Decision](#), para. 70; *Ongwen*, Decision on Further Defence Request for a Medical Examination, [ICC-02/04-01/15-1622](#), 1 October 2019 ("[Ongwen Decision](#)"), para. 14; [Gbagbo Second Decision](#), paras 32, 35.

¹⁸ [Said Decision](#), para. 35 ("[i]t is not required, however, that the aforementioned capacities 'be present at their notionally highest level, or at the highest level that a particular accused has ever enjoyed in respect of each capacity. The threshold is met when an accused has these capacities, viewed overall and in a reasonable manner'"). See also *Al Hassan*, Decision on the Defence notice on Mr Al Hassan's unfitness to stand trial, [ICC-01/12-01/18-952-Red](#), 2 September 2020, para. 34.

¹⁹ [Al Hassan Decision](#), para. 72. See also [Ongwen Decision](#), para. 15.

²⁰ [Gbagbo Second Decision](#), para. 10. See also *Gbagbo*, Decision on issues related to the hearing on Mr Gbagbo's fitness to take part in the proceedings against him, [ICC-02/11-01/11-249](#), 20 September 2012, para. 39.

²¹ [Order pursuant to Rules 113 and 135](#), para. 23.

Panel's reports be dispositive since they contradict each other, internally, on crucial matters forming the basis of their unified conclusions.

10. At the outset, it is appropriate to outline the points of agreement between the members of the Panel which are not in dispute: (i) Mr Duterte is a frail, elderly individual exhibiting hearing loss and unexplained weight loss; (ii) Mr Duterte is an unreliable historian (through no imputed malingering) of his own health and cognitive symptoms; and, (iii) Mr Duterte's self-reported cognitive complaints and poor neuropsychological test performance are not commensurate with his conversational functioning. The points of internal contradiction among the Panel members, however, are striking.

ii) [REDACTED]

11. Professor [REDACTED] – the expert best placed to opine on [REDACTED] matters – finds no evidence of [REDACTED].²² This is in stark contrast to Professor [REDACTED] who, while not a [REDACTED], finds evidence of a [REDACTED].²³ Professor [REDACTED], conscious of the boundaries of his expertise, opines that Mr Duterte suffers from [REDACTED], but “not as severe as reported”.²⁴ In effect, Professor [REDACTED] elected to stay out of the fray and deferred to the opinion of the [REDACTED] (*i.e.* Professor [REDACTED]).
12. To summarise this aspect of the Panel's intervention, there is no definitive finding on [REDACTED]. Notwithstanding, the specialist most qualified to pronounce on such matters – Professor [REDACTED] – discounts [REDACTED] ([REDACTED]) as the aetiology of any cognitive impairment from which Mr Duterte suffers. This finding is completely in keeping with the conclusions of the Defence's expert neurologist, who [REDACTED].

iii) Cognitive findings / Findings with respect to memory

13. All Panel experts noted deficiencies in the same cognitive domains as those deemed critical for fitness purposes by the Defence experts. Professor [REDACTED] states that Mr Duterte's “[REDACTED]”.²⁵ More specifically, Professor [REDACTED] concluded that Mr Duterte's working memory – that which is required to instruct

²² [Report of Professor \[REDACTED\]](#), p. 50, para. 2.

²³ [Report of Professor \[REDACTED\]](#), p. 12, “Summary”, point 5.

²⁴ [Report of Professor \[REDACTED\]](#), p. 32, para. 121.

²⁵ [Report of Professor \[REDACTED\]](#), p. 30, para. 110.

Counsel – “was [REDACTED]”.²⁶ In his summary, Professor [REDACTED] posits that Mr Duterte is [REDACTED] “[REDACTED]”.²⁷ Even Professor [REDACTED], who, of the Panel’s members, is the least appropriate to assess cognitive faculties, found that Mr Duterte “[REDACTED]”.²⁸

iv) Underperformance

14. As mentioned above, none of the Panel’s experts are of the opinion that Mr Duterte is devoid of memory problems. The only point of difference among the various experts in this respect relates to the objective severity of memory loss, given that Mr Duterte’s subjective reports cannot be relied on for empirical purposes. All experts appear to agree that Mr Duterte’s poor performance on the tests designed to assess cognitive faculties results from underperformance. **Nowhere is it stated, however, that such underperformance is deliberate.** Accordingly, the reason for such underperformance is left unresolved by the Panel, as distinct from the Defence expert, who has [REDACTED] [REDACTED].
15. Underperformance was posited on the basis of a series of tests executed in order to obtain [REDACTED] “[REDACTED]”.²⁹ Professor [REDACTED] cites to a document [REDACTED] and argues that [REDACTED],³⁰ concerning which Professors [REDACTED] and [REDACTED] are at odds. Of more relevance to the present scenario, however, is the fact that [REDACTED] cannot be ruled out by Professor [REDACTED] as a factor contributing to underperformance.
16. As a neurologist, Professor [REDACTED] is the only person qualified to pronounce on [REDACTED] ([REDACTED] short-term memory loss) and he concludes that Mr Duterte “[REDACTED]”.³¹ Needless to say, this [REDACTED] was observed by Professor [REDACTED] in cognitive domains such as [REDACTED], but **not** in the

²⁶ [Report of Professor \[REDACTED\]](#), p. 22, para. 79.

²⁷ [Report of Professor \[REDACTED\]](#), p. 12, “[REDACTED] (*see* appendix 1)”, point 1.

²⁸ [Report of Professor \[REDACTED\]](#), p. 51, para. 3.4.

²⁹ [Report of Professor \[REDACTED\]](#), p. 23, paras 85-92.

³⁰ [Report of Professor \[REDACTED\]](#), p. 23, para. 86.

³¹ [Report of Professor \[REDACTED\]](#), p. 13.

domain of memory – which, according to him, was not just “reduced” but “**clearly reduced**”.³²

17. The concept of ‘cognitive reserve’ is used to explain the brain’s ability to find alternative ways of functioning and performing daily tasks while an underlying pathology may be masked and not exhibiting objective symptoms. Even taking into account the aforementioned ‘[REDACTED]’, the two most relevant members of the Panel contradict each other when referring to Mr Duterte’s actual performance (within the notion of underperformance). Professor [REDACTED] believes that the “[REDACTED]” and “[REDACTED]”.³³ Professor [REDACTED], however, opines that the underperformance most likely hides real impairment, because he cannot rule out [REDACTED]. Indeed, according to Professor [REDACTED], in the context of [REDACTED], Mr Duterte achieved a total score of [REDACTED], which suggests “moderate to severe cognitive impairment” [REDACTED] “[REDACTED]”.³⁴
18. If Professor [REDACTED] cannot rule out “[REDACTED]”, then his findings seriously undermine the weight of [REDACTED] relied upon by Professor [REDACTED] who, in the [REDACTED] article **that he [REDACTED] refers to in paragraph 85 of his report**, states:

[REDACTED].³⁵

v) Conclusions regarding Mr Duterte’s daily functioning

19. Of the three experts on the Panel, only Professor [REDACTED] integrates the observations of the ICC Detention Centre staff into his findings, as distinct from the other two experts who merely rely on Mr Duterte’s behaviour during their interviews. This is significant because one would expect, as a matter of common sense, that a person’s true short-term memory skills are exhibited when he is not aware that he is under examination. One guard reports that Mr Duterte “[REDACTED]”.³⁶ The nurses

³² [Report of Professor \[REDACTED\]](#), p. 11 (emphasis added).

³³ [Report of Professor \[REDACTED\]](#), p. 28, para. 97.

³⁴ [Report of Professor \[REDACTED\]](#), p. 11.

³⁵ [REDACTED].

³⁶ [Report of Professor \[REDACTED\]](#), p. 11, penultimate paragraph.

report that Mr Duterte “[REDACTED]” and that he “[REDACTED]”.³⁷ These real-time observations were not considered in the unified conclusions on fitness.

vi) Failure to integrate co-morbidities

20. Mr Duterte suffers from a considerable number of organic medical issues, each of which may impair cognition and affect functional capacity. [REDACTED]. The Panel failed to consider these [REDACTED]-significant medical conditions and to integrate them into their unified conclusions on fitness.

vii) Recommended accommodations

21. Even the recommended accommodations contradict a finding of low cognitive impairment. Were Mr Duterte cognitively sound, there would be no need for clear and simple questions (repeated if necessary), short breaks for assessment, spoon-feeding information in an accessible format, and allowing time for the processing thereof. Such recommendations are suitable for a functionally-impaired individual, and the rationale for them requires further clarification.

viii) Individual conclusions as to fitness

22. As mentioned in the introduction, the only issue in dispute is whether or not Mr Duterte is capable of exercising his short-term memory faculties in order to retain information heard during legal counselling and during courtroom proceedings, to process it and, thereafter, to provide effective instructions to Counsel.³⁸
23. Professor [REDACTED] draws on Mr Duterte’s [REDACTED] response to the leading question as to whether “[REDACTED]”, to which the answer received was

³⁷ [Report of Professor \[REDACTED\]](#), p. 12, first paragraph.

³⁸ The international criminal tribunals have recognised the role of short-term memory impairment and the inability to retain information in a defendant’s inability to instruct counsel and participate meaningfully in the proceedings. See e.g. IRMCT, *Kabuga*, MICT-13-38-T, [Further Decision On Félicien Kabuga’s Fitness To Stand Trial](#), 6 June 2023, paras 31 (“Mr. Kabuga’s dementia has caused cognitive decline producing deficits in his short-term memory, attention and concentration skills, reasoning and judgment abilities, and executive functioning [...] depriv[ing] Mr. Kabuga of the capabilities necessary for meaningful participation in a trial”); 36 (“participation in a complex proceeding, such as the present trial, requires, at a minimum, a functioning memory, including the ability to retain information over a period of time, as well as the ability to process and express a view about that information. Because Mr. Kabuga lacks these capacities [...] [he] is no longer capable of meaningful participation in his trial”). See also *Kabuga*, MICT-13-38-AR80.3, [Decision on appeals of further decision on Félicien Kabuga’s fitness to stand trial](#), 7 August 2023, para. 28 (“the Trial Chamber specifically noted the Experts’ agreement that **Kabuga lacked the crucial capacity to instruct counsel [...] [and] was no longer able to follow a regular conversation at a normal pace or be engaged in a rational conversation with any substance or coherence, could follow proceedings or understand evidence only at the most superficial level, and was unable to understand the reasoning behind questions asked in court. [...] The Appeals Chamber recalls that an accused’s ability to meaningfully participate in trial is contingent on whether he or she possesses the mental capacity to communicate, and thus consult, with counsel**”) (emphasis added). See also ECCC, *Nuon et al.*, 002/19-09-

“[REDACTED]”.³⁹ Professor [REDACTED] also relies on answers to questions as to how Mr Duterte would explain to his Counsel the import of his [REDACTED]. **None of these observations, however, touch on the exercise of faculties requiring short-term memory.** Even with [REDACTED], Mr Duterte cannot retain information heard during a legal proceeding, process it, and compare it with other information heard at a different stage of the same legal proceeding. This is a faculty that requires use of the short-term working memory. This is not addressed by Professor [REDACTED], whose **only** observation as to the retention of memory in the short-term is a comment, in his conclusions on the ability to instruct counsel, that Mr Duterte “[REDACTED]”.⁴⁰

24. Professor [REDACTED], at the relevant part of his conclusion, states that Mr Duterte is able “[REDACTED]”, while highlighting, nevertheless, that Mr Duterte [REDACTED] “[REDACTED]” and “[REDACTED]”.⁴¹ It is not clear to what extent Professor [REDACTED] appreciates what would be required of Mr Duterte for the purposes of preparing for and participating in complex confirmation proceedings [REDACTED]. The basis for Professor [REDACTED]’s conclusion in the penultimate paragraph of his opinion does not resolve the question as to whether Mr Duterte can retain information heard before and in confirmation proceedings in real-time. What is clear is that Professor [REDACTED], of the three Panel members, found [REDACTED].
25. Professor [REDACTED], also, [REDACTED].⁴² Professor [REDACTED]’s conclusions, however, are predicated on a [REDACTED] analysis where his performance validity assessment has prevented him from drawing affirmative conclusions as to the true nature of Mr Duterte’s cognitive functioning. Moreover, the standard applied by Professor [REDACTED] in reaching his general conclusions (in a section entitled “Ability to provide evidence for the court”) is the “[REDACTED]”.⁴³

2007/ECCC/TC, [Decision on Jeng Thirith’s Fitness to Stand Trial](#), 17 November, para. 59 (“Thirith’s long-term and short-term memory loss ensures that the Accused would be unable to understand sufficiently the course of the proceedings to enable her to adequately instruct counsel and effectively participate in her own defence [...] the Chamber has no alternative but to declare her to be unfit to stand trial”).

³⁹ [Report of Professor \[REDACTED\]](#), p. 12, para. 11.27.

⁴⁰ [Report of Professor \[REDACTED\]](#), p. 53, para. 4.10.

⁴¹ [Report of Professor \[REDACTED\]](#), p. 13.

⁴² [Report of Professor \[REDACTED\]](#), pp. 33-34, paras 124-127.

⁴³ [Report of Professor \[REDACTED\]](#), p. 33, para. 122.

This is **not** the standard applicable at the International Criminal Court but, rather, a lower standard formerly adopted at the International Criminal Tribunal for the former Yugoslavia⁴⁴ and which was explicitly rejected by the Pre-Trial Chamber in *Gbagbo*.⁴⁵ Indeed, Professor [REDACTED] is the only expert who raises this erroneous standard of proof for fitness proceedings, and the possibility that it infected the entirety of his working methodology and the conclusions of the other Panel members (who jointly communicated) cannot be dismissed.

26. As mentioned, the experts do not integrate, for their own various reasons, the effect of Mr Duterte's observed short-term memory impairment. Moreover, the experts have not been provided with certain ICC Detention Centre intercepts where any 'varnishing' of Mr Duterte's cognitive functioning for the purposes of performance validity may be completely discounted. The Pre-Trial Chamber is fully aware of the significance of these intercepts – the cognitive aspects of which⁴⁶ were ruled [REDACTED],⁴⁷ yet to which [REDACTED].⁴⁸ These short-term memory deficits would include forgetting visits of Counsel,⁴⁹ and advice provided, only hours earlier;⁵⁰ the presence of immediate family in The Hague;⁵¹ repeatedly asking questions after having forgotten the response provided minutes previously;⁵² and, forgetting to ask for his own medical file – something well-known to the Registry.⁵³

⁴⁴ ICTY, *Strugar*, IT-01-42-T, [Decision re the Defence motion to terminate proceedings](#), 26 May 2004, para. 38.

⁴⁵ *Gbagbo First Decision*, para. 56 (“[t]he Chamber notes the Prosecutor’s argument that the party alleging that the suspect is unfit to stand trial should bear the burden of proof, and that the applicable evidentiary threshold should be ‘balance of probabilities’ [...] As to the evidentiary standard, the Chamber considers it sufficient to refer in this respect to the text of rule 135 of the Rules, which states that where the Chamber is ‘satisfied that the accused is unfit to stand trial’ further proceedings must be adjourned”).

⁴⁶ Annex to [REDACTED], [ICC-01/21-01/25-211-Conf-Exp-Anx](#), 23 July 2025, pp. 3-4, lines 54-67. *See also* Annex to [REDACTED], [ICC-01/21-01/25-219-Conf-Exp-Anx](#), pp. 1-2, lines 2, 8.

⁴⁷ Corrected version of ‘[REDACTED]’, 20 August 2025, ICC-01/21-01/25-238-Conf-Exp, [ICC-01/21-01/25-238-Conf-Exp-Corr](#), 21 August 2025, para. 12.

⁴⁸ Email, Prosecution to Defence, “Request: expert materials”, 2 September 2025, 11:45.

⁴⁹ [Report of Professor \[REDACTED\]](#), p. 11, paras 11.19 (“[REDACTED]”); 11.20 (“[REDACTED]”). *See also* Defence Observations on ICC-01/21-01/25-211-Conf-Exp and ICC-01/21-01/25-219-Conf-Exp, [ICC-01/21-01/25-220-Conf-Exp](#), 29 July 2025 (“[Defence Observations on \[REDACTED\]](#)”), para. 9.

⁵⁰ [Defence Observations on \[REDACTED\]](#), paras 9, 14, 15.

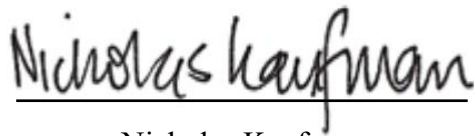
⁵¹ [Defence Observations on \[REDACTED\]](#), para. 8.

⁵² *See e.g.* [Defence Observations on \[REDACTED\]](#), paras 9, 11, 12, 14, 15.

⁵³ *See e.g.* Urgent Defence Request to [REDACTED], [ICC-01/21-01/25-182-Conf-Exp](#), 4 July 2025; Public Redacted Version of “Defence Response to the ‘Registry Report on the Assessment by the Medical Officer of the Detention Centre’ & Request for Disclosure”, [ICC-01/21-01/25-264-Red](#), 9 October 2025.

V. CONCLUSION AND RELIEF SOUGHT

27. The Defence submits that although the Panel considers Mr Duterte competent for the purpose of the pre-trial proceedings, the means by which each member of the Panel reached his conclusions stridently conflict with those of the others. Such internal inconsistencies undermine the overall weight of the general joint conclusion on fitness. Before rendering a decision on the matter, the Pre-Trial Chamber must seek further clarification. The Panel's joint report thus cannot be dispositive nor is there any articulated reason for it to be dispositive. The Pre-Trial Chamber merely rejected the Defence expertise by deeming it necessary to obtain further information.
28. While the experts pronounce on Mr Duterte's rudimentary ability to engage in a criminal process, it is not clear what they actually know, if at all, about the complex nature of confirmation proceedings at the ICC, which require a suspect to be familiar, through his defence, with thousands of items of evidence comprising an investigation dating back more than four years. For this reason, the Defence seeks an evidentiary hearing whereby the parties will be able to clarify the conclusions of the experts, the reasons for such conclusions, the methodology adopted during the interviews, and the means whereby instructions were communicated to them.⁵⁴ Such an evidentiary hearing is considered standard practice in many jurisdictions throughout the world as well as before the international criminal tribunals.



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

⁵⁴ Urgent Request for [REDACTED], [ICC-01/21-01/25-334-Conf](#), 10 December 2025.