

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Original: **7 September 2026**

Date: **14 September 2026**

TRIAL CHAMBER III

Before: Judge Joanna Korner, Presiding Judge
Judge Keebong Paek
Judge Nicolas Guillou

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 Joint and Individual Reports of the 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. The examinations conducted by the experts appointed by the Trial Chamber to assist it in determining Mr Duterte's fitness to stand trial paint a clear picture of the current situation: Mr Duterte suffers from significant memory impairment that prevents him from retaining recent information and reliably accessing memories. This makes it difficult for him to engage meaningfully with the charges, the alleged incidents, the tens of thousands of disclosed items of evidence, let alone give proper instructions to his Lead Counsel, whose name he only sometimes remembers. As a result, the Defence will, in reality, be preparing the case without meaningful input from the accused.
2. The experts have attributed these deficiencies largely to Mr Duterte's "underperformance" during testing. They thereby reached the conclusion – unsupported by the test results, the answers provided during the interviews or the medical records made available to them – that he possessed the capacities necessary to stand trial in complex international criminal proceedings of this magnitude and to endure months or years of hearings.
3. In light of the importance of these conclusions, the Defence submits that the Trial Chamber should seek greater medical certainty from the experts as to the nature and extent of Mr Duterte's cognitive impairments, by directing them to complete ancillary examinations for that purpose. This would allow the experts to confirm or exclude, once and for all, the possibility that his performance was the result of his failing to apply himself fully and would allow the Trial Chamber to interpret their final assessments on a properly informed basis.
4. The Defence also maintains that, even if the Trial Chamber considered the reports adequate and found that no further ancillary examinations were required, the Defence should nevertheless be afforded the opportunity to question the experts on their findings and conclusions, so as to facilitate the Trial Chamber's resolution of the inconsistencies identified therein.

II. PROCEDURAL HISTORY

5. On 29 January 2026, the Pre-Trial Chamber, ruling on the Defence's request for an indefinite adjournment of all proceedings,¹ held that Mr Duterte was able effectively to exercise his procedural rights and was fit to participate in the pre-trial proceedings.²
6. On 12 June 2026, having granted³ the Defence's renewed request for a medical examination,⁴ the The Trial Chamber reappointed the same experts selected at the pre-trial stage ("Panel") and tasked them with assessing whether Mr Duterte is fit to stand trial in the upcoming proceedings.⁵
7. On 21 August 2026, the Registry submitted the reports prepared by the Panel.⁶

III. APPLICABLE LAW

8. Pursuant to Rule 135, a Chamber may order a medical examination of an accused where necessary to discharge its obligations under Article 64, including ensuring that proceedings are fair and do not proceed against an accused who is unfit to stand trial.⁷ Accordingly, it is for the Chamber alone to determine this question – as it is a matter of law rather than science⁸ –, and thus it is not bound by the experts' conclusion that an accused is fit to stand trial.⁹

¹ Defence Request for an Indefinite Adjournment, [ICC-01/21-01/25-230-Conf](#), 18 August 2025, para. 35. 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. All references to "Article" and to "Rule" in the present submission are to the Rome Statute and the International Criminal Court Rules of Procedure and Evidence respectively.

² Decision on the 'Defence Request for an Indefinite Adjournment' and Mr Duterte's fitness to take part in the pre-trial proceedings, [ICC-01/21-01/25-356-Conf](#), 26 January 2026, paras 45, 48-50, 53.

³ Transcript of Status Conference, [ICC-01/21-01/25-T-009-CONF-ENG ET](#), 27 May 2026, p. 40, lines 1-6.

⁴ Defence's request for medical examination pursuant to Rule 135, [ICC-01/21-01/25-450-Conf](#), 25 May 2026.

⁵ Decision appointing experts for the purpose of a medical examination pursuant to Rule 135 of the Rules of Procedure and Evidence, [ICC-01/21-01/25-462-Conf](#), 12 June 2026 ("[Trial Decision on the Appointment of Experts](#)"), paras 22, 23-41.

⁶ Annex 1 to the Registry Transmission of the Panel of Experts' Joint and Individual Reports pursuant to ICC-01/21-01/25-462-Conf, [ICC-01/21-01/25-480-Conf-Anx1](#), 21 August 2026 ("[Joint Report](#)"); Annex 2 Registry Transmission of the Panel of Experts' Joint and Individual Reports pursuant to ICC-01/21-01/25-462-Conf, [ICC-01/21-01/25-480-Conf-Anx2](#), 21 August 2026 ("[Neuropsychological Report](#)"); Annex 3 to the Registry Transmission of the Panel of Experts' Joint and Individual Reports pursuant to ICC-01/21-01/25-462-Conf, [ICC-01/21-01/25-480-Conf-Anx3](#), 21 August 2026 ("[Neurological Report](#)"); Annex 4 to the Registry Transmission of the Panel of Experts' Joint and Individual Reports pursuant to ICC-01/21-01/25-462-Conf, [ICC-01/21-01/25-480-Conf-Anx4](#), 21 August 2026 ("[Psychiatric Report](#)").

⁷ Rules of Procedure and Evidence, [Rule 135\(1\)](#); Rome Statute, [Article 64\(8\)\(a\)](#). See also [Trial Decision on the Appointment of Experts](#), paras 16-17; *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 Decision](#)"), para. 56.

⁸ [Trial Decision on the Appointment of Experts](#), para. 26. See also *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.

⁹ [Al Hassan Decision](#), para. 68.

9. The appropriate standard requires the Chamber to be satisfied that the accused can meaningfully participate in the trial,¹⁰ through relevant abilities including, *inter alia*, the capacities to engage with and take part in trial proceedings and instruct counsel.¹¹

IV. SUBMISSIONS

i) The medical assessment is incomplete

10. The Trial Chamber, with the agreement of both the Prosecution and the Defence, appointed the experts who had previously examined Mr Duterte during the pre-trial stage, so that they could build on that earlier assessment.¹² It then directed the Panel to undertake “all necessary examinations, including physical and psychiatric/psychological assessments”,¹³ within the scope of their proficiency, and to provide an “expert opinion” as to whether Mr Duterte possesses the capacities necessary meaningfully to exercise his procedural and fair trial rights at the trial phase.¹⁴ The Defence submits that the Panel’s assessment is incomplete and inadequate. By failing to exhaust all available examinations and thereby not fully comply with their instructions, the Panel has left the Trial Chamber and parties in a situation of significant uncertainty as to how the cognitive difficulties identified in Mr Duterte should be properly interpreted.
11. All three experts visited Mr Duterte and administered a range of tests to assess his cognitive capacities. The results were largely consistent, depicting a man with serious deficits that limit his ability effectively to participate in the proceedings. Professor [REDACTED], for instance, determined that “[REDACTED]”.¹⁵ The [REDACTED] conducted by Professor [REDACTED] and Professor [REDACTED] further identified “[REDACTED]”,¹⁶ with Mr Duterte unable, by way of [REDACTED].¹⁷ Other exams

¹⁰ [Gbagbo Decision](#), para. 56.

¹¹ [Trial Decision on the Appointment of Experts](#), para. 24. *See also Said*, Decision on Mr Said’s Fitness to Stand Trial, [ICC-01/14-01/21-667-Red](#), 15 December 2023, para. 35; [Al Hassan Decision](#), para. 70; *Ongwen*, Decision on Further Defence Request for a Medical Examination, [ICC-02/04-01/15-1622](#), 1 October 2019, para. 14.

¹² [Trial Decision on the Appointment of Experts](#), paras 18, 20, 22.

¹³ [Trial Decision on the Appointment of Experts](#), para. 31.ii.

¹⁴ [Trial Decision on the Appointment of Experts](#), para. 31.iii.

¹⁵ [Neuropsychological Report](#), p. 12, para. 24.

¹⁶ [Neurological Report](#), p. 14.

¹⁷ [Psychiatric Report](#), p. 15, paras 16.23, 16.11.

yielded similarly low scores,¹⁸ indicative of a cognitive impairment that might range from moderate to severe.¹⁹

12. Yet, all three experts considered that the accuracy of these tests could not be relied upon to provide an accurate assessment of Mr Duterte's cognitive status, on the basis that he may not have been fully applying himself,²⁰ including his declining to attempt certain exercises.²¹ The actual cause of this underperformance, however, remains unknown. In their reports, the Professors were unable to determine whether Mr Duterte's failure to perform the tests resulted from malingering or a lack of motivation – a possibility seemingly rejected by their own finding [REDACTED]²² – or from a genuine inability to carry out and complete the tests as a consequence of an underlying neurological condition.
13. The probability of the latter hypothesis is not a mere suggestion advanced by the Defence, but a plausible explanation put forward by two out of the three appointed experts. Professor [REDACTED] expressly made clear that his reference to underperformance was valid only “in the absence” of any neurological disorders.²³ A scenario that, unlike in his December 2025 report,²⁴ he now appears unwilling to discount, by stating that “[REDACTED]” cannot be ruled out.²⁵ Professor [REDACTED], on the other hand, to whom the complex task of resolving this longstanding question fell by virtue of his expertise, initially appeared to dismiss evidence of [REDACTED],²⁶ but then retreated from that position and confirming what he already wrote in his first assessment,²⁷ outlined that “[REDACTED]”.²⁸
14. Thus, the expert best placed to determine whether [REDACTED] is present – and so to provide the critical basis for interpreting the results of the tests administered by the Panel – has been unable to deliver a clear and definitive diagnosis of Mr Duterte's

¹⁸ [Psychiatric Report](#), p. 26, para. 29.14.

¹⁹ [REDACTED], see 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 (“[Pre-Trial Neurological Report](#)”), p. 11.

²⁰ [Joint Report](#), p. 8, para. 11.3; [Neuropsychological Report](#), p. 28, paras 81, 82; [Neurological Report](#), p. 14, para. 7.

²¹ [Psychiatric Report](#), p. 26, para. 29.16.

²² [Neuropsychological Report](#), p. 25, para. 67; [Neurological Report](#), p. 14.

²³ [Neuropsychological Report](#), p. 12, para. 25.

²⁴ 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, p. 7, para. 22.

²⁵ [Neuropsychological Report](#), p. 13, para. 25.

²⁶ [Neurological Report](#), p. 14, para. 8.3.

²⁷ [Pre-Trial Neurological Report](#), p. 11 (“[REDACTED]”); p. 13.

²⁸ [Neurological Report](#), p. 15, para. 8.4.

cognitive condition,²⁹ despite having had the opportunity to do so. Indeed, **he himself concedes that further examinations which did not require the patient's cooperation – [REDACTED] – were available and would have been able to clarify this question, yet were not performed.**³⁰

15. The Defence submits that this omission is material. The individual reports make plain that the interpretation of the poor test results depends critically on whether, and to what extent, Mr Duterte suffers from a neurological condition [REDACTED]. Its presence would not merely prevent them from being disregarded as unreliable; on the contrary, it would reinforce their evidentiary significance, by confirming that the severe deficits identified are the substantial effect of a cognitive disorder affecting Mr Duterte's capacities. This confirmation would bear directly on the Panel's conclusions as to whether Mr Duterte possesses the abilities necessary fully to exercise his rights in the proceedings.
16. Against this backdrop, the neurologist³¹ chose, without providing any justification, not to conduct a further, and apparently straightforward, set of checks that could have dispelled this uncertainty and, almost 10 months after the initial assessment, finally offered a definitive interpretive framework for the conducted examinations. That decision is rendered all the more inexplicable by the fact that, as early as last October, Professor [REDACTED] had already raised with Mr Duterte the possibility of undergoing [REDACTED], to which he had responded that he would consent to such a procedure.³²
17. The Chamber cannot reasonably be satisfied, any more than the Defence is, with the *post hoc* justification offered in the Joint Report – [REDACTED] – for this failure to comply with its instructions. Apparently recognising the gap, the experts asserted that even evidence of [REDACTED], obtained through [REDACTED],³³ would make no difference to their assessment of Mr Duterte's functional mental capacities.³⁴ That statement fails to take into account the [REDACTED] and more concerning is at odds

²⁹ [REDACTED]. See Annex A to the Defence Request for an Indefinite Adjournment, [ICC-01/21-01/25-230-Conf-AnxA](#), 18 August 2025, p. 16 (emphasis in the original).

³⁰ [Neurological Report](#), p. 15, para. 8.4; p. 14, para. 7) (“[REDACTED]”).

³¹ The Defence notes that Professor [REDACTED]' *curriculum vitae* demonstrates that [REDACTED] has a specific expertise in [REDACTED]. See [Pre-Trial Neurological Report](#), p. 23; [Neurological Report](#), p. 16.

³² [Pre-Trial Neurological Report](#), p. 4 (“[REDACTED]”) (emphasis added).

³³ [Joint Report](#), p. 8, para. 11.4.

³⁴ [Joint Report](#), p. 8, para. 11.5.

with with the experts' individual reports, which identify significant cognitive impairments whose significance may differ considerably depending on whether they are attributable to an underlying neurological disorder or not.

18. The Defence does not seek to supplant the Professors' expertise. Given the fundamental rights at stake, it urges their strict adherence to their instructions and the exhaustion of all available examinations, particularly those not dependent on the patient's cooperation, to provide the Judges with the most robust evidentiary basis for its determination. The Defence therefore requests that the Trial Chamber direct Professor [REDACTED] – with, if necessary, the assistance of the Registry and the Detention Centre staff – to complete the ancillary inspections required to reach a formal diagnosis [REDACTED] at the earliest opportunity, so as not to jeopardise the date of any eventual commencement of the trial.
19. Fitness determination does not turn on the particular disease affecting a person, but on the extent to which any such condition limits his capacities to exercise his fair trial rights.³⁵ A more precise diagnosis, and the Panel's subsequent assessment of its implications – whether confirming or revisiting its current findings – is therefore sought not as an end in itself, but to enable the Trial Chamber properly to interpret the test results, exclude the possibility that they reflect merely a reduced effort on the part of Mr Duterte, and determine whether the significant difficulties identified prevent him from effectively take part in the proceedings.

ii) The evidence collected does not support the Panel's conclusion

20. Setting aside the issue of underperformance, the Defence struggles to understand how the Panel could have concluded that Mr Duterte retains all the capacities necessary to participate meaningfully in the trial,³⁶ when the answers he provided during the interviews – and, even more significantly, the medical records made available to them – reasonably point to a different conclusion.
21. The interviews conducted by Professor [REDACTED] and Professor [REDACTED] converge in confirming that Mr Duterte could not remember that the Panel had already examined him almost 10 months ago;³⁷ that he remained incapable of accurately placing

³⁵ [Trial Decision on the Appointment of Experts](#), para. 25.

³⁶ [Joint Report](#), pp. 8-9, para. 13.

³⁷ [Neurological Report](#), p. 11; [Psychiatric Report](#), p. 9, para. 7.1.

himself in time³⁸ and space,³⁹ thinking that he is living in 2007 or 2008;⁴⁰ was unable correctly to identify members of his own family, particularly his grandchildren – a matter which “[REDACTED]”,⁴¹ believed that his last election had taken place 46 years ago and that he is 84 or 85 years old;⁴² could not accurately recall which relatives had recently visited him⁴³ or who is the current President of the United States;⁴⁴ and, according to the [REDACTED] who sees him regularly, his recollection of events differs from [REDACTED].⁴⁵

22. There is a direct link between these kinds of consistent memory lapses on fundamental questions, and Mr Duterte’s ability to provide instructions or assist in the preparation of his defence, given that they make it impossible for his Counsel to place confidence in the information he provides about past events. These lapses also undermine Mr Duterte’s ability to testify in his own defence. Where he cannot remember when he was last elected in the Philippines, for example, any finding that Mr Duterte could give accurate testimony in his own defence would accordingly be unreasonable.
23. More tellingly, Mr Duterte’s answers to questions regarding his fitness to stand trial revealed an understanding of the charges that it is, at best, rudimentary,⁴⁶ a persistent uncertainty as to the identity of his own Lead and Associate Counsel and the number of times he had met them⁴⁷ and an inability to state categorically whether he had previously appeared to plead guilty or not.⁴⁸ His description of how the trial might proceed was, in substance, based on his prior legal training rather than his grasp of the current proceedings,⁴⁹ to the point that [REDACTED].⁵⁰ While it is not the place for members of the Defence team effectively to provide evidence in these submissions,

³⁸ [Neurological Report](#), p. 13; [Psychiatric Report](#), p. 11, para. 9.9; p. 15, para. 16.24.

³⁹ [Neurological Report](#), p. 13.

⁴⁰ [Psychiatric Report](#), p. 10, para. 9.6; p. 21, para. 24.5.

⁴¹ [Psychiatric Report](#), p. 11, para. 12.9.

⁴² [Psychiatric Report](#), p. 13, paras 15.11, 15.13; p. 21, para. 24.5.

⁴³ [Neurological Report](#), p. 12; [Psychiatric Report](#), p. 11, para. 12.5.

⁴⁴ [Psychiatric Report](#), p. 25, para. 29.10. Notably, only a few days after his examination with Professor [REDACTED], Mr Duterte was able to identify Mr Trump as the President of the United States during the [REDACTED] administered by Professor [REDACTED]. This further demonstrates the fluctuating nature of his memory. See [Neuropsychological Report](#), p. 32, para. 99.

⁴⁵ [Psychiatric Report](#), p. 18, para. 19.2.

⁴⁶ [Neurological Report](#), p. 12; [Psychiatric Report](#), p. 16, para. 17.1; p. 21, para. 26.3.

⁴⁷ [Neurological Report](#), p. 12; [Psychiatric Report](#), p. 16, paras 17.3, 17.4; p. 22, paras 26.14, 26.15.

⁴⁸ [Psychiatric Report](#), p. 17, para. 17.15.

⁴⁹ [Psychiatric Report](#), p. 17, para. 17.18.

⁵⁰ [Neurological Report](#), p. 12; [Psychiatric Report](#), p. 18, para. 17.9.

whether Lead Counsel and Associate Counsel have visited Mr Duterte since their assignments on 15 and 18 May 2026 is a matter about which there are records.

24. This raises a larger issue, namely, the lack of clarity as to how the experts verified the information provided by Mr Duterte and interpreted it, other than merely asserting that they have noted “[REDACTED]” on his part.⁵¹ To take one example, the appointed [REDACTED]’s report recounted that:

[REDACTED].⁵²

25. This was followed by a later comment from the appointed [REDACTED], that, “[REDACTED]”.⁵³
26. That Mr Duterte has been consistently visited by his three eldest children is, again, a matter of record. Moreover, a brief search on the internet reveals numerous videos of the three children from his first marriage, either separately or together, outside the Detention Centre, discussing their visits with their father, including in summer 2026. The presence of the forgotten grandchildren is also independently verifiable. The Defence is not suggesting that members of the Panel were required independently to verify all information provided by Mr Duterte during their interviews. However, the above example demonstrates that the appointed [REDACTED] made (incorrect) assumptions to explain away what are, on their face, significant indicators of deficient memory. These assumptions must, in turn, cast doubt on the conclusions reached. Coupled with the absence of any explanation as to how the experts assessed the information provided by Mr Duterte and interpreted it to inform the position they ultimately adopted, the Defence can only infer that incorrect responses were ignored, as though he had in fact been feigning them.
27. On this point, the appointed [REDACTED] found it appropriate to interview a “[REDACTED]” in the detention facility and cite to [REDACTED] opinion that “[REDACTED]”.⁵⁴ The Defence and Trial Chamber can presumably only guess what is meant by “[REDACTED]” and have no information as to how the [REDACTED] could have reached that conclusion without having observed Mr Duterte’s interactions with his legal team in privileged visits, with his family members during family visits,

⁵¹ [Joint Report](#), p. 8, para. 11.3.

⁵² [Psychiatric Report](#), p. 11, paras 12.3, 12.5 (emphasis added).

⁵³ [Psychiatric Report](#), p. 11, para. 12.9 (emphasis added).

⁵⁴ [Psychiatric Report](#), p. 18, para. 19.2.

or with the Panel members during medical assessments. Regardless, this reliance on what appears to have been a chance meeting with a member of the [REDACTED] raises the question why Professor [REDACTED] did not seek to speak with a range of **other** people who interact with Mr Duterte on a regular basis and who must hold at least similarly relevant opinions.

28. Critically, it is also unclear how the experts assessed Mr Duterte's ability to withstand the heavy demands of trial,⁵⁵ particularly his capacity to answer questions from the Defence team that would require recall of past events, and reasoning about pieces of evidence, or to sustain the concentration required to follow witness testimony in the courtroom. There was no consideration by the Panel of the reality that Counsel would reasonably need their client's instructions on Prosecution witness interviews and transcripts that are hundreds of pages in length, and on hundreds of hours of disclosed video footage and thousands of items of other evidence. The Defence does not consider that the Trial Chamber, fully apprised of what it means to be an accused in proceedings of this nature,⁵⁶ could be satisfied that Mr Duterte is capable of engaging with the breadth and diversity of the evidentiary record simply because he [REDACTED].⁵⁷ Still less could it accept that he would be able to understand and assimilate what has been discussed during court hearings – no matter how reduced – given that he showed repeated loss of attention even in the brief examination with the appointed neurologist.⁵⁸
29. These significant cognitive deficits are further corroborated by the medical records, compiled by clinicians who, [REDACTED] and whose findings should have adequately informed the Panel's assessment, as instructed.⁵⁹ From the time of Mr Duterte's arrest onwards, [REDACTED], this material has consistently documented a history of mental

⁵⁵ [Trial Decision on the Appointment of Experts](#), para. 18 (“[t]he appointed experts must also consider his medical condition, regardless of whether it has remained stable or changed, vis-à-vis the upcoming trial proceedings due to commence on 30 November 2026”).

⁵⁶ See e.g. IRMCT, *Kabuga*, MICT-13-38-T, [Further Decision On Félicien Kabuga's Fitness To Stand Trial](#), 6 June 2023, para. 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”) (emphasis added).

⁵⁷ [Psychiatric Report](#), p. 22, para. 26.10; p. 77.

⁵⁸ [Neurological Report](#), p. 14.

⁵⁹ [Trial Decision on the Appointment of Experts](#), para. 31.i.

impairment. [REDACTED].⁶⁰ The most compelling, [REDACTED], account comes from the [REDACTED], who [REDACTED].⁶¹

30. Again, without attempting to give evidence through these submissions, the Trial Chamber can reasonably presume that this is the same reality confronting the Defence team at every legal meeting: [REDACTED]. If, as the Panel recognized, Mr Duterte struggles to retain even basic information, such as the identity of his Counsel, he would have similar obstacles remembering developments in the proceedings or the substance of the charges. He would consequently be unable to discuss the strategy of his case and to provide relevant instructions as to how it should be addressed.
31. Despite these assessments, the Panel considered Mr Duterte capable of exercising all the capacities necessary to participate meaningfully in the trial, [REDACTED].⁶² This is not a trivial detail: [REDACTED]. The absence of any reference in the Joint Report to [REDACTED],⁶³ should warrant closer scrutiny.
32. The Defence therefore submits that, in light of these inconsistencies and considering that the Trial Chamber is required to take a holistic view of the situation and consider all aspects of the case,⁶⁴ it would benefit (subject to any further findings arising from the ancillary examinations required to establish [REDACTED]) from allowing the parties to question the experts. This practice is well established in the jurisprudence of international criminal tribunals,⁶⁵ including before the International Criminal Court, where doctors have been examined “on issues of particular significance” arising from their assessments thereby facilitating the Chamber in adjudicating those matters.⁶⁶
33. In the alternative, in the interests of expediency and to avoid overburdening the appointed experts and their prior professional commitments, the Defence proposes that

⁶⁰ [Psychiatric Report](#), p. 45, paras 51.24, 52.2; p. 46, para. 52.4; p. 48, para. 53.5; p. 65, para. 67.3; p. 65, para. 68.5; p. 68, para. 70.2.

⁶¹ [Neurological Report](#), p. 9; [Psychiatric Report](#), p. 75, para. 80.6.

⁶² [Neurological Report](#), p. 15, para. 8.5.

⁶³ [Neurological Report](#), p. 14, para. 8.3.

⁶⁴ [Al Hassan Decision](#), paras 68, 72.

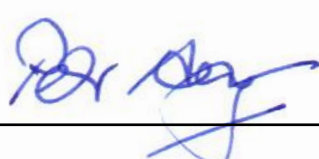
⁶⁵ See IRMCT, *Kabuga*, MICT-13-38-AR80.3, [Decision on Appeals of Further Decision On Félicien Kabuga's Fitness To Stand Trial](#), 7 August 2023, para. 8; ECCC, *Nuon et al.*, 002/19-09-2007/ECCC/TC, [Decision on Ieng Thirith's Fitness to Stand Trial](#), 17 November 2011, para. 11; ICTY, *Strugar*, IT-01-42-T, [Decision re the Defence Motion to Terminate Proceedings](#), 26 May 2004, paras 10, 11, 40.

⁶⁶ See *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, paras 37, 39. 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, para. 10.

any further requests for clarification could be submitted to them in writing, without the need to convene a hearing for that purpose.

V. CONCLUSION AND RELIEF SOUGHT

34. Despite the Trial Chamber's precise instructions, the Panel has left unresolved the fundamental question of whether Mr Duterte's acknowledged memory and executive-function impairments stem from a neurological condition affecting his ability meaningfully to exercise his trial rights.
35. The Trial Chamber cannot be expected to treat these severe limitations in his abilities as mere underperformance on the part of the accused – particularly where none of the experts has suggested that such underperformance was deliberate – without first being fully apprised of the existence of any underlying pathological condition capable of explaining the impairments identified.
36. For these reasons, the Defence respectfully requests the Trial Chamber to
- (i) order the neurologist, with the assistance of the Registry, to conduct all necessary ancillary examinations to confirm or exclude [REDACTED], and direct the Panel to take the results thereof into account in their assessments;
 - (ii) further or in the alternative, permit the parties to question the appointed experts, either orally or in writing, on the findings and conclusions set out in their reports.



Mr Peter Haynes, KC
Counsel for Mr Rodrigo Roa Duterte

Dated this 14th day of September 2026
At The Hague, the Netherlands