

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

**No.: ICC-01/21-01/25
Date: 28 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

**Decision on the Prosecution's and the Defence's requests to amend the E-Court
Protocol**

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 of the Rome Statute, Regulation 26 of the Regulations of the Court and Regulation 10 of the Regulations of the Registry, issues this ‘Decision on the Prosecution’s and the Defence’s request to amend the E-Court Protocol’.

I. PROCEDURAL HISTORY

1. On 27 May 2026, the Chamber held the First Status Conference and instructed the parties and participants to, *inter alia*, review their evidence in order to ‘avoid having repetitive, irrelevant or over-voluminous evidence’.¹

2. On 19 June 2026, the Chamber issued the ‘Directions on the conduct of proceedings’,² *inter alia*, adopting E-Court Protocol as proposed by the Registry on 17 June 2026 (the ‘E-Court Protocol’).³

3. On 31 August 2026, the Prosecution requested an amendment to the E-Court Protocol (the ‘Prosecution’s Request’),⁴ seeking the Chamber’s approval to add one row to the Table 1 of the E-Court Protocol,⁵ which enables ‘the creation of a URL metadata field in Nuix Discover’.⁶

4. On the same day, the Defence requested an amendment to the E-Court Protocol (the ‘Defence’s Request’),⁷ seeking the Chamber to ‘order the addition of an “Expert Verification” [metadata] field to NUIX’⁸ that ‘would confirm whether or not [open

¹ Transcript of hearing on 27 May 2026, ICC-01/21-01/25-T-009, p. 47.

² ICC-01/21-01/25-471 (the ‘Directions on the Conduct of Proceedings’).

³ Registry’s Report Pursuant to the Chamber’s Oral Decision issued on 27 May 2026 on Consultations with the Parties and Participants Regarding the ‘E-Court Protocol’, ICC-01/21-01/25-469 with public annex.

⁴ Prosecution’s submission on an amendment of the E-Court Protocol, ICC-01/21-01/25-485. The request was initially made by email, following which the Chamber ordered the parties and the Registry to make formal filings on the matter: see Email from the Chamber, [ICC-01/21-01/25 - Confidential] Order regarding the Prosecution and the Defence’s emails concerning NUIX and E-Court Protocol, 26 August 2026, at 12:51.

⁵ E-Court Protocol, para. 32.

⁶ Prosecution’s Request, paras 3-4.

⁷ Defence Request to Amend the E-Court Protocol in Relation to Open Source and User-Generated Material, ICC-01/21-01/25-486-Conf (public redacted version was notified on 3 September 2026, ICC-01/21-01/25-486-Red).

⁸ Defence’s Request, para. 11.

source and user-generated evidence] will be accompanied by an expert report if it is to be submitted to the Chamber’.⁹

5. Also on the same day, the Prosecution submitted the List of Evidence, listing a number of items it plans to submit as evidence during the trial.¹⁰

6. On 4 September 2026, pursuant to the Chamber’s order,¹¹ the Prosecution¹² and the Registry¹³ submitted their observations. The Prosecution opposed the Defence’s Request.¹⁴ The Registry confirmed that ‘it can implement the metadata fields requested by the Defence’.¹⁵

7. On 16 September 2026, during the Third Status Conference, the Chamber discussed with the parties and participants, *inter alia*, the volume of the Prosecution’s evidence and other disclosed evidence, which includes potentially exculpatory evidence (‘PEXO’) and evidence under Rule 77 of the Rules. The Chamber reiterated that the parties shall avoid ‘wholesale dumping’ of evidence¹⁶ and stressed that it expects the Prosecution to select the best evidence if multiple evidence indicates the same fact.¹⁷ The parties were ordered to file a motion upon liaising *inter partes* to find a solution for such matter,¹⁸ and the Prosecution was ordered to submit ‘a list of key items of evidence’ by no later than seven days prior to the Fourth Status Conference.¹⁹

⁹ Defence’s Request, paras 23, 28.

¹⁰ Prosecution’s Submission of the List of Witnesses and the List of Evidence, ICC-01/21-01/25-488, with confidential annexes A and B. *See also* Directions on the Conduct of Proceedings, para. 13.

¹¹ Email from the Chamber, [ICC-01/21-01/25 - Confidential] Order regarding the Defence’s request to amend the E-Court Protocol, 31 August 2026, at 17:34.

¹² Prosecution’s Response to the Defence Request to Amend the E-Court Protocol in Relation to Open Source and User-Generated Material, ICC-01/21-01/25-489-Conf (public redacted version was notified on 9 September 2026) (the ‘Prosecution’s Observations’).

¹³ Registry Observations on the “Defence Request to Amend the E-Court Protocol in Relation to Open Source and User-Generated Material” (ICC-01/21-01/25-486-Conf), ICC-01/21-01/25-491-Conf (the ‘Registry’s Observations’).

¹⁴ Prosecution’s Observations, para 14.

¹⁵ Registry’s Observations, para. 16.

¹⁶ Transcript of hearing on 19 June 2026, ICC-01/21-01/25-T-011-CONF-ENG, p. 10.

¹⁷ Transcript of hearing on 19 June 2026, ICC-01/21-01/25-T-011-CONF-ENG, p. 16.

¹⁸ Transcript of hearing on 19 June 2026, ICC-01/21-01/25-T-011-CONF-ENG, p. 29. *See* Defence Motion Pursuant to an Order of the Trial Chamber, 22 September 2026, ICC-01/21-01/25-507-Conf (public redacted version was notified on 25 September 2026, ICC-01/21-01/25-507-Red).

¹⁹ Transcript of hearing on 19 June 2026, ICC-01/21-01/25-T-011-CONF-ENG, p. 18.

II. ANALYSIS

A. Prosecution's Request

8. With regard to the Prosecution's Request, the Chamber notes the Prosecution's explanation that the creation of the URL metadata field is 'the addition [that] will allow the Chamber, the parties and the participants to easily identify the URL associated with the open source evidence at the time it was captured'.²⁰ The Prosecution further submits that the Defence, the Common Legal Representative of the Victims and the Registry do not object the requested amendment.²¹ Under these circumstances, the Chamber is satisfied that it is appropriate to grant the Request and decides to amend the E-Court Protocol as requested.

B. Defence's Request

9. The Chamber notes that the Defence's Request is premised on the concerns regarding the large volume of the evidence disclosed by the Prosecution. The Defence submits that the disclosed evidence 'includes many duplicates and documents of very poor quality which, notwithstanding its volume, makes meaningful review immensely challenging',²² and 'risks flooding the record with unreliable and/or irrelevant material'.²³ The requested amendment, according to the Defence, is 'the first step to ensuring that only properly verified open source material is submitted'.²⁴

10. During the First Status Conference, the Chamber reminded the parties and participants to avoid having evidence 'dumped into the court record' and clarified that evidence shall be reviewed in order not to be 'repetitive, irrelevant or over-voluminous'.²⁵ Notwithstanding such clarifications, more than 15,000 pieces of evidence are listed in the Prosecution's List of Evidence.²⁶ The Chamber further notes that this is only a part of the total amount of evidence that has been disclosed by the Prosecution, as the List excludes PEXO and Rule 77 materials. As averred by the

²⁰ Prosecution's Request, para. 3.

²¹ Prosecution's Request, para. 5.

²² Defence's Request, paras 1-3.

²³ Defence's Request, paras 1-3.

²⁴ Defence's Request, para. 11.

²⁵ Transcript of hearing on 27 May 2026, ICC-01/21-01/25-T-009, pp. 19, 20, 47.

²⁶ Annex B to Prosecution's Submission of the List of Witnesses and the List of Evidence, 31 August 2026, ICC-01/21-01/25-488.

Defence, the Chamber observes that such voluminous evidence ‘would be detrimental for the parties and the Chamber’s search for the truth’.²⁷

11. However, the Chamber notes that the requested amendment is not merely an addition of one metadata field, but is rather intended to require ‘expert verification reports [to] always accompany open source and user-generated evidence submitted to the Chamber in the present case’.²⁸ Given the large volume of evidence that has been made available by the Prosecution in the present case, as well as the breadth of open-source and user-generated evidence,²⁹ such obligation, if implemented, may in the event be unnecessary and could well have the effect of causing a needless delay to the start of the trial.

12. Furthermore, during the Third Status Conference, the Chamber discussed with the parties and participants and issued multiple orders to address the aforementioned concerns regarding the volume of evidence.³⁰ The purpose of the Defence’s Request will therefore be addressed through these alternative measures.

13. Moreover, the Chamber recalls that, in the Directions of the Conduct of Proceedings, it clarified that the parties and participants are required to ‘raise issues as to admissibility of evidence, including on any of the standard evidentiary criteria, at the time when the evidence is submitted to the Chamber or immediately after such an issue becomes known’.³¹ The Defence is primarily responsible to identify and raise these issues for individual Prosecution’s evidence, following which the Prosecution is to consider whether or not to submit any supporting materials, including expert’s verification report, to establish the standard evidentiary criteria. It is then for the Chamber to assess such criteria on the basis of these submissions from both parties.³²

14. To the contrary, the requested amendment, if implemented, requires the Prosecution to prepare additional materials that contain information regarding the

²⁷ Defence’s Request, para. 3.

²⁸ Defence’s Request, para. 24. For examples of information the ‘expert verification report’ ought to include, *see* Defence’s Request, para. 25.

²⁹ For definition of open-source and user-generated evidence, *see* Prosecution’s Observations, para. 7.

³⁰ *See* paragraph 7 above.

³¹ Direction of the Conduct of Proceedings, para. 36. *See also* Rule 64(1) of the Rules of Procedure and Evidence.

³² Direction on the Conduct of Proceedings, para. 34.

relevance and admissibility of open-source and user-generated evidence, before the Defence analyses evidence and raises any abovementioned issues. Such amendment would not align with the framework as clarified in paragraph 13 of the present decision.

FOR THESE REASONS, THE CHAMBER HEREBY

GRANTS the Prosecution's Request;

REJECTS the Defence's Request;

AUTHORISES the amendment to the E-Court Protocol as requested within the Prosecution's Request; and

INSTRUCTS the Registry to file the amended E-Court Protocol by 2 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 **28 September 2026**

At The Hague, The Netherlands