

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Original: **18 August 2025**

Date: **11 September 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

**Public Redacted Version of the “Defence Request for an Indefinite
Adjournment”**

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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Registrar

Osvaldo Zavala Giler

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☐ Detention Section

☐ Victims Participation and
Reparations Section

☐ Other

I. INTRODUCTION

1. Mr Rodrigo Roa Duterte is not fit to stand trial as a result of cognitive impairment in multiple domains.¹ Mr Duterte's condition will not improve² and, for this reason, the Pre-Trial Chamber must adjourn all legal proceedings in his case indefinitely.
2. The Defence is cognisant of Rule 135(1) of the Rules of Procedure and Evidence, which vests the Pre-Trial Chamber with the discretionary power to order a medical and/or psychological examination of a suspect. However, given the extensive medical information now placed at the disposal of the Pre-Trial Chamber, the Defence does not believe that further medical examination is necessary to grant the relief sought.
3. The Defence has kept the Pre-Trial Chamber regularly updated with respect to Mr Duterte's deteriorating cognitive condition.³ Medical and psychological evaluations have been shared with the Prosecution,⁴ and the essential substance thereof with the OPCV.⁵ All of the medical information collated leads to the overwhelming conclusion that Mr Duterte suffers from significant cognitive deficiencies⁶ that affect his memory, his daily executive functioning, his visuo-constructive abilities, and his orientation to place and time while, simultaneously, limiting his capacity for complex reasoning.⁷

¹ [REDACTED] Expert Report, authored by [REDACTED], ("[REDACTED]"), submitted as **Annex A**, [REDACTED]. All references to "Article" and to "Rules" in the present submission are to the Rome Statute and the ICC Rules of Procedure and Evidence ("RPE"), respectively, unless otherwise indicated. This request is filed confidentially pursuant to [Regulation 23bis\(1\)](#) as it concerns matters of medical privacy.

² [REDACTED].

³ Email, Defence to Pre-Trial Chamber, "ICC-01/21-01/25: Duterte: ex parte Prosecution and Defence only: Competence", 5 June 2025, 14:53.

⁴ Email, Defence to Prosecution, "[REDACTED]", 4 June 2025, 12:11.

⁵ Email, 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.

⁶ [REDACTED].

⁷ [REDACTED].

4. The aforementioned cognitive deficiencies have been diagnosed not just by the two Defence experts but also by a neuropsychologist instructed by the Medical Officer at the ICC Detention Centre at the specific request of the Registrar.⁸ For this reason, the medical data presented to the Pre-Trial Chamber is neither partisan nor self-serving.

II. PROCEDURAL HISTORY

5. On 12 March 2025, Mr Duterte was surrendered to the custody of the International Criminal Court and was immediately hospitalised.⁹
6. In the afternoon of 14 March 2025,¹⁰ while still confined to the hospital wing of the Haaglanden Penitentiary, Mr Duterte made his first appearance before the Pre-Trial Chamber by way of videoconference.¹¹ Earlier that day, Counsel had submitted a request for the postponement of the initial appearance citing, *inter alia*, “issues of competence to stand trial”.¹² This request, however, was rejected by the Pre-Trial Chamber [REDACTED].¹³ [REDACTED].¹⁴
7. Despite Mr Duterte’s noticeable drowsiness during the initial appearance, the Presiding Judge stated as follows: “the Court’s doctor [i]s of the opinion that you [a]re fully mentally aware and fit”.¹⁵

⁸ [REDACTED].

⁹ [REDACTED].

¹⁰ Decision convening a hearing for the first appearance of Mr Rodrigo Roa Duterte, [ICC-01/21-01/25-90](#), 13 March 2025, para. 9.

¹¹ Transcript of the Initial Appearance, [ICC-01/21-01/25-T-002-ENG](#), 14 March 2025 (“Initial Appearance Transcript”), p. 2, line 14.

¹² [REDACTED] (an email from Counsel to Pre-Trial Chamber I, “[REDACTED]”, 14 March 2025, 06:48, para. 7).

¹³ [REDACTED] (an email response from Pre-Trial Chamber I to Counsel, “[REDACTED]”, 14 March 2025, 12:22, para. 13).

¹⁴ [REDACTED].

¹⁵ [Initial Appearance Transcript](#), p. 8, lines 23-25.

8. On 16 May 2025, a CT scan was performed, the results of which were not disclosed to the Defence until receipt of the medical report detailed in paragraph 9 below.¹⁶ This CT scan revealed that “[REDACTED]”.¹⁷ The CT also documented “[REDACTED]”.¹⁸
9. On 28 May 2025,¹⁹ Mr Duterte was examined, at the request of the Defence,²⁰ by [REDACTED], who subsequently prepared a preliminary medical report.²¹ As a result of [REDACTED]’s preliminary findings, and in order to arrive at a definitive conclusion, [REDACTED] recommended two further diagnostic procedures: an MRI of the head and a neuro-psychological evaluation.²²
10. On 29 May 2025, the day after [REDACTED]’s visit, the Defence wrote to the Chief Custody Officer of the ICCDC to request that an MRI be performed “as soon as possible”.²³
11. On 30 May 2025, the Registry replied to Counsel as follows: “[REDACTED]”.²⁴ For this reason, the MRI was not performed, despite continual supplication and begging,²⁵ until 21 July 2025.²⁶
12. On 4 June 2025, Counsel requested that the ICCDC permit Mr Duterte to be examined, in a clinical environment, by [REDACTED], a consultant neuropsychologist selected by the Defence.²⁷

¹⁶ [REDACTED].

¹⁷ [REDACTED].

¹⁸ [REDACTED].

¹⁹ Email, ICCDC to Defence, “[REDACTED]”, 19 May 2025, 14:42.

²⁰ Email, Defence to Pre-Trial Chamber, “[REDACTED]”, 16 May 2025, 12:18.

²¹ See [REDACTED].

²² [REDACTED].

²³ Email, Defence to ICCDC, “[REDACTED]”, 29 May 2025, 17:09.

²⁴ Email, ICCDC to Defence, “[REDACTED]”, 30 May 2025, 12:14.

²⁵ Email, Defence to ICCDC, “[REDACTED]”, 4 June 2025, 14:38; Email, Defence to ICCDC, “[REDACTED]”, 30 June 2025, 18:41; Email, Defence to ICCDC, “[REDACTED]”, 10 July 2025, 17:39.

²⁶ [REDACTED].

²⁷ Email, Defence to ICCDC, “[REDACTED]”, 4 June 2025, 14:38.

13. On 5 June 2025, the Registry requested that it be supplied with [REDACTED]'s Preliminary Report.²⁸ Counsel complied,²⁹ and the Registry was thereby exposed to the Defence's confidential work product and future strategy.³⁰
14. [REDACTED]'s Preliminary Report was presented to the Chamber on 10 June 2025 in support of the Defence's request for [REDACTED].³¹ In rejecting this request, the Chamber noted as follows:

[REDACTED].³²

15. On 12 June 2025, the Registry replied to Counsel and denied the request to have Mr Duterte examined by [REDACTED]. Counsel was advised that "[REDACTED]".³³ Counsel was further informed that "the Registrar [had] asked the MO to proceed with the examination of Mr Duterte's condition".³⁴
16. On 14 July 2025, and specifically to enable the Chamber to determine the appropriate procedure for litigating competency, the Defence requested that the Chamber convene a status conference.³⁵ That submission set out, in detail, the bureaucratic red tape that the Registry had applied in order to prevent the Defence from achieving a timely and complete picture of Mr Duterte's health.³⁶ The Chamber subsequently [REDACTED], noting that the pertinent issues could [REDACTED].³⁷

²⁸ Email, ICCDC to Defence, "[REDACTED]", 5 June 2025, 12:02.

²⁹ Email, Defence to ICCDC, "[REDACTED]", 5 June 2025, 17:08.

³⁰ Email, ICCDC to Defence, "[REDACTED]", 5 June 2025, 17:10.

³¹ [REDACTED].

³² [REDACTED].

³³ Email, ICCDC to Defence, "[REDACTED]", 12 June 2025, 11:41.

³⁴ *Id.*

³⁵ [REDACTED].

³⁶ [REDACTED].

³⁷ [REDACTED].

17. On 17 July 2025, the Defence received a neuropsychological evaluation performed by an **anonymous** expert appointed by the equally anonymous ICCDC Medical Officer³⁸ (with whom the Defence is forbidden to communicate³⁹). This report corroborated [REDACTED]'s preliminary findings, noting a decline in memory, executive functioning, and visuo-constructive abilities.⁴⁰ Armed with this report, the Defence formally notified the Chamber of its intention to raise the issue of legal competency as a bar to proceeding with the hearing on the confirmation of the charges.⁴¹
18. On 21 July 2025, the much-awaited MRI was finally performed, albeit two months after it had been requested. This diagnostic imaging confirmed [REDACTED].⁴²
19. On 8 August 2025, the Defence neuropsychologist, [REDACTED], was finally admitted to the ICCDC and permitted to examine Mr Duterte.⁴³
20. On 13 August 2025, [REDACTED] presented the Defence with [REDACTED] written evaluation, in which [REDACTED] reported as follows:

[REDACTED].⁴⁴

21. On the same day, 13 August 2025, [REDACTED] finalised [REDACTED] report and provided [REDACTED] conclusions on Mr Duterte's fitness to stand trial.⁴⁵ In so doing, [REDACTED] adopted the findings of both [REDACTED] and the

³⁸ [REDACTED].

³⁹ Email, ICCDC to Defence, "RE: FOR DETERMINATION. Duterte Medical Records", 18 July 2025, 10:27.

⁴⁰ [REDACTED].

⁴¹ [REDACTED]. *See also* [REDACTED].

⁴² [REDACTED].

⁴³ Email, ICCDC to Defence, "[REDACTED]", 30 July 2025, 10:15.

⁴⁴ [REDACTED], authored by [REDACTED], ("[REDACTED]"), submitted as **Annex B**, [REDACTED].

⁴⁵ [REDACTED].

ICCDC neuropsychologist while also considering the results of the CT scan and the MRI.

22. [REDACTED]'s final conclusions are outlined below:

1. [REDACTED].
2. The degree of cognitive decline **renders him unfit to stand trial**.
3. [REDACTED].
4. [REDACTED].
5. **Judicial accommodations** (e.g., hearing support, breaks, simplified language, summaries) are unlikely to restore functional capacity sufficient for full trial participation.⁴⁶

23. In summary, [REDACTED] concluded as follows:

Based on my evaluation, it is my professional conclusion that **Mr. D. is currently unable to meaningfully participate in the legal proceedings against him**. Specifically, he lacks the capacity to remember, assimilate and apply information to be able to give his lawyers effective instructions. He will not be able to fluently recall information from the period relevant to the case such as to be able to testify. **To conclude, Mr. D. will not be able to meaningfully engage with the legal process and is unfit to stand trial.**⁴⁷

III. APPLICABLE LAW

24. Under Article 64(2) of the Rome Statute, the Chamber is tasked with ensuring a fair trial. This duty necessitates guaranteeing that a suspect, or an accused, is able meaningfully to exercise, *inter alia*, the procedural rights set out in Article 67(1).⁴⁸ ICC precedent provides a non-exhaustive list of faculties required for the meaningful exercise of those procedural rights:

⁴⁶ [REDACTED] (emphasis in the original).

⁴⁷ [REDACTED] (emphasis added).

⁴⁸ *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. 43. See also *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. 33.

the capacity to (i) understand the purpose, including the consequences of the proceedings; (ii) understand the course of the proceedings, including the nature and significance of pleading to the charges; (iii) understand the evidence; (iv) testify or give an unsworn statement (should the accused so choose); and (v) instruct counsel in the preparation and conduct of his defence.⁴⁹

25. Pursuant to Rule 135(4) of the Rules of Procedure and Evidence, it falls to the Chamber, even at the pre-trial phase,⁵⁰ to determine a suspect's competency for the purpose of legal proceedings. The Chamber is thus required not just to determine the presence of a particular medical condition, but also to ascertain the ability of the person suffering therefrom to exercise his procedural rights effectively.⁵¹ Obliging an individual to participate in a legal proceeding when he lacks the capacity to engage effectively therein would entail prejudice that could amount to a miscarriage of justice.⁵²

IV. SUBMISSIONS

26. The Registry has continually insisted on rigid compliance with its Regulations, which clearly disadvantage a suspect such as Mr Duterte, who is incapable of asserting his basic right to access his own medical information. Counsel, who is charged with representing Mr Duterte's best interests, received, within a few days of meeting him, a fully informed and signed consent to access his client's medical information.⁵³ The Registry, however, has persistently ignored this

⁴⁹ [Gbagbo Second Decision](#), para. 35. See also *Al Hassan*, Decision on Mr Al Hassan's ongoing fitness to stand trial, [ICC-01/12-01/18-1467](#), 10 May 2021, para. 70; *Ongwen*, Decision on the Defence Request to Order a Medical Examination of Dominic Ongwen, [ICC-02/04-01/15-637-Red](#), 16 December 2016 ("*Ongwen Decision*"), para. 8. See also IRMCT, *Kabuga*, MICT-13-38-AR80.3, [Decision on Appeals of Further Decision On Félicien Kabuga's Fitness To Stand Trial](#), 7 August 2023, para. 23; ICTY, *Strugar*, IT-01-42-T, [Decision re the Defence Motion to Terminate Proceedings](#), 26 May 2004, para. 36; ECCC, *Nuon et al.*, 002/19-09-2007/ECCC/TC, [Decision on Ieng Thirith's Fitness to Stand Trial](#), 17 November 2011 ("*Nuon et al. Decision*"), para. 26.

⁵⁰ [Gbagbo First Decision](#), para. 55.

⁵¹ [Gbagbo First Decision](#), para. 51. See also ICTY, *Strugar*, IT-01-42-A, [Judgement](#), 17 July 2008 ("*Strugar Judgment*"), para. 61; *Hadžić*, IT-04-75-T, [Consolidated decision on the continuation of the proceedings](#), 26 October 2015 ("*Hadžić Decision*"), para. 41.

⁵² [Strugar Judgment](#), para. 34.

⁵³ Email, Defence to ICCDC, "Re: Rodrigo Roa Duterte – URGENT", 21 March 2025, 14:48.

written consent, and continues to insist to this very day that Mr Duterte, despite [REDACTED], is the only person who can request and receive his medical information.⁵⁴ This policy has been exploited in such a coldly bureaucratic fashion that only now, five months subsequent to Mr Duterte's arrest, is the Defence, through no fault nor delay of its own, fully able to substantiate what it has known and experienced from the outset.

27. The Registrar's introduction of a neuropsychologist selected by the ICCDC Medical Officer, while temporarily refusing access to [REDACTED], was a calculated decision taken neither innocently nor out of genuine therapeutic concern for Mr Duterte. In fact, since examining Mr Duterte and diagnosing his condition, that anonymous physician has not been engaged by the ICCDC Medical Officer to perform any follow-up treatment. The Registrar's decision was taken, so it is submitted, with a view to obtaining an opinion contrary to that proffered by the Defence, thereby diminishing the force of [REDACTED]'s conclusions. Notwithstanding, the objectively empirical findings of that anonymous neuropsychologist ([REDACTED]) only serve to corroborate the Defence's argument as to lack of competence.
28. [REDACTED]'s Final Report is unequivocal. According to [REDACTED], Mr Duterte's cognitive screening reveals "[REDACTED]",⁵⁵ evidenced by a "[REDACTED]", which is suggestive of a "[REDACTED]".⁵⁶ [REDACTED]

⁵⁴ Email, ICCDC to Defence, RE: FOR DETERMINATION. Duterte Medical Records: URGENT", 31 July 2025, 17:11 ("[REDACTED]"). *See also* Email, ICCDC to Defence, "RE: FOR DETERMINATION. Duterte Medical Records", 17 July 2025, 15:50 ("[REDACTED]"); Email, ICCDC to Defence, "RE: Duterte Medical Records", 10 June 2025, 16:25 ("[REDACTED]"); Email, ICCDC to Defence, "Rodrigo Roa Duterte – URGENT", 20 March 2025, 17:12 ("[REDACTED]").

⁵⁵ [REDACTED].

⁵⁶ *Id.* *See also* [REDACTED]; [REDACTED].

adds that Mr Duterte also displays “[REDACTED]”, [REDACTED].⁵⁷ Additionally, Mr Duterte demonstrates “[REDACTED]”, [REDACTED].⁵⁸

29. The observed deterioration in cognitive abilities aligns with a “[REDACTED]”,⁵⁹ affecting, *inter alia*, Mr Duterte’s capacity for complex reasoning. Notably, while basic language skills remain preserved, Mr Duterte shows limited insight into his current legal circumstances.⁶⁰ The abovementioned findings are characteristic of a “[REDACTED]”.⁶¹
30. Mr Duterte’s state of health, thus, directly impacts on the exercise of the procedural rights enshrined in Article 67(1), which are essential for him to benefit from a fair trial.
31. With his impaired memory⁶² and concomitant inability to retain new information⁶³ or to recall events, places, timing or even members of his close family and Defence team,⁶⁴ Mr Duterte is unable to fully understand the nature and implications of the proceedings conducted against him. His deficient memory also entails an inability to follow the litigation and to make informed decisions. Consequently, and crucially, Mr Duterte is unable to contribute to his own defence,⁶⁵ rendering his participation in the proceedings totally ineffective.⁶⁶

⁵⁷ *Id.* See also [REDACTED].

⁵⁸ *Id.* See also [REDACTED]; [REDACTED].

⁵⁹ [REDACTED].

⁶⁰ *Id.*

⁶¹ *Id.* (emphasis in original).

⁶² [REDACTED] (“[REDACTED]”). See also [REDACTED] (“[REDACTED]”).

⁶³ [REDACTED]. See also [REDACTED].

⁶⁴ [REDACTED] (“[REDACTED]”).

⁶⁵ [REDACTED].

⁶⁶ ECHR, [S.C. v. The United Kingdom](#), App. no. 60958/00, Judgment, 15 June 2004, para. 29 (“[e]ffective participation’ in this context presupposes that the accused has a broad understanding of the nature of the trial process and of what is at stake for him or her, including the significance of any penalty which may be imposed. It means that he or she, if necessary with the assistance of, for example, an interpreter,

32. The ICC has recognised that a suspect's ability to participate meaningfully in a hearing to confirm charges is essential. A suspect must be entitled to object to the charges, to contest the evidence presented by the Prosecution, and to submit evidence in support of his defence.⁶⁷
33. Mr Duterte lacks the capacity to apply the cognitive skills essential for the proper conduct of his defence. In fact, he is not even able to process the reasons for his detention ([REDACTED]).⁶⁸ Accordingly, the Defence submits that Mr Duterte's condition fails to meet the minimum standard for fitness to stand trial, namely, an "understanding of the essentials of the proceedings".⁶⁹
34. The [REDACTED] from which Mr Duterte suffers is progressive and [REDACTED].⁷⁰ Even with medical or psychiatric intervention, Mr Duterte's condition is expected to remain static or, sadly, to deteriorate even further.⁷¹ No treatment for Mr Duterte's [REDACTED]⁷² and [REDACTED]⁷³ will restore him to a state of legal competence.⁷⁴ [REDACTED] Mr Duterte's pathology clearly suggests that "a trial and continued detention [...] would also not serve the

lawyer, social worker or friend, should be able to understand the general thrust of what is said in court. The defendant should be able to follow what is said by the prosecution witnesses and, if represented, to explain to his own lawyers his version of events, point out any statements with which he disagrees and make them aware of any facts which should be put forward in his defence"). See also [T. v. The United Kingdom](#), App. no. 24724/94, Judgment, 16 December 1999, para. 83; [Stanford v. The United Kingdom](#), App. no. 16757/90, Judgment, 23 February 1994, para. 26.

⁶⁷ [Gbagbo First Decision](#), para. 54.

⁶⁸ [REDACTED] ("[REDACTED]").

⁶⁹ [Ongwen Decision](#), para. 7. See also [Hadžić Decision](#), para. 40; ICTR, *Karemera et al.*, ICTR-98-44-T, [Decision on Remand Regarding Continuation of Trial](#), 10 September 2009, para. 18.

⁷⁰ [REDACTED].

⁷¹ *Id.*

⁷² [REDACTED]. See also [REDACTED].

⁷³ [REDACTED] ("[REDACTED]").

⁷⁴ [REDACTED].

interests of justice”.⁷⁵ In these circumstances, the pursuit of legal proceedings against a [REDACTED] incapacitated individual must be terminated.

V. CONCLUSION AND RELIEF SOUGHT

35. In light of the aforementioned, and pursuant to Rule 135(4) of the Rules of Procedure and Evidence, the Defence respectfully requests the Chamber to **ORDER** that all legal proceedings, including the hearing on the confirmation of charges, be adjourned **indefinitely**.
36. In the alternative, and only if the Prosecution provides cogent reasons for not accepting the findings of [REDACTED], the 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.



Nicholas Kaufman
Counsel for Rodrigo Roa Duterte

Dated this 11th day of September 2025

At The Hague, The Netherlands

⁷⁵ [*Nuon et al. Decision*](#), para. 60 (emphasis added). In this case, Ms Ieng Thirith was found to be suffering from a moderately severe dementing illness, most likely Alzheimer’s disease — a progressive and degenerative condition which significantly impaired her long - and short-term memory as well as her capacity to comprehend questions, follow instructions, recall events, concentrate, and maintain a coherent line of thought. She was disoriented as to the date and unable to recall any meaningful details of her time residing in France. Her recollection of immediate family members was similarly limited; the few details she did provide were largely inaccurate. She demonstrated poor memory for significant life events, unable, for example, to recall how many children she had, their whereabouts, or their occupations, though she did remember having a daughter. She was also unable to recall the names of her mother or siblings. During subsequent evaluations by psychiatric experts, although she recognised one of the interpreters, Ms Ieng Thirith was unable to remember the names or roles of the experts themselves. **In light of these conditions, [REDACTED], the Chamber found the accused unfit to stand trial.**