

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date of original: 2 October 2026

Date of the public redacted version: 2 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

**First Decision on the Prosecution's Request to introduce prior recorded
testimony pursuant to Rule 68(3)**

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 69(2) of the Rome Statute (the ‘Statute’) and Rule 68(3) of the Rules of Procedure and Evidence (the ‘Rules’), issues this ‘First Decision on the Prosecution’s request to introduce prior recorded testimony pursuant to Rule 68(3)’.

I. PROCEDURAL HISTORY

1. On 27 May 2026, the Chamber set the commencement date of the trial and corresponding deadlines relating thereto.¹

2. On 19 June 2026, the Chamber issued the ‘Directions on the conduct of proceedings’, setting out, *inter alia*, the procedure to submit applications pursuant to Rule 68 of the Rules of Procedure and Evidence (the ‘Rules’), and instructing the Prosecution to file applications by 31 August for witnesses testifying in 2026 and no later than 30 October 2026 for all other witnesses.²

3. On 31 August 2026, the Prosecution filed its first application to introduce the prior recorded testimony of one witness, P-1100, pursuant to Rule 68(3) of the Rules.³ The Prosecution submits that P-1100’s evidence relates to his work and findings on [REDACTED].⁴ The Prosecution also requested time for a supplementary examination of P-1100.⁵

4. On 11 September 2026, the Defence filed its response (the ‘Response’).⁶ The Defence requests that the Chamber rejects the Request,⁷ or in the alternative, should the Chamber authorises the introduction of P-1100’s prior recorded testimony, that the

¹ Transcript of hearing on 27 May 2026, ICC-01/21-01/25-T-009-ENG ET, pp. 46-48.

² Directions on the conduct of proceedings, ICC-01/21-01/25-471, para. 59 (the ‘Directions on the conduct of proceedings’).

³ Prosecution’s first application under rule 68(3) to introduce into evidence prior recorded testimony of witness P-1100, ICC-01/21-01/25-484-Conf, (‘Request’) (a public redacted version was filed on 7 September 2026, ICC-01/21-01/25-484-Red).

⁴ Request, para. 3.

⁵ Request, para. 15.

⁶ Defence Response to the Prosecution’s First Application Under Rule 68(3), ICC-01/21-01/25-501-Conf (‘Response’) (a public redacted version was filed on 22 September 2026, ICC-01/21-01/25-501-Red).

⁷ Response, para. 20.

Chamber rejects the introduction of four items of associated material pertaining to P-1100's testimony.⁸

5. On 11 September 2026, the Common Legal Representatives of Victims filed their response requesting that the Chamber grant the Request.⁹

II. ANALYSIS

A. General Framework

6. Rule 68(1) and (3) of the Rules, together with Articles 64(2), 67(1)(c) and 69(2) of the Statute, establish the legal framework applicable to the determination of the Request.

7. The Chamber recalls its Directions on the conduct of proceedings, in which it determined the following regarding the use of Rule 68 of the Rules:

58. The Chamber recalls that the Prosecution has been ordered to file its final list of witnesses it intends to call by 31 August 2026 and to indicate whether it seeks leave to introduce any prior recorded testimony of a witness under Rule 68(2) and (3) of the Rules.

59. The Prosecution shall file applications pursuant to Rule 68 of the Rules on a rolling basis and no later than 31 August for witnesses testifying in 2026 and no later than 30 October for the remainder of the witness. The applications shall be filed together with:

- i) copies of the previously recorded testimony or hyperlink to same;
- ii) other material referred to in the previously recorded testimony, without which the testimony would not be understandable, if this material is available to the Prosecution; and
- iii) a specification as to whether the Prosecution seeks to ask further questions to the witness and the specific time sought for such examination, and an indication of the topics to be addressed orally with the witness.

60. Concerning applications pursuant to Rule 68(3) of the Rules, the Chamber will issue preliminary rulings ahead of the relevant in-court testimony. The final determination will be made at the time of the appearance of the witness before the Chamber and when all conditions of Rule 68(3) have been fulfilled. The Chamber expects the calling party to streamline its questioning considerably when the introduction of the previously recorded testimony is allowed.

⁸ Response, para. 20.

⁹ CLRV Response to the First Prosecution Request pursuant to Rule 68(3) of the Rules (ICC-01/21-01/25-Conf), ICC-01/21-01/25-500-Conf.

61. Where a witness adds, or alters evidence in the prior recorded testimony during witness preparation by the calling party, such additions or alterations shall be recorded in writing, signed by the witness and disclosed to the non-calling party and participants. Thereafter it will be formally submitted in the trial record together with the prior-recorded testimony.

8. Rule 68 of the Rules is one exception to the general rule set out in Article 69(2) of the Statute, which provides that the testimony of a witness at trial shall be given in person.¹⁰

9. Rule 68(1) of the Rules mandates that the introduction of a prior recorded testimony is not prejudicial to or inconsistent with the rights of the accused or the fairness of trial. A Chamber's determination to allow the introduction of a prior recorded testimony under Rule 68 of the Rules is discretionary and requires a cautious item-by-item analysis.¹¹ A Chamber's assessment should be sufficiently reasoned and explained and should be made on a case-by-case basis where the factors to be considered may vary per case and per witness.¹² Greater discretion is afforded to trial chambers when applying Rule 68(3) of the Rules because this provision typically carries a lower risk of interference with the fair trial rights of the accused than Rule 68(2)(b) of the Rules.¹³

10. A prior recorded testimony is introduced under Rule 68(3) of the Rules *in lieu* of an examination in chief, or part thereof.¹⁴ The witness still appears in court for a limited

¹⁰ Trial Chamber VI, *The Prosecutor v. Mahamat Said Abdel Kani*, Decision on the Prosecution's Requests under Rule 68(3) to Introduce the Prior Recorded Testimony of P-3108, P-2400, P-2240 P-2478 and P-0787, 11 October 2022, ICC-01/14-01/21-499-Red, para. 12 ('*Said Rule 68(3) Decision*'); Trial Chamber I, *The Prosecutor v. Ali Muhammad Ali Abd-al-Rahman*, First Decision on the Prosecution's Request to Introduce Prior Recorded Testimonies under Rule 68(3), 20 January 2022, ICC-02/05-01/20/559-Red, para. 10 (the '*Abd-Al-Rahman Rule 68(3) Decision*'); Trial Chamber V, *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) of the Rules concerning Witnesses P-1962, P-0925, P-2193, P-2926, P-2927, P-1577 and P-0287, and the Ngaïssona Defence Motion to Limit the Scope of P-2926's Evidence, 10 March 2021, ICC-01/14-01/18-907-Red, para. 8 ('*Yekatom and Ngaïssona Rule 68(3) Decision*').

¹¹ *Said Rule 68(3) Decision*, para. 14; *Abd-Al-Rahman Rule 68(3) Decision*, para. 11.

¹² *Yekatom and Ngaïssona Rule 68(3) Decision*, para. 9.

¹³ *Said Rule 68(3) Decision*, para. 17; *Abd-Al-Rahman Rule 68(3) Decision*, para. 11; *Yekatom and Ngaïssona Rule 68(3) Decision*, para. 14, referring to Trial Chamber I, *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, Decision on the Prosecutor's application to introduce prior recorded testimony under Rules 68(2)(b) and 68(3), 9 June 2016, ICC-02/11-01/15-573-Red, para. 24 (the '*Gbagbo & Blé Goudé Rule 68 Decision*').

¹⁴ *Abd-Al-Rahman Rule 68(3) Decision*, para. 12.

examination by the calling party. Moreover, parties and participants, as well as the Chamber, have the opportunity to examine the witness.¹⁵ In particular, the Defence's right to question the witnesses concerned, including to address any issues of credibility or probative value and matters of an exculpatory nature, remains unchanged.¹⁶ Rule 68(3) of the Rules is, as a result, not intended to replace oral testimony but, rather, complements it.¹⁷

11. The notion of 'prior recorded testimony' also includes any annex to a witness statement, or document otherwise associated with it, as long as it is used or explained by the witness in their statement and thereby forms an integral part of the testimony itself.¹⁸

12. Pursuant to Rule 68(3) of the Rules, introduction of a prior recorded testimony is allowed if the following requirements are met:

- (i) the witness is present before the Chamber;
- (ii) the witness does not object to the introduction of his or her prior recorded testimony; and
- (iii) both parties and the Chamber have the opportunity to examine the witness during the proceedings.

13. Accordingly, as stated in the Directions on the conduct of proceedings, the Chamber will issue preliminary rulings ahead of the relevant in-court testimony, while the final determination will only be made when the witness is present in court and when all conditions of Rule 68(3) have been fulfilled.¹⁹ It should be added at this point that

¹⁵ *Abd-Al-Rahman* Rule 68(3) Decision, para. 12.

¹⁶ *Abd-Al-Rahman* Rule 68(3) Decision, para. 12.

¹⁷ *Abd-Al-Rahman* Rule 68(3) Decision, para. 12; *Yekatom and Ngaïssona* Rule 68(3) Decision, para. 14.

¹⁸ See e.g., Trial Chamber V, *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*, Decision on Prosecution Request for Admission of Prior Recorded Testimony, 19 August 2015, ICC-01/09-01/11-1938-Conf-Corr (with one confidential annex) (corrected and corrected public redacted version notified on 28 August 2015, ICC-01/09-01/11-1938-Red-Corr2), para. 33; Trial Chamber VI, *The Prosecutor v. Bosco Ntaganda*, Decision on Prosecution application under Rule 68(2)(c) of the Rules for admission of prior recorded testimony of P-0022, P-0041 and P-0103, 20 November 2015, ICC-01/04-02/06-1029 (with one annex) (the '*Ntaganda* Rule 68 Decision'), paras 23, 35; Trial Chamber IX, *The Prosecutor v. Dominic Ongwen*, Decision on the Prosecution's Applications for Introduction of Prior Recorded Testimony under Rule 68(2)(b) of the Rules, 18 November 2016, ICC-02/04-01/15-596-Conf (public redacted version notified the same day, ICC-02/04-01/15-596-Red), para. 10; *Gbagbo & Blé Goudé* Rule 68 Decision, para. 9; *Yekatom and Ngaïssona* Rule 68(3) Decision, para. 13.

¹⁹ Directions on the conduct of proceedings, para. 60.

introduction of prior recorded testimony under Rule 68(3) of the Rules can in principle be considered as an option at the time the witness gives evidence before the Chamber, even if a request under Rule 68 of the Rules had previously not been made.

14. Factors that may be considered, bearing in mind the Chamber's discretion, include, *inter alia*, whether: (i) the evidence relates to issues that are not materially in dispute; (ii) the evidence is not central to core issues in the case, but instead provides relevant background information; (iii) the evidence is corroborative of other evidence; (iv) introduction serves good trial management, particularly streamlining of the presentation of evidence and the expeditiousness of proceedings; and (v) introduction may prevent potential re-traumatisation of a vulnerable witness.²⁰

15. Nonetheless, the aforementioned factors do not necessarily prevent the introduction of prior recorded testimony under Rule 68(3) of the Rules. Such testimony may still be allowed so long as its introduction is not prejudicial to or inconsistent with the rights of the accused and the fairness of trial more generally.²¹

B. Analysis of the prior recorded testimony of P-1100 to be submitted pursuant to Rule 68(3) of the Rules

i. Request

16. According to the Prosecution, P-1100 formerly served as [REDACTED].²² The Chamber notes the Prosecution's submission that P-1100's prior recorded testimony primarily relates to [REDACTED].²³ Per the Prosecution, P-1100's evidence is particularly relevant to the policy to 'neutralise' through violent crimes, including murder, alleged criminals in the Philippines.²⁴ The Prosecution submits that P-1100's testimony also offers evidence of the Davao Death Squad's *modus operandi* and of the Accused's individual criminal responsibility, including his knowledge and intent.²⁵

17. According to the Prosecution, P-1100's evidence is corroborative of, and cumulative to, the evidence expected from a number of identified witnesses who will

²⁰ *Abd-Al-Rahman* Rule 68(3) Decision, para. 15.

²¹ *Abd-Al-Rahman* Rule 68(3) Decision, para. 16; *Yekatom and Ngaissona* Rule 68(3) Decision, para. 14.

²² See PHL-OTP-0000-191-R01, para. 28.

²³ Request, paras 3, 18.

²⁴ Request, paras 3, 13.

²⁵ Request, para. 13.

testify *viva voce*.²⁶ Together with P-1100's prior recorded testimony, the Prosecution seeks the submission of associated material, including reports prepared by P-1100 as well as other reports and compilations of articles not authored by P-1100.²⁷ The Prosecution submits that the associated material was 'used or explained by the witness in his statement'²⁸ and forms an integral part of P-1100's prior recorded testimony.²⁹ The Prosecution states that the items are 'necessary to fully comprehend the witness's account, as he uses and/or explains them in his statement'.³⁰

18. The Prosecution requests two hours to conduct a streamlined supplementary examination of P-1100 (instead of the seven hours it estimates would be necessary for a *viva voce* examination).³¹

ii. *Defence's Objections*

19. The Defence requests that the Chamber reject the Request, or, in the alternative, that the Chamber reject the Prosecution's request to introduce four items appearing in P-1100's list of associated material.³²

20. With regard to the Defence's objection to the introduction of P-1100's prior recorded testimony, the Chamber notes the Defence's submission that P-1100's evidence predates the charged period and that the witness offers his '[REDACTED]' regarding technical terms and links alleged killings in 2009 to crimes allegedly committed during the charged period in this case.³³ The Defence avers that, 'while P-1100's proposed evidence may establish [REDACTED], this objectively extremely limited factual foundation cannot support the substantially broader propositions for which his evidence is being offered, [REDACTED]'.³⁴ The Defence argues that introducing P-1100's evidence 'would undoubtedly require lengthy cross-examination

²⁶ Request, para. 18.

²⁷ See ICC-01/21-01/25-484-Conf-Anx A. P-1100's associated material is comprised of: [REDACTED].

²⁸ Request, paras 12, 14.

²⁹ Request, para. 10.

³⁰ Request, para. 10.

³¹ Request, paras 15-16.

³² Response, para. 20 (the four items are as follows: PHL-OTP-0000-1799, PHL-OTP-0000-1796, PHL-OTP-0000-1794, and PHL-OTP-0000-1795).

³³ Response, paras 8-9.

³⁴ Response, para. 11.

to put the limits of his knowledge to him, taking the parties and the Trial Chamber even further away from the matters actually in dispute'.³⁵

21. The Defence also objects to the introduction of four items of associated material requested by the Prosecution.

22. First, with regard to item PHL-OTP-0000-1799,³⁶ the Defence notes that it consists of [REDACTED], a document to which it submits P-1100 refers to only once, and vaguely so, in his prior recorded testimony. Consequently, the Defence argues that the item was not 'used and explained' by P-1100 and therefore does not constitute an integral part of his prior recorded testimony.³⁷ The Defence also submits that the item is not admissible because there has been no attempt to '[REDACTED]'.³⁸

23. Second, with regard to the other three items³⁹ appearing in P-1100's list of associated material which the witness reviewed in preparation for his interview with the Prosecution, the Defence notes that the items are only referred to in passing in two paragraphs of P-1100's prior recorded testimony.⁴⁰ The Defence argues that merely referring to the existence of the items does not establish that they were indeed 'used and explained' by the witness such that they form an integral part of his prior recorded testimony.⁴¹ The Defence concludes that it 'cannot be that a witness [REDACTED] acts as a vehicle for their automatic admission'.⁴²

iii. *Chamber's Determination*

i. *In respect of P-1100's written statement*

24. The Chamber is not persuaded by the Defence's arguments above.⁴³ The Chamber recalls that it is possible to rely on evidence that does not go specifically to the facts

³⁵ Response, para. 12.

³⁶ See ICC-01/21-01/25-484-Conf-AnxA, p. 3 (The Prosecution describes item PHL-OTP-0000-1799 as follows: '[REDACTED]').

³⁷ Response, para. 16.

³⁸ Response, para. 16.

³⁹ Response, para. 17; see ICC-01/21-01/25-484-Conf-AnxA, pp. 2-3 (The Prosecution describes the relevant items as follows: [REDACTED]).

⁴⁰ Response, para. 17.

⁴¹ Response, para. 17.

⁴² Response, para. 17.

⁴³ See para. 20 referring to Response, paras 8-11.

sub judice, but to necessary contextual information.⁴⁴ Rather, as explained below, it is satisfied that the substance of P-1100's evidence and the reports he produced appear relevant to the background and context in this case.

25. Contrary to the Defence's submissions, P-1100's testimony, by virtue of his professional standing alone, will not be offered as expert evidence, nor is there any indication that the Prosecution seeks to use P-1100's testimony to support conclusions beyond P-1100's own personal knowledge. In this regard, the Chamber notes that, while P-1100's evidence stems from [REDACTED], he gives evidence based on his personal perspective. The Chamber notes that witnesses often provide conclusions or opinions while testifying in court as well as in written statements. Although P-1100's prior recorded testimony contains some opinion statements, the Defence will have the opportunity to question the witness, including to test the basis of P-1100's knowledge, to probe the foundation for the interpretations he offers, and to elicit the limits of what he is, and is not, able to say from personal observation.⁴⁵

26. The aforementioned considerations relating to the nature and substance of P-1100's testimony therefore refer more to the weight to be afforded to his evidence than to the appropriateness of the submission of his evidence pursuant to Rule 68(3) of the Rules. The Chamber recalls that it will, in turn, assess the probative value of P-1100's testimony, including the nature of his basis of knowledge, as part of its holistic assessment when deliberating on the judgment pursuant to Article 74(2) of the Statute.

27. Further, the Chamber is not persuaded by the Defence's argument that introducing P-1100's evidence 'would undoubtedly require lengthy cross-examination to put the limits of his knowledge to him, taking the parties and the Trial Chamber even further away from the matters actually in dispute'.⁴⁶ The Chamber recalls that, when a witness's prior recorded testimony is introduced pursuant to Rule 68(3) of the Rules, it

⁴⁴ *Yekatom and Ngaïssona* Rule 68(3) Decision, para. 64.

⁴⁵ See e.g., P-1100's Prior Recorded Testimony, PHL-OTP-0000-1791, para. 116, in which the witness states: '[REDACTED]'. Considering that no special expertise has been argued for P-1100 to make such an assessment and that the assessment seems to be based on [REDACTED], the Chamber already indicates that it is unable to adopt these conclusions on the basis of the prior recorded testimony alone. See also P-1100's Prior Recorded Testimony, PHL-OTP-0000-1791, para. 117, in which the witness states, '[REDACTED]', without further specifying how his knowledge enabled him make his conclusion.

⁴⁶ Response, para. 12.

largely constitutes the witness's evidence-in-chief.⁴⁷ Regardless of whether the witness testifies fully *viva voce* or pursuant to Rule 68(3) of the Rules, it is for the Defence to determine which points it wishes to focus on and how best to use time during its questioning of the witness. The Chamber further notes that this submission is premised on a hypothetical scenario as to how such questioning may unfold, rather than on any specific foundation, and the Chamber will not address arguments in the abstract.⁴⁸

28. The Chamber concludes that the introduction of P-1100's prior recorded testimony pursuant to Rule 68(3) of the Rules would not be inconsistent with or prejudicial to the rights of the Accused. As noted above, Rule 68(3) of the Rules does not replace oral testimony but, rather, complements it,⁴⁹ and the Defence will have full opportunity to question P-1100 on any issues relating to his testimony.

29. The Chamber is further satisfied that the introduction of P-1100's prior recorded testimony will advance the expeditiousness of the proceedings, reducing the time required for his questioning by the Prosecution. However, the Chamber notes the Prosecution's request for two hours to conduct a supplementary examination of P-1100.⁵⁰ The Chamber finds the requested amount of time to be excessive given the nature and content of P-1100's evidence and defeats the purpose of Rule 68(3) of the Rules. The Prosecution shall therefore streamline its questioning so as to complete its examination of P-1100 within one hour.

30. For the foregoing reasons, given the nature and content of P-1100's written statement, the Chamber authorises its introduction pursuant to Rule 68(3) of the Rules. The Chamber's preliminary ruling is subject to P-1100's appearance before the Chamber and his consent to the introduction of his written statement pursuant to this provision.

⁴⁷ Trial Chamber VI, *The Prosecutor v. Mahamat Said Abdel Kani*, Decision on the Prosecution's Requests under Rule 68(3) to Introduce the Prior Recorded Testimony of P-3108, P-2400, P-2240, P-2478 and P-0787, 11 October 2022, ICC-01/14-01/21-499-Red, para. 27 ('*Said Rule 68(3) Decision*'); *Abd-Al-Rahman Rule 68(3) Decision*, para. 12.

⁴⁸ *Said Rule 68(3) Decision*, para. 29.

⁴⁹ *Yekatom and Ngaïssona Rule 68(3) Decision*, para. 14.

⁵⁰ Request, paras. 15, 19-20.

ii. In respect of P-1100's associated material

31. At the outset, the Chamber recalls that a decision authorising the introduction of prior recorded testimony pursuant to Rule 68(3) of the Rules instead of *viva voce* must be based on the criterion of good trial management, which includes the expeditiousness and streamlining the presentation of evidence.⁵¹ The foregoing applies equally to the introduction of associated material, which similarly to prior recorded testimony, is assessed on a case-by-case basis.

32. As noted above, a Chamber may authorise the introduction of documents or associated material that accompanies prior recorded testimony so long as it is used or explained by the witness in their statement, forming, as a result, an integral part of such testimony. A Chamber must analyse each item of associated material to determine its relevance and probative value, which is necessarily linked to the extent a witness discusses it in their prior recorded testimony. If a witness does not meaningfully use and explain associated material in their prior recorded testimony, such material cannot be considered an integral part of the statement itself, and, as a result, cannot be introduced pursuant to Rule 68(3) of the Rules. Should it believe that a particular item is relevant to its case, the calling party may submit a request to introduce such material through the bar table, so long as it satisfies the requirements laid out in the Statute as mentioned in the Directions on the conduct of proceedings.⁵²

33. With regard to item of associated material PHL-OTP-0000-1799, the Chamber notes that, other than describing the material as a '[REDACTED]',⁵³ the Prosecution gives no indication of its relevance or probative value. Further, the Prosecution simply notes that P-1100 refers to PHL-OTP-0000-1799 at page 5, paragraph 11 of his prior recorded testimony.⁵⁴ In that paragraph, P-1100 states the following:

[REDACTED]

⁵¹ *Gbagbo & Blé Goudé* Rule 68 Decision, para. 25; *Gbagbo and Blé Goudé* Appeals Judgment, ICC-02/11-01/15-744 OA8, para. 59.

⁵² See Directions on the conduct of proceedings, paras 67-68.

⁵³ See ICC-01/21-01/25-484-Conf-AnxA, p. 3; see also Request, para. 14.

⁵⁴ ICC-01/21-01/25-484-Conf-AnxA, p. 3

34. Based on the paragraph above, the Chamber finds that P-1100 did not use or explain the item of associated material in such a way that it forms an integral part of his prior recorded testimony. In this regard, the Chamber observes that P-1100 does not refer to any portion of the material's substance (either to specific articles or even to the compilation of articles generally). The Chamber finds that it is unclear which 'documents' P-1100 refers to and even if such information was ascertainable, the level of substance P-1100 provides is minimal at best. As a result, contrary to the Prosecution's assertion, the Chamber does not find that the item PHL-OTP-0000-1799 is necessary to understand P-1100's evidence and rejects its introduction pursuant to Rule 68(3) of the Rules.

35. With regard to the remaining three items appearing in P-1100's list of associated material,⁵⁵ the Chamber notes that P-1100 testifies that he received two of the reports [REDACTED], and explains that he referred to the third report in preparation for his interview with the Prosecution.⁵⁶ P-1100 testified that he referred to the three reports to assist him in '[REDACTED]', adding that, '[REDACTED]'.⁵⁷ The Chamber observes that, other than this brief background, P-1100 makes no further reference to items PHL-OTP-0000-1795 and PHL-OTP-0000-1796 in his prior recorded testimony. Additionally, although P-1100 mentions PHL-OTP-0000-1794 ([REDACTED]) in paragraph 44 of his prior recorded testimony,⁵⁸ he does not provide sufficient context regarding the material in order for an assessment to be made. As a result, the Chamber finds that P-1100 does not use and explain item PHL-OTP-0000-1794 in such a way that it forms an integral part of or is necessary to understand his overall testimony.

36. Accordingly, the Chamber rejects the Prosecution's request to introduce the items PHL-OTP-0000-1794, PHL-OTP-0000-1795, PHL-OTP-0000-1796, PHL-OTP-0000-1799 as associated material pursuant to Rule 68(3) of the Rules. This ruling does not prevent the Defence from making use of any of the documents for the purpose of cross-

⁵⁵ Response, para. 17; see ICC-01/21-01/25-484-Conf-AnxA, pp. 2-3 (The Prosecution describes the relevant items as follows: [REDACTED]).

⁵⁶ See P-1100's Prior Recorded Testimony, PHL-OTP-0000-1791, paras 8-9; see also ICC-01/21-01/25-484-Conf-Anx A, pp. 2-3.

⁵⁷ P-1100's Prior Recorded Testimony, PHL-OTP-0000-1791, para. 9.

⁵⁸ P-1100's Prior Recorded Testimony, PHL-OTP-0000-1791, para. 44 ('[REDACTED]').

examination. However, in the event that they decide so to do, the Chamber will consider the application for admission *de novo*.

37. As regards the remaining associated material to P-1100's prior recorded testimony, the Chamber notes that PHL-OTP-0025-0267, PHL-OTP-0005-0737, and PHL-OTP-0003-2952 are all reports that P-1100 himself authored and submitted to [REDACTED]. The Chamber observes that PHL-OTP-0000-1798 consists of [REDACTED] and PHL-OTP-0000-1797 consists of [REDACTED]. The Chamber considers all of the five aforementioned items of associated material as forming an integral part of P-1100's prior recorded testimony and that they are necessary to understand the same.

38. Accordingly, the Chamber authorises the introduction of the following items: PHL-OTP-0025-0267, PHL-OTP-0005-0737, PHL-OTP-0003-2952, PHL-OTP-0000-1797, and PHL-OTP-0000-1798.

39. In light of the above determination, the Chamber finds it necessary to set clear its expectations regarding future applications made pursuant to Rule 68(2) and (3) of the Rules in this case. First, the Chamber recalls that, in previous status conferences in this case, it has emphasised that it will scrutinise all items whose introduction is sought by the parties, whether done in court or through written motions before the Chamber.⁵⁹ This applies equally to requests to introduce witness' associated material pursuant to Rule 68 of the Rules, particularly when there is a significant number of such witnesses which creates a possibility of overinclusion of irrelevant evidence, impacting the expeditiousness of the proceedings as a result. Therefore, the Chamber reminds the Prosecution that it must conduct thoughtful assessments of evidence with a view to avoiding seeking the introduction on to the record of items - be they exhibits,

⁵⁹ Transcript of hearing on 27 May 2026, ICC-01/21-01/25-T-009-ENG ET, pp. 19-20 ('However, as a result of the experiences in our last trial where there was a whole lot of, in our view, unnecessary and irrelevant evidence that was dumped into the court record through largely the admission of very large documents, even though a witness had only spoken as to one page, or, even worse, through the Bar table motion, this Chamber is going to try and find a fine line between the two systems, which we haven't quite worked out but will appear in the conduct of proceedings.').; Transcript of hearing on 16 September 2026, ICC-01/21-01/25-T-011-ENG ET, pp. 10-11 ('[...] the Chamber said in the last status conference that it was very anxious to avoid the wholesale dumping on the Trial Chamber, and the Defence for that matter, of exhibits or documents, or whatever it is, or videos which are either repetitive or of such limited relevance as to be almost irrelevant').

documents, videos or any other category - which are repetitive or of such limited relevance as to be almost irrelevant. The Chamber signals its approach to the parties with a view to ensuring that this trial unfolds in a focused and expeditious manner and that the rights of the accused are safeguarded.⁶⁰

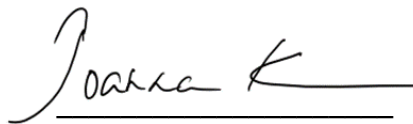
FOR THESE REASONS, THE CHAMBER HEREBY

GRANTS the Prosecution's Request to introduce into evidence the written statement of P-1100 pursuant to Rule 68(3) of the Rules;

GRANTS the introduction of associated material in paragraph 38 above; and

REJECTS the introduction of items of evidence in paragraph 36 above.

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



Judge Joanna Korner
Presiding Judge



Judge Keebong Paek



Judge Nicolas Guillou

Dated this **2 October 2026**

At The Hague, The Netherlands

⁶⁰ See *Gbagbo and Blé Goudé Appeals Judgment*, ICC-02/11-01/15-744 OA8, para. 59.