

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

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

Date: **19 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
with Confidential Annex A**

Public Redacted Version of “Prosecution’s second application under rule 68(2)(b) to introduce into evidence Prior Recorded Testimonies of Witnesses P-0024, P-1357, and P-1359”, 12 October 2026, ICC-01/21-01/25-521-Conf

Source: Office of the Prosecutor

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I. INTRODUCTION

1. The Prosecution requests the formal submission of the statements and associated material (“Prior Recorded Testimonies”)¹ of witnesses P-0024, P-1357, and P-1359 (“Three Witnesses”) in accordance with article 69(2) and (4) of the Rome Statute (“Statute”), rule 68(2)(b) of the Rules of Procedure and Evidence (“Rules”), and the “Directions on the Conduct of Proceedings” (“Directions”).² The Prosecution further requests the designation of the Registry Legal Counsel, or any appropriate person delegated by him, as the person authorised to witness declarations required pursuant to rule 68(2)(b)(ii) and (iii) of the Rules.³

2. As submitted, the Prior Recorded Testimonies of the Three Witnesses do not focus on the acts and conduct of the Accused. They primarily relate to the contextual elements of crimes against humanity, particularly the policy to ‘neutralise’ through violent crimes, including murder, alleged criminals in the Philippines; and the widespread and systematic nature of such crimes.⁴ Being [REDACTED] of sets of evidence collected by the Prosecution, the Three Witnesses authenticate evidence relating to the large number of victims across a broad geographical area in the Philippines during Mr Duterte’s “war on drugs”.

3. The Prior Recorded Testimonies of P-0024, P-1357, and P-1359 are therefore relevant, reliable, probative, and suitable for formal submission in written form, as explained below. For each, a brief summary of the salient issues in their statements is

¹ Annex A (A1 to A3) lists the Prior Recorded Testimonies of the Three Witnesses which comprise their witness statements (at I), associated material (at II), and for P-0024, the material which the Prosecution does not seek to introduce into evidence (at A1 III). See Directions on the conduct of proceedings, 19 June 2026, [ICC-01/21-01/25-471](#) (“Directions”), para. 59.

² The Directions, [ICC-01/21-01/25-471](#), para. 59.

³ *Ntaganda*, Decision on Prosecution’s request to designate a person authorised to witness a declaration under Rule 68(2)(b) of the Rules, 16 July 2015, [ICC-01/04-02/06-729](#), para. 5; *Yekatom & Ngaïssona*, Decision on the Prosecution’s Request to Designate a Person Authorised to Witness a Declaration under Rule 68(2)(b) of the Rules of Procedure and Evidence, 6 May 2020, [ICC-01/14-01/18-508](#), para. 6. See also *Abd-Al-Rahman* First Rule 68(2)(b) Decision, [ICC-02/05-01/20-612-Red](#), paras. 17-19.

⁴ Confidential Decision on the confirmation of charges, 23 April 2026, ICC-01/21-01/25-417-Conf (public redacted version filed on the same date, [ICC-01/21-01/25-417-Red](#)) (“Confirmation Decision”), paras. 59-66.

set out, along with the associated documents, and examples of other evidence which corroborates the witnesses' accounts.

4. The introduction of the Three Witnesses' Prior Recorded Testimonies into evidence is not prejudicial to, or inconsistent with, the rights of the Accused. They are also of a cumulative or corroborative nature, as set out below. Granting the request will enhance the expeditiousness of the proceedings, obviate the unnecessary appearance of the witnesses, save valuable court time and resources, and serve the interests of justice.⁵

II. CONFIDENTIALITY

5. Pursuant to regulation 23*bis*(1) of the Regulations of the Court, this application and its Annex A are filed as confidential, as they contain sensitive witness related information. A public redacted version of the application will be filed shortly.

III. SUBMISSIONS

A. Legal Basis

6. The Prosecution incorporates by reference its summary of the applicable law as set out in paragraphs six to ten of its first application under rule 68(2)(b).⁶ The

⁵ Pursuant to article 64(3)(a) of the Statute, the Chamber shall "[c]onfer with the parties and adopt such procedures as are necessary to facilitate the fair and expeditious conduct of proceedings." See also *Katanga*, Judgment on the Appeal of Mr Katanga Against the Decision of Trial Chamber II of 20 November 2009 Entitled "Decision on the Motion of the Defence for Germain Katanga for a Declaration on Unlawful Detention and Stay of Proceedings", 12 July 2010, [ICC-01/04-01/07-2259 OA10](#), para. 43 ("The Appeals Chamber observes that expeditiousness is a recurrent theme in the Court's legal instruments. The Statute and the Rules of Procedure and Evidence place an onus on all those involved in the trial to act in a diligent and expeditious manner in the performance of their obligations. The duty applies to the Chambers of the Court, the parties and participants.[...]"). See also *Ntaganda*, Decision on Prosecution application under Rule 68(3) of the Rules for admission of prior recorded testimony of Witness P-0055, TC VI, 29 October 2015, [ICC-01/04-02/06-961](#), para. 13; *Gbagbo & Blé Goudé*, Decision on Prosecutor's application under Rules 68(2)(b) and 68(3), 9 June 2016, ("*Gbagbo & Blé Goudé*, Rule 68 Decision"), [ICC-02/11-01/15-573-Red](#), paras. 25, 42; *Yekatom & Ngaissona*, Decision on the Prosecution Extension Request and Initial Guidance on Rule 68 of the Rules, 16 October 2020, ("*Yekatom & Ngaissona* Decision on Initial Guidance Rule 68"), [ICC-01/14-01/18-685](#), para. 26; *Gbagbo & Blé Goudé*, Judgment on the appeals of Mr Laurent Gbagbo and Mr Charles Blé Goudé against the decision of Trial Chamber I of 9 June 2016 entitled "Decision on the Prosecutor's application to introduce prior recorded testimony under Rules 68(2)(b) and 68(3)", 1 November 2016, ("*Gbagbo & Blé Goudé* Rule 68 AJ"), [ICC-02/11-01/15-744](#), para. 60; *Bemba et al*, Decision on Prosecution Rule 68(2) and (3) Requests, 12 November 2015, [ICC-01/05-01/13-1478-Red-Corr](#), paras. 48, 51.

⁶ ICC-01/21-01/25-518-Conf, paras 6-10.

Prosecution also recalls that in this specific case the Chamber has explicitly encouraged the use of rule 68(3) and 68(2)(b).⁷

B. Overview of the Prior Recorded Testimonies of P-0024, P-1357 and P-1359

7. The Prior Recorded Testimonies of the Three Witnesses may be introduced under rule 68(2)(b). Each witness will attest to their accuracy. Their proposed evidence is particularly relevant to the chain of custody of evidence related to the contextual elements of the crime against humanity. While some aspects of P-0024's proposed evidence may relate to issues 'materially in dispute', including the reliability of documents provided by the [REDACTED], this should not be a hindrance to the admission of his Prior Recorded Testimony under article 68(2)(b).⁸

8. In addition to the statements of the Three Witnesses, the Prosecution seeks to introduce into evidence the associated material which forms an integral part of their Prior Recorded Testimonies, as listed in Annex A to the Application.⁹

(i) Prior Recorded Testimony of P-0024

9. P-0024's Prior Recorded Testimony comprises his statement of [REDACTED] and the associated items that were used and explained by the witness in his statement, and relate to information and events discussed therein.

10. P-0024 is [REDACTED]¹⁰ – [REDACTED] Philippines that focuses on [REDACTED] and [REDACTED] Mr Duterte's "war on drugs".¹¹ In his statement, P-0024 describes the legal process¹² leading to the [REDACTED].¹³ P-0024's statement shows that [REDACTED] preserved the integrity of the [REDACTED] and that the

⁷ [ICC-01/21-01/25-T-009-Red-ENG](#), p. 13, lines 15-21; [ICC-01/21-01/25-T-011-Conf-ENG ET 16-09-2026 20/33/T](#), p. 3, lines 7-12).

⁸ *Yekatom & Ngaissona* First Rule 68(2)(b) Decision, [ICC-01/14-01/18-1833-Corr-Red](#), para. 39.

⁹ See Annex A (Part II of A1 to A3). Where applicable, the Prosecution includes in the Annex the English translations of items referred to in the Associated Material.

¹⁰ P-0024, PHL-OTP-00247832 at 0005, paras. 19-21.

¹¹ P-0024, PHL-OTP-00247832 at 0005-0006, paras. 17-18, 22.

¹² P-0024, PHL-OTP-00247832 at 0005-0008, paras. 22-28, 30, 34.

¹³ P-0024, PHL-OTP-00247832 at 0006-0008, paras. 26, 31-35.

content [REDACTED].¹⁴ P-0024 also indicates that part of [REDACTED] was transmitted to the OTP [REDACTED]¹⁵ and the rest [REDACTED].¹⁶ He also provides an overview of the content of the [REDACTED]¹⁷ and his observations on why the records may have been incomplete or selectively disclosed [REDACTED].¹⁸ P-0024's Prior Recorded Testimony goes to proof of the contextual elements of crimes against humanity, particularly the widespread and systematic nature of the violent crimes committed against alleged criminals in the Philippines during Mr Duterte's "war on drugs".

11. The associated material for P-0024 which the Prosecution seeks to introduce into evidence¹⁹ forms an integral part of his Prior Recorded Testimony. These items are also necessary to fully comprehend the witness's account, as he uses and explains them in his statement. P-0024's associated material consists of: (i) legal and court documents related to [REDACTED]; and (ii) a certificate of [REDACTED].

(ii) Prior Recorded Testimony of P-1357

12. P-1357's Prior Recorded Testimony comprises her statement of [REDACTED] and the associated items that were used and explained by the witness in her statement, and relate to information and events discussed therein.

13. P-1357 was a [REDACTED].²⁰ In this capacity, [REDACTED] in the Philippines after [REDACTED] received reports of death squad killings taking place in Davao City.²¹ P-1357 [REDACTED] where she [REDACTED] of victims, eyewitnesses to apparent Davao Death Squad ("DDS") killings, and [REDACTED] individuals with

¹⁴ P-0024, PHL-OTP-00247832 at 0008-0009, paras. 37-38.

¹⁵ P-0024, PHL-OTP-00247832 at 0009, paras. 39-40.

¹⁶ P-0024, PHL-OTP-00247832 at 0009, para. 41.

¹⁷ P-0024, PHL-OTP-00247832 at 0010-0012, paras. 48-49, 52.

¹⁸ P-0024, PHL-OTP-00247832 at 0012, paras. 51-54.

¹⁹ See Annex A1, Part II.

²⁰ P-1357, PHL-OTP-00100499, paras 19-20.

²¹ P-1357, PHL-OTP-00100499, para. 27.

insider knowledge of the structure and functioning of the DDS.²² She subsequently [REDACTED]. [REDACTED], *inter alia*, the existence of the DDS, details their operations, and notes that the words and actions of Mr Duterte indicated his support for killings of criminal suspects.²³ P-1357's statement [REDACTED], which provides evidence of the DDS's *modus operandi*, as well as Mr Duterte's support for targeted killings of alleged criminals. Her Prior Recorded Testimony goes to proof of the contextual elements of crimes against humanity, particularly the widespread and systematic nature of the violent crimes committed by the DDS against alleged criminals in the Philippines during Mr Duterte's "war on drugs".

14. The associated material for P-1357 which the Prosecution seeks to introduce into evidence²⁴ forms an integral part of his Prior Recorded Testimony. These items are also necessary to fully comprehend the witness's account, as she uses and explains them [REDACTED] report [REDACTED]; and (ii) a copy of her [REDACTED].

(iii) *Prior Recorded Testimony of P-1359*

15. P-1359's Prior Recorded Testimony comprises his statement of [REDACTED] and the associated items that were used and explained by the witness in his statement and, relate to information and events discussed therein.

16. P-1359 was [REDACTED] in different police regions from 1996 to 2019, in particular [REDACTED].²⁵ In his statement, P-1359 describes the [REDACTED] procedures and death investigations in the Philippines,²⁶ as well as his experience as [REDACTED] while members of the PNP were carrying out anti-illegal drug

²² P-1357, PHL-OTP-00100499, para. 28.

²³ P-1357, PHL-OTP-0003-0886 at 0893-0894. The Prosecution notes that these references to Mr Duterte's actions in Davao City do not constitute the core of P-1357's Prior Recorded Testimony, and as such should not be an hindrance to its admission under rule 68(2)(b). *See Al Hassan*, Appeal Judgment of the Decision on second Prosecution request for the introduction of P-0113's evidence pursuant to Rule 68(2)(b) of the Rules, 13 may 2022, ("Al Hassan Rule 68(2)(b) AJ"), [ICC-01/12-01/18-2222](#), para. 50.

²⁴ See Annex A2, Part II.

²⁵ P-1359, PHL-OTP-00239711 at 0006-0009, paras. 23-29, 34-39.

²⁶ P-1359, PHL-OTP-00239711 at 0009-0016, paras. 40-79.

operations.²⁷ He also indicates that he [REDACTED]²⁸ because they were, as illustrated by the [REDACTED] provided by P-1359,²⁹ often inconsistent with the PNP's allegations of self-defence.³⁰ P-1359 further explains that there was an increase in drug-related shooting incidents and the number of [REDACTED] following Mr Duterte's presidential election³¹ and that he received a communication signed by co-perpetrator Ronald DELA ROSA and distributed nationally, prohibiting cooperation with the Commission on Human Rights' ("CHR") investigation into extra-judicial killings ("EJK") in the Philippines between 2016 and 2017.³² P-1359's Prior Recorded Testimony goes to proof of contextual elements of crimes against humanity, particularly the policy to 'neutralise' through violent crimes, including murder, alleged criminals in the Philippines; and the widespread and systematic nature of such crimes.

17. The associated material for P-1359 which the Prosecution seeks to introduce into evidence³³ forms an integral part of his Prior Recorded Testimony. These items are also necessary to fully comprehend the witness's account, as he uses and explains them in his statement. P-1359's associated material consists of: (i) [REDACTED]; (ii) his [REDACTED]; (iii) screenshots of Facebook communications and their related translations; (iv) [REDACTED] on *Tokhang* related killings that P-1359 conducted between 2016 and 2018; (v) photographs [REDACTED] of victims with cardboard placards; (vi) a media article; and (vii) EJK drug-related matrix of [REDACTED] cases in 2016-2021.

C. The Prior Recorded Testimonies are admissible under rule 68(2)(b)

²⁷ P-1359, PHL-OTP-00239711 at 0016-0022, paras. 80-123.

²⁸ P-1359, PHL-OTP-00239711 at 0023, paras. 132-135.

²⁹ P-1359 analysed [REDACTED] of the following five victims: [REDACTED]. See P-1359, PHL-OTP-00239711 at 0018-0019, 0028-0029, paras. 95-105, 145-168.

³⁰ P-1359, PHL-OTP-00239711 at 0029-0032, paras. 147-168.

³¹ P-1359, PHL-OTP-00239711 at 0016-, paras. 86-87, 91-93.

³² P-1359, PHL-OTP-00239711 at 0023, paras. 130-131.

³³ See Annex A3, Part II.

18. The Prior Recorded Testimonies that the Prosecution seeks to introduce into evidence, pursuant to rule 68(2)(b) of the Rules, are relevant, reliable and probative.³⁴

19. P-0024, P-1357, and P-1359's Prior Recorded Testimonies were obtained by the Prosecution in the ordinary course of its investigation, when the witnesses were interviewed pursuant to article 55(1) of the Statute and rule 111 of the Rules. All Three Witnesses have attested that their Prior Recorded Testimonies were given voluntarily and their contents were true to the best of their recollection of the events.³⁵ They all signed their Prior Recorded Testimonies after either reading them, or for P-1359, having it read back to him.³⁶ The Prior Recorded Testimonies were conducted in English, a language that the Three Witnesses fully understand.³⁷ The Prior Recorded Testimonies of all Three witnesses are internally consistent.³⁸ Accordingly, they have the necessary indicia of reliability for introduction into evidence.

D. The Prior Recorded Testimonies of the Three Witnesses are cumulative to, and corroborative of, evidence to be provided by *viva voce* witnesses

20. The Prior Recorded Testimonies of the Three Witnesses on the contextual elements of crimes against humanity, in particular a policy to 'neutralise' through violent crimes, including murder, alleged criminals in the Philippines; and the widespread and systematic nature of such crimes are cumulative in nature, and corroborative of other evidence,³⁹ as described in the following paragraphs.

21. P-0024's evidence relating to [REDACTED] is corroborative of, and cumulative to, the evidence expected to be provided by, in particular, *viva voce* witness P-1160;

³⁴ *Gbagbo & Blé Goudé* Rule 68 Decision, [ICC-02/11-01/15-950-Red](#), para. 22.

³⁵ P-0024, PHL-OTP-00247832 at 0004, 0013, paras. 8-9, 12, 59-60; P-1357, PHL-OTP-00100499 at 0003-0004, 0008, paras. 7-8, 11, 40-41; P-1359, PHL-OTP-00239711 at 0004, 0031, paras. 5, 8-9, 173-174.

³⁶ P-0024, PHL-OTP-00247832 at 0013; P-1357, PHL-OTP-00100499 at 0009; P-1359, PHL-OTP-00239711 at 0032.

³⁷ P-0024, PHL-OTP-00247832 at 0004, para. 7; P-1357, PHL-OTP-00100499 at 0003, para. 6; P-1359, PHL-OTP-00239711 at 0004, para. 4.

³⁸ *Gbagbo & Blé Goudé* Rule 68 AJ, [ICC-02/11-01/15-744 OA 8](#), para. 3; *Ntaganda* Rule 68(2)(b) Decision P-0020, P-0057 and P-0932, [ICC-01/04-02/06-1730-Red](#), para. 13.

³⁹ *See Bemba* Rule 68 AJ, [ICC-01/05-01/08-1386](#), para. 78.

and witnesses P-1400 and P-1162. His evidence on the records of police operations during the “war on drugs” is also corroborative of, and cumulative to, the expected documentary evidence received from State agencies and other members of the PNP.

22. P-1357’s evidence relating to the structure and functioning of the DDS and Mr Duterte’s support for the killing of alleged criminals is corroborative of, and cumulative to, the evidence expected to be provided by, in particular, *viva voce* witnesses P-0001 and P-0026.

23. P-1359’s evidence relating to contextual elements of crimes against humanity, in particular the pattern and *modus operandi* of the charged crimes, including the targeting of alleged drugs personalities and the perpetrators’ ‘practice’ of placing placards on some victims is corroborative of, and cumulative to, the evidence expected to be provided by, in particular, *viva voce* witnesses P-0009, P-1211, and P-1263 as well as the evidence of witnesses P-0004, P-0025, P-1097, P-1340, P-1345, and P-1382. His evidence on the conduct of [REDACTED] in the Philippines during the “war on drugs” and the patterns of [REDACTED] the victim was killed in self-defence is corroborative of, and cumulative to, the evidence expected to be provided by witnesses P-0025 and P-1345.

E. The introduction of the Prior Recorded Testimonies of the Three Witnesses is not prejudicial to, or inconsistent with the rights of the Accused

24. The introduction of the Prior Recorded Testimonies of the Three Witnesses into evidence would not be prejudicial to, or inconsistent with the rights of the Accused, given the nature of the testimony of each witness, as set out above.⁴⁰ Furthermore, the Defence retains the possibility to cross-examine other *viva voce* and rule 68(3) witnesses on the basis of information contained in the Prior Recorded Testimonies,

⁴⁰ See Bemba Rule 68 AJ, [ICC-01/05-01/08-1386](#), para. 78. See also Yekatom & Ngaissona First Rule 68(2)(b) Decision, [ICC-01/14-01/18-1833-Corr-Red](#), para. 27; Al Hassan Rule 68(2)(b) AJ, [ICC-01/12-01/18-2222](#), para. 55.

lead contradictory evidence during the Defence case, or – to the extent that discrepancies exist with any other evidence – advance arguments on the weight to be attributed to the Prior Recorded Testimonies.

IV. CONCLUSION

25. For the above reasons, the Prosecution respectfully requests that the Chamber admit the proposed Prior Recorded Testimonies of the Three Witnesses *in lieu* of their *viva voce* testimony, as set out at Annex A.

A handwritten signature in black ink, appearing to read 'Mandiaye Niang', written over a horizontal line.

Mame Mandiaye Niang, Acting Prosecutor

Dated this 19th day of October 2026

At The Hague, the Netherlands