

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date of original: 28 September 2026

Date of the public redacted version: 8 October 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 redacted version of

Decision on Rodrigo Roa Duterte's fitness to stand trial

Decision to be notified in accordance with regulation 31 of the Regulations of the Court to:

☒ The Office of the Prosecutor

☒ Counsel for the Defence

☒ Legal Representatives of the Victims

☐ Legal Representatives of the Applicants

☐ Unrepresented Victims

☐ Unrepresented Applicants
(Participation/Reparation)

☐ The Office of Public Counsel for
Victims

☐ The Office of Public Counsel for the
Defence

☐ States' Representatives

☐ Amicus Curiae

REGISTRY

Registrar

Mr Osvaldo Zavala Giler

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☒ Detention Section

☐ Victims Participation and Reparations
Section

☐ Other

TRIAL CHAMBER III (the ‘Chamber’) of the International Criminal Court, in the case of *The Prosecutor v. Rodrigo Roa Duterte*, pursuant to Article 64(2) of the Rome Statute (the ‘Statute’), Rule 135 of the Rules of Procedure and Evidence (the ‘Rules’), Regulation 103 of the Regulations of the Court (the ‘Regulations’) and Regulation 155 of the Regulations of the Registry, issues this ‘Decision on Rodrigo Roa Duterte’s fitness to stand trial’.

I. PROCEDURAL HISTORY

1. The Chamber recalls the procedural history as set out in its ‘Decision appointing experts for the purpose of a medical examination pursuant to Rule 135 of the Rules of Procedure and Evidence’ (the ‘Rule 135 Decision’).¹

2. On 12 June 2026, the Chamber appointed a panel of experts (the ‘Expert Panel’), consisting of Dr [REDACTED], Dr [REDACTED] and Dr [REDACTED], to undertake the medical examination of Rodrigo Roa Duterte (the ‘Accused’).² Both parties agreed to the composition of the panel. In this Rule 135 Decision, the Chamber deferred its decision regarding the Defence’s request for an oral hearing to examine the experts on their conclusions (the ‘Defence’s Initial Request for Oral Hearing’), ‘until the receipt of the Expert Panel’s report(s)’.³

3. On 21 August 2026, pursuant to the Rule 135 Decision, the Registry filed the Expert Panel’s joint and individual reports (together, the ‘Expert Panel’s Reports’).⁴

¹ 12 June 2026, ICC-01/21-01/25-462-Conf.

² Rule 135 Decision.

³ Rule 135 Decision, para. 41.

⁴ Registry Transmission of the Panel of Experts’ Joint and Individual Reports pursuant to ICC-01/21-01/25-462-Conf, 21 August 2026, ICC-01/21-01/25-480-Conf, with confidential annexes I (the ‘Joint Report’), II (‘Neuropsychologist’s Report’), III (‘Neurologist’s Report’) and IV (‘Psychiatrist’s Report’).

4. On 7 September 2026, within the extended time limit,⁵ the Prosecution,⁶ the Common Legal Representatives of Victims (the ‘CLRVs’)⁷ and the Defence⁸ submitted observations on the Expert Panel’s Reports (respectively, the ‘Prosecution’s Observations’, the ‘CLRVs’ Observations’ and the ‘Defence’s Observations’).

5. On the same day, pursuant to the Chamber’s order,⁹ the Registry submitted observations on the Expert Panel’s recommendations of special measures and adjustments to facilitate the Accused’s attendance at and participation in the trial (the ‘Registry’s Observations’).¹⁰

6. On 16 September 2026, during the Third Status Conference, the Chamber discussed with the parties and participants as well as the Registry the sitting hours and schedule of the trial hearings, and deferred final decisions on this matter.¹¹

II. SUBMISSIONS

A. Prosecution’s Observations

7. The Prosecution submits that, ‘[b]ased on the unanimous findings in the Experts’ Reports, the Chamber should conclude that Mr Duterte is capable of meaningfully exercising his procedural and fair trial rights and that he is fit for trial’.¹²

8. The Prosecution further submits that ‘there is no need to convene a hearing’. It submits that ‘given the [REDACTED] conclusion of the Panel that Mr Duterte [REDACTED], the full compliance by the Panel with the Chamber’s instructions, as

⁵ Rule 135 Decision, para. 40; Transcript of hearing on 23 June 2026, ICC-01/21-01/25-T-010-ENG, pp. 4, 5.

⁶ Prosecution’s Observation on the Panel of Expert’s Joint and Individual Reports, ICC-01/21-01/25-494-Conf (public redacted version was notified on 14 September 2026, ICC-01/21-01/25-494-Red).

⁷ Defence Observations on the Joint and Individual Reports of the Panel of Experts, ICC-01/21-01/25-496-Conf (public redacted version was notified on 14 September 2026, ICC-01/21-01/25-496-Red).

⁸ Observations on behalf of Victims on the Joint and Individual Reports of the Panel of Experts, ICC-01/21-01/25-492-Conf (public redacted version was notified on 17 September 2026, ICC-01/21-01/25-492-Red).

⁹ Annex 26 to Registry, First Registry Quarterly Report on Decisions issued by way of e-mail from 1 May to 31 August 2026, 15 September 2026, ICC-01/21-01/25-505.

¹⁰ Registry observations pursuant to the Chamber’s email order of 25 August 2026, “Order regarding the special measures recommended by the Expert Panel”, ICC-01/21-01/25-497-Conf.

¹¹ Transcript of hearing on 16 September 2026, ICC-01/21-01/25-T-011-ENG, p. 31.

¹² Prosecution’s Observations, para. 1.

well as the Panel's demonstrated agreement on methodology, on measures used to identify possible underperformance, and on the interpretation of their findings, no further clarifications are needed from the Panel'.¹³

9. As regards the modalities to facilitate the Accused's presence during the trial, the Prosecution submits that 'measures proposed by the Panel are reasonable and defers to the Registry in relation to the feasibility of their practical implementation, as well as to the Chamber's discretion in their adoption'.¹⁴

B. CLRVs' Observations

10. The CLRVs submit that, in light of the 'clear and consistent scientific conclusions' reached by the Expert Panel, 'the applicable legal criteria governing an accused's fitness to stand trial are satisfied under the established jurisprudence of the Court', and the Expert Panel's findings establish that the Accused '[REDACTED]'.¹⁵

11. With regard to the Expert Panel's recommendations of measures to facilitate the Accused's attendance and participation in the trial, the CLRVs submit that they 'do not oppose the adoption of reasonable accommodations, provided that such measures do not prejudice the rights of other participants or the orderly conduct of the proceedings'.¹⁶

C. Defence's Observations

12. The Defence submits, *inter alia*, that '[t]he 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'.¹⁷

13. The Defence further submits that, '[i]n light of the importance of these conclusions, [...] the Trial Chamber should seek greater medical certainty from the

¹³ Prosecution's Observations, para. 14.

¹⁴ Prosecution's Observations, para. 16.

¹⁵ CLRVs' Observations, paras 1-3, 17.

¹⁶ CLRVs' Observations, para. 21.

¹⁷ Defence's Observations, para. 1.

experts as to the nature and extent of Mr Duterte's cognitive impairments, by directing them to complete ancillary examinations for that purpose',¹⁸ and even if such further ancillary examinations are deemed unnecessary, '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'.¹⁹

14. The Defence requests the 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 Expert Panel to take the results thereof into account in their assessments (the 'Defence's Request for Additional Medical Examination'); and further or in the alternative,

(ii) permit the parties to question the appointed experts, either orally or in writing, on the findings and conclusions set out in their reports (the 'Defence's Request to Question the Expert Panel').²⁰

15. The Defence did not provide any observations regarding the Expert Panel's recommendations of special measures to facilitate the Accused's participation in the trial.

D. Registry's Observations

16. The Registry makes the following observations on the practicalities of the recommended special measures: 'i) sitting schedule; ii) (non-)privileged telephone calls and visits; iii) any (standing) authorisation for Mr Duterte to leave the courtroom during trial sessions [REDACTED]; iv) audio hearing support; v) any remote appearance by Mr Duterte via video link from the ICC Detention Centre; and vi) any reporting on Mr Duterte's continued health'.²¹

¹⁸ Defence's Observations, para. 3.

¹⁹ Defence's Observations, para. 4.

²⁰ Defence's Observations, para. 36.

²¹ Registry's Observations, para. 7.

III. APPLICABLE LAW

17. The Chamber recalls the Rule 135 Decision in which it determined the following with respect to the concept of ‘fitness to stand trial’:

23. The Chamber observes that, as held by other chambers of this Court, the concept of ‘fitness to stand trial’ must be viewed as an aspect of the broader notion of fair trial which is rooted in the idea that whenever the accused is, for reasons of ill health, unable to meaningfully exercise his or her procedural rights, the trial cannot be fair and criminal proceedings must be adjourned until the obstacles cease to exist.²²

24. The meaningful exercise, by an Accused, of these procedural rights, include, *inter alia*, the capacity to understand the conduct, purpose and possible consequences of the trial proceedings, instruct counsel and, if desired, to make a statement.²³ However, it is not a requirement that such 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.²⁴ The threshold is satisfied when an accused possesses these capacities, viewed overall and in a reasonable manner.²⁵

25. In connection with the foregoing, the question of whether an accused is fit to stand trial does not depend, in and of itself, on whether he or she has particular medical conditions, but whether he or she is able to effectively exercise his or her fair trial rights in the proceedings.²⁶

26. Finally, the Chamber notes that, where a medical examination is ordered under Rule 135 of the Rules, it is the exclusive responsibility of the Chamber to determine the fitness of the accused, in view of its obligations under Article

²² Trial Chamber IX, *The Prosecutor v. Dominic Ongwen*, Decision on the Defence Request to Order a Medical Examination of Dominic Ongwen, 16 December 2016, ICC-02/04-01/15-637-Red (the ‘Ongwen Medical Examination Decision’), para. 7; Pre-Trial Chamber I, *The Prosecutor v. Laurent Gbagbo*, Decision on the fitness of Laurent Gbagbo to take part in the proceedings before this Court, 2 November 2012, ICC-02/11-01/11-286-Red (the ‘First Gbagbo Fitness Decision’), para. 43; Trial Chamber I, *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, Decision on the fitness of Laurent Gbagbo to stand trial, 27 November 2015, ICC-02/11-01/15- 349 (the ‘Second Gbagbo Fitness Decision’), para. 33

²³ Trial Chamber VI, *The Prosecutor v. Mahamat Said Abdel Kani*, Decision Appointing Experts for the Purpose of a Medical Examination pursuant to Rule 135 of the Rules of Procedure and Evidence, 24 August 2023, ICC-01/14-01/21-630-Red, para. 35; *Ongwen Medical Examination Decision*, para. 8; *First Gbagbo Fitness Decision*, para. 50.

²⁴ ICTY, Trial Chamber II, *The Prosecutor v. Pavle Strugar*, Decision re the Defence Motion to Terminate the Proceedings, 26 May 2004, IT-01-42-T (the ‘Strugar Decision’), para. 37; *Second Gbagbo Fitness Decision* para. 36.

²⁵ *Strugar Decision*, para. 37

²⁶ Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Decision on the Defence notice on Mr Al Hassan’s unfitness to stand trial, 13 July 2020, ICC-01/12-01/18-952 (public redacted version notified on 2 September 2020, ICC-01/12-01/18-952-Red), para. 36; *Ongwen Medical Examination Decision*, para. 13.

64(2) of the Statute.²⁷ The role of the parties and appointed medical experts in connection to the determination of whether an accused is unfit to stand trial is better seen as assisting the Chamber in the exercise of its obligations in this regard.²⁸

18. Furthermore, the Chamber recalls that, when deciding if an accused is fit to stand trial, the Chamber must take into account all the relevant circumstances of each individual case, and its assessment must be conducted in a holistic manner.²⁹ The Chamber must also examine whether the negative impact of particular medical conditions can be mitigated by putting in place certain practical arrangements.³⁰

IV. ANALYSIS

A. Fitness of the Accused

1. *Analysis of Expert Panel's Reports*

19. The Chamber notes that the Expert Panel jointly reached, *inter alia*, the following conclusions as regards the Accused's current state of health:

12.1 We find no new evidence that alters our joint opinion given to the pre-trial chamber.

12.2 We find no evidence of worsening of mental state or cognitive abilities, though we find some evidence of inconsistencies. We note in particular that Mr Duterte is [REDACTED]. We find no evidence of [REDACTED]. Mr Duterte remains physically frail and in need for medical and nursing care and support for his [REDACTED].

12.3 Professor [REDACTED] is of the opinion that Mr Duterte fulfils the criteria for [REDACTED]. Professor [REDACTED] is not of the opinion that Mr Duterte fulfils criteria for [REDACTED]. Professor [REDACTED] is of the opinion that Mr Duterte does not meet the criteria for [REDACTED].³¹

20. With respect to the Accused's general health condition, the Expert Panel reports that his 'general physical health appears to have been optimised'.³² The Expert Panel

²⁷ Trial Chamber I, *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, Order to conduct a medical examination of Mr Gbagbo under Rule 135 of the Rules, 30 September 2015, ICC-02/11-01/15-253, para. 14.

²⁸ *Ongwen Medical Examination Decision*, para. 11; *First Gbagbo Fitness Decision*, para. 56.

²⁹ Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Decision on Mr Al Hassan's ongoing fitness to stand trial, 10 May 2026, ICC-01/12-01/18-1467, para. 72 (the '*Al Hassan Fitness Decision*').

³⁰ *First Gbagbo Fitness Decision*, para. 51.

³¹ Joint Report, p. 7.

³² Joint Report, para. 17.1.

observes that there is an ‘apparent improvement in Mr Duterte’s health since [its] previous report’³³ and explains that such an improvement is attributable to ‘the high standard of medical and nursing care, including diagnostic rigor and pharmacological rationalization’.³⁴

21. The Expert Panel acknowledges that the Accused: (i) has some physical and mental slowing in keeping with his age; and (ii) may be subject to fatigue (tiring) in keeping with his age and frailty. The members of the Expert Panel further note that ‘[i]t is not possible to rule out that he may have some mild or pre-clinical process of slowing [REDACTED]’, and that, ‘[w]hile other mental capacities such as memory may be reduced compared to when he was younger, we can find no reliable evidence of this on formal testing’.³⁵ Nonetheless, the Chamber observes that the members of the Expert Panel are unanimous in their finding that ‘any reduced mental capacity present is not such as to render Mr Duterte unable to fulfil the necessary capacities[...].’³⁶

22. Although Dr [REDACTED] notes that ‘[REDACTED]’,³⁷ the Expert Panel nonetheless unanimously concludes that ‘such evidence of “pre-clinical” disease would make no difference to the assessment of functional mental capacities in relation to trial now’.³⁸ Furthermore, despite noting that the Accused’s test scores indicate significant cognitive impairment,³⁹ the Expert Panel unanimously ‘expressed reservations [...] regarding the validity of test scores’ referring to the inconsistencies and the evidence of underperformance by the Accused, for which they find no medical explanation.⁴⁰

³³ Joint Report, para. 18.1.

³⁴ Joint Report, para. 18.1.

³⁵ Joint Report, para. 14.1.

³⁶ Joint Report, p. 8.

³⁷ Joint Report, para. 11.4. Dr [REDACTED] also noted that ‘a mild cognitive impairment [REDACTED] cannot be ruled out’, and deferred to neurological opinion of Dr [REDACTED]. Neuropsychologist’s Report, pp. 11-12.

³⁸ Joint Report, para. 11.5.

³⁹ Neuropsychologist’s Report, p. 11; Neurologist’s Report, p. 13 ; Psychiatrist’s Report, p. 46.

⁴⁰ For instance, Dr [REDACTED] stated that the test results ‘could not be explained by any medical, psychiatric or pathological process’, and Dr [REDACTED] reported that the Accused’s ‘pattern of results is also unusual and not consistent with an organic condition [REDACTED]’. Psychiatrist’s Report, p. 75; Neuropsychologist’s Report, pp. 11-12.

23. In conclusion, and based on the above, the Expert Panel unanimously finds that the Accused has the capacity to do the following: (a) ‘understand the charges’; (b) ‘understand the purpose and consequences of the proceedings’; (c) ‘follow the course of the proceedings, including the nature and implications of entering a plea’; (d) ‘understand the evidence’; and (e) ‘instruct counsel in the preparation and conduct of his defence’.⁴¹

24. The Chamber notes that the Defence advances a number of arguments challenging the substance and form of the Expert Panel’s Reports as well as the findings contained therein.

25. First, the Defence submits that the Accused ‘suffers from significant memory impairment that prevents him from retaining recent information and reliably accessing memories’,⁴² ‘consistent memory lapses on fundamental questions’,⁴³ and ‘significant cognitive deficits’.⁴⁴ The Chamber notes, however, that all members of the Expert Panel identify inconsistencies in the Accused’s performances and test scores, concluding that such indicators of cognitive deficiencies can be explained only by his ‘underperformance’.⁴⁵

26. Mindful that the Expert Panel notes the possibility that the Accused suffers from some cognitive impairment, the Chamber observes that the Expert Panel assesses any such impairment as either ‘mild’,⁴⁶ ‘incipient’⁴⁷ or ‘pre-clinical’.⁴⁸ In light of these considerations and the Expert Panel’s determination following its examination of the Accused, the Chamber is satisfied that there is no support for the Defence’s contention

⁴¹ Joint Report, pp. 7-8.

⁴² Defence’s Observations, para. 1.

⁴³ Defence’s Observations, paras 20-22.

⁴⁴ Defence’s Observations, paras 26-29. The Defence also submits that the Expert Panel ‘ignored’ some of the Accused’s ‘incorrect responses’.

⁴⁵ See paragraph 22 above. The Chamber notes that although Dr [REDACTED] provides conditional observations in this regard and defers his conclusion to neurological opinion, Dr [REDACTED], providing neurological observations, confirms the sign of underperformance, by referring to the results of multiple validity tests he conducted. See Neurologist’s Report, pp. 13-14.

⁴⁶ Neuropsychologist’s Report, p. 12; Psychiatrist’s Report, p. 75.

⁴⁷ Neurologist’s Report, p. 14.

⁴⁸ Joint Report, para. 11.5.

that the nature of the Accused's performance is due to severe medical conditions. It therefore rejects the Defence's argument.

27. Second, the Defence argues that the Expert Panel did not consider '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'.⁴⁹ However, noting the complex legal and factual nature of cases brought before the Court,⁵⁰ the Chamber recalls that processing the wealth of information inherent in trial proceedings is primarily the role of Defence Counsel,⁵¹ and it is therefore not required that the Accused fully reviews and analyses each and every piece of evidence and filing by himself.⁵² In light of these considerations and pursuant to the Expert Panel's Reports, the Chamber is satisfied that, having instructed highly experienced Defence Counsel, with their assistance the Accused is able to understand evidence and instruct his counsel through the trial proceedings. Accordingly, the Chamber rejects the Defence's argument.

28. Third, the Defence argues that the Expert Panel did not take into account Dr [REDACTED] concerns that the Accused's 'ability to answer the court and to provide his counsel with a rational, coherent, and sequential account of the alleged criminal events could be reduced to a certain extent'.⁵³ However, the Chamber notes that the Expert Panel addressed such concerns by incorporating Dr [REDACTED] recommendations into its Joint Report. In particular, in his individual report, Dr [REDACTED] addresses his own concerns by recommending that the Accused 'should be given ample time to respond to statements or questions'; and that 'court sessions should be scheduled to ensure fair participation and prevent exhaustion'.⁵⁴ Moreover, Dr [REDACTED] concludes that the Accused 'currently has sufficient

⁴⁹ Defence's Observations, para. 28.

⁵⁰ First Gbagbo Fitness Decision, para. 53; Strugar Decision, para. 29.

⁵¹ *Al Hassan* Fitness Decision, para. 77; IRMCT, Appeals Chamber, *The Prosecutor v. Ratko Mladić*, Public Redacted Version of "Decision on a Motion to Stay the Appeal Hearing" of 6 March 2020, 11 March 2020, MICT-13-56-0321/2, p. 3.

⁵² See *Al Hassan* Fitness Decision, para. 77.

⁵³ Defence's Observations, para. 31.

⁵⁴ Neurologist's Report, p. 14.

cognitive ability to stand trial'.⁵⁵ The Expert Panel, in its Joint Report, recommends special measures and adjustments⁵⁶ which align with Dr [REDACTED] recommendations and are tailored to address the Accused's medical situation. Accordingly, the Chamber is satisfied that the Expert Panel has duly taken into account the issues raised by Dr [REDACTED] and addressed them by adopting his recommendations. The Chamber therefore rejects the Defence's argument.

2. *Defence's Request for an Additional Medical Examination*

29. The Chamber notes that the Defence submits that 'the Panel's assessment is incomplete and inadequate'⁵⁷ because it '[failed] to exhaust all available examinations and thereby not fully [complied] with [the Chamber's] instructions'.⁵⁸ The Defence therefore requests the Chamber to 'direct Professor [REDACTED]'.⁵⁹ The Defence refers, *inter alia*, to the Neurologist's Report which indicates that '[REDACTED]'⁶⁰ and that '[REDACTED]' would be able to clarify this question.⁶¹ The Defence argues that 'the neurologist chose, without providing any justification, not to conduct a further, and apparently straightforward, set of checks that could have dispelled this uncertainty'.⁶²

30. The Chamber finds that the Defence misrepresents the instructions the Chamber gave to the Expert Panel. Contrary to the Defence's submission, the Expert Panel was not instructed to 'exhaust all available examinations'⁶³ but rather it was directed to carry out those examinations that it considered 'necessary' in order for it to assist the Chamber in determining whether the Accused is fit to stand trial.⁶⁴

31. Such direction from the Chamber is based on the Court's jurisprudence that 'the question of whether an accused is fit to stand trial does not depend, in and of itself, on whether he or she has particular medical conditions, but whether he or she is able to

⁵⁵ Neurologist's Report, p. 14.

⁵⁶ Joint Report, para. 20.1.

⁵⁷ Defence's Observations, para. 10.

⁵⁸ Defence's Observations, para. 10.

⁵⁹ Defence's Observations, para. 18.

⁶⁰ Neurologist's Report, p. 14; Defence's Observations, para. 13.

⁶¹ Neurologist's Report, p. 14; Defence's Observations, para. 14.

⁶² Defence's Observations, para. 16.

⁶³ Defence's Observations, para. 10.

⁶⁴ Rule 135 Order, para. 31.

effectively exercise his or her fair trial rights in the proceedings'.⁶⁵ The Chamber is not tasked with determining the full extent of medical conditions from which the Accused may suffer. Its task instead consists of determining whether any such conditions may impact the Accused's ability to exercise his or her fair trial rights.⁶⁶ The Expert Panel's duty to carry out its medical examination is therefore limited to the extent it is necessary for it to assist the Chamber in its determination.

32. Furthermore, in respect of medical examination(s) which may be necessary, the Chamber recalls this Court's jurisprudence which has consistently found that 'the methodology by which the [medical expert] conducts its assessment is *within its professional discretion*' [emphasis added].⁶⁷

33. In the present case, although the members of the Expert Panel state that they cannot rule out some incipient clinical processes, and that further testing may clarify some diagnoses, they are also unanimous in their assessment that, without such additional examinations, the Accused is able to understand the charges, has a clear understanding of the court proceedings, and can understand any evidence presented.⁶⁸

34. In light of the aforementioned, contrary to the Defence's argument, it is clear that the Expert Panel, including Dr [REDACTED], elected not to conduct further medical examination of the Accused because it did not consider that it was necessary for it to fulfil its mandate of assisting the Chamber in determining whether the Accused is fit (or not) to stand trial. As noted by the practice of this court, such medical conclusions fall within the Expert Panel's professional expertise and discretion. Consequently, the Chamber is satisfied that it is unnecessary and inappropriate to order the requested additional medical examination of the Accused.

3. Defence's Request to Question the Expert Panel

35. The Chamber notes that the Defence requests an opportunity to question the Expert Panel, arguing that 'inconsistencies' in the Expert Panel's findings justify such

⁶⁵ ICTY, Trial Chamber II, The Prosecutor v. Pavle Strugar, Decision re the Defence Motion to Terminate the Proceedings, 26 May 2004, IT-01-42-T (the 'Strugar Decision'), para. 37; Second Gbagbo Fitness Decision, para. 36.

⁶⁶ *Al Hassan* Fitness Decision, para. 74.

⁶⁷ Second Gbagbo Fitness Decision, para. 39; *Al Hassan* Fitness Decision, para. 64.

⁶⁸ See paragraphs 19-23 above.

questioning and that such procedural steps would also benefit the Chamber.⁶⁹ The Chamber notes that the Defence has not provided any evidence which contradicts or undermines the findings made by the experts.

36. The Chamber recalls that, pursuant to Rule 135 of the Rules, the modalities of medical assessment to ensure the Accused's fitness to stand trial is within the Chamber's discretion, and that this applies equally to its decision to hold a hearing to question the Expert Panel and examine its conclusions.⁷⁰

37. The Chamber finds that, for the reasons mentioned above,⁷¹ the Expert Panel's Reports and the unanimous Joint Report are clear in their substance and findings. Accordingly, the Chamber does not find it necessary to have the Experts examined.

B. Special measures for the Accused's participation in the trial proceedings

38. The Chamber notes that the Expert Panel provides the following proposals regarding necessary measures, modalities and adjustments that the Chamber could adopt to address the medical condition of the Accused:⁷²

- (i) Use over-ear headphones or hearing aids during hearings;
- (ii) Provide care and support in relation to food, rest and exercise;
- (iii) Take breaks in the hearings each hour;
- (iv) Start hearings no earlier than 11:00; and
- (v) Have a member of nursing staff available during breaks to assist with medication and care.

39. As regards hearing support, the Chamber notes that the Registry has confirmed that it will take appropriate measures to accommodate the Accused's hearing needs,⁷³ and further observes that such measures were tested during the Third Status Conference.

⁶⁹ Defence's Observations, para. 32.

⁷⁰ See Pre-Trial Chamber I, Decision on the 'Defence Request for an Indefinite Adjournment' and Mr Duterte's fitness to take part in the pre-trial proceedings, 26 January 2026, ICC-01/21-01/25-356-Conf.

⁷¹ See paragraphs 19-28 above.

⁷² Joint Report, para. 20.1. See also Rule 135 Decision, paras 29-31.

⁷³ Registry's Observations, para. 27.

40. With respect to the care and support in relation to the Accused's health condition, the Chamber recalls that the Medical Officer of the Court's Detention Centre (the 'Medical Officer') is responsible under Regulation 103 of the Regulations and Regulation 155 of the Regulations of the Registry. In this respect, the Registry has confirmed that it 'will provide its services accordingly, as instructed', the Accused 'will be supported by the ICC Detention Medical Officer ("MO"), the Occupational Health Unit and [Security and Safety Section]'⁷⁴ and that the Medical Officer 'may, in certain limited circumstances where, for example, a detained person is unwell and therefore unable to attend a hearing, inform the Chamber accordingly'.⁷⁵ In light of these submissions, the Chamber hereby instructs the Registry to take all necessary steps to implement the above recommendations (i), (ii) and (v), (insofar as is possible in consultation with the parties), and seize the Chamber immediately, should any further ruling be necessary in this regard.

41. With respect to the scheduling of trial hearings, the Chamber notes that it is necessary to consider all relevant factors including how the shorter sitting hours would affect witnesses (as it may require them to stay away from their home for longer period of time, amongst other considerations).⁷⁶ In particular, the Chamber notes the observations from the Registry that starting hearings at 11:00 would affect the witnesses who testify through audio-video link from the Philippines, due to the significant time difference.⁷⁷ In light of these considerations, and taking into account the discussions held during the Third Status Conference,⁷⁸ the Chamber accepts the Registry's proposal that 'the sitting hours should be assessed on a case-by-case basis and, whenever possible, adjusted to take into account the individual circumstances, needs, and specific challenges of each witness',⁷⁹ and finds it appropriate to adopt a flexible approach going forward.

⁷⁴ Registry's Observations, para. 16.

⁷⁵ Registry's Observations, paras 29-30.

⁷⁶ Registry's Observations, para. 12.

⁷⁷ Such impact will be significant particularly in the case of vulnerable witnesses. Registry's Observations, paras 13-14.

⁷⁸ See paragraph 6 above.

⁷⁹ Registry's Observations, para. 15.

C. Further Examination of the Accused

42. The Expert Panel has provided the following observations on whether any reassessment of the Accused's fitness to stand trial ought to be conducted periodically:

Mr Duterte should continue under the medical supervision of his treating general practitioners, other specialists and nurses at the UN Detention Centre and they may be asked to report on his continued health at intervals, for example every four weeks. There is no specific reason other than Mr Duterte's advanced age and frailty, to review his continued mental capacities and fitness to stand trial unless there is some specific health setback or adverse event that prompts the need for such reassessment. Given that there has been no deterioration since our assessments for the pre-trial chamber more than six months ago, with some general improvement due to care, treatment and rationalised medication, reassessments of mental capacity at intervals of six months would be reasonable, unless some adverse event should intervene.⁸⁰

43. The Chamber notes that the Expert Panel's recommendations of six months interval for reassessment is based upon its observations that the Accused's health condition has not deteriorated since it conducted an assessment for the Pre-Trial Chamber more than six months ago. However, the Expert Panel further indicates that, while 'adverse events in relation to his health are possible and may arise spontaneously',⁸¹ there is no specific reason to conduct a reassessment 'unless there is some specific health setback or adverse event that prompts the need for such reassessment', which is by nature unpredictable.

44. With the foregoing in mind, the Chamber concludes that it is appropriate to ensure that the Accused's health is continuously monitored by the Medical Officer. In the event that the Medical Officer identifies any changes in the Accused's medical condition, such information should be transmitted immediately by the Registry pursuant to the appropriate procedural steps as set out under Regulations of the Registry.⁸² Should there be any changes in the Accused's medical condition, (whether or not within the six months period after the notification of the present decision), the parties are invited to file a sufficiently substantiated request for reassessment. Following such submission, the Chamber will determine if the changes of the

⁸⁰ Joint Report, p. 10.

⁸¹ Joint Report, p. 8.

⁸² See Registry's Observations, para. 30.

Accused's medical condition, as submitted, are such as to warrant a reassessment of the Accused's fitness.

FOR THESE REASONS, THE CHAMBER

IS SATISFIED that the Expert Panel's Reports are sufficiently conclusive to make a determination on the Accused' ability to participate in the trial proceedings and to effectively exercise his procedural and fair trial rights;

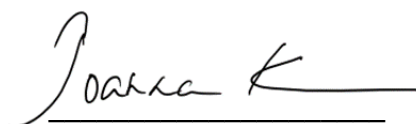
IS SATISFIED that the Accused is able to effectively exercise his fair trial rights in the proceedings and is therefore fit to stand trial;

REJECTS the Defence's Request for Additional Medical Examination and the Defence's Request to Question the Expert Panel as well as the Defence's Initial Request for Oral Hearing;

INSTRUCTS the Registry to make necessary arrangements as specified in paragraphs 40 and 44 of the present decision; and

INSTRUCTS the Registry to file a public redacted versions of the filings relevant to the present decision by 12 October 2026.

Done in both English and French, the English version being authoritative.



Judge Joanna Korner

Presiding Judge



Judge Keebong Paek



Judge Nicolas Guillou

Dated this **8 October, 2026**

At The Hague, The Netherlands