

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **23 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 fourth application under rule 68(3) to introduce into evidence the expert report provided by P-1400 and associated material”,
21 October 2026, ICC-01/21-01/25-527-Conf**

Source: Office of the Prosecutor

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☒ **Legal Representatives of the Victims**

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(Participation/Reparation)**

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I. INTRODUCTION

1. In accordance with article 69(2) and 69(4) of the Rome Statute, rule 68(3) of the Rules of Procedure and Evidence (“Rules”), the “Directions on the Conduct of Proceedings”,¹ and Trial Chamber III’s (“Chamber”) order and oral directions,² the Prosecution requests to: (i) introduce into evidence the expert report provided by P-1400 (“Expert Report”) and associated material; and (ii) grant the time requested below to conduct a focused *viva voce* supplementary examination of P-1400 on certain issues in the Expert Report requiring clarification or elaboration (“Request”).

2. Granting the Request will enhance the expeditiousness of the proceedings by reducing the length of the witness’s direct examination from five hours to two hours, saving approximately three hours of court time.

3. P-1400 is an expert. [REDACTED], as described in the Expert Report.³

4. The Expert Report is relevant, reliable and probative. It falls within the scope of P-1400’s expertise and will assist the Chamber in its determination of the issues in this case. Furthermore, the introduction into evidence of the Expert Report and associated material is not prejudicial to or inconsistent with the rights of Mr Duterte, as elaborated below.

II. CONFIDENTIALITY

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

III. LEGAL BASIS

6. Pursuant to articles 64(9)(a) and 69(4) of the Statute, the Chamber may hear a witness as an expert⁴ when it is satisfied that “(i) the witness is an expert [...]; (ii) the testimony in the subject area of expertise would be of assistance to the Chamber; (iii) the content of the report and/or anticipated testimony falls within the area of expertise of the witness; and (iv) the

¹ Directions on the conduct of proceedings, [ICC-01/21-01/25-471](#), paras. 63-64.

² Email from Trial Chamber III to the Parties and Participants, dated 15/10/2026 at 11:53; *Duterte* Second Status Conference, ICC-01/21-01/25-T-012-CONF, p. 11, lines 21-25, p. 12, lines 1-5.

³ P-1400, PHL-OTP-00250808.

⁴ *Ntaganda* Decision on Prosecution’s expert witness, [ICC-01/04-02/06-1159](#), para. 7: “The Chamber considers an expert witness to be a person who, by virtue of some specialised knowledge, skill or training can assist the Chamber in understanding or determining an issue of technical nature that is in dispute.”

content of the report and/or the anticipated testimony does not usurp the functions of the Chamber as the ultimate arbiter of fact and law.”⁵

7. Reports of expert witnesses and associated material were previously admitted into evidence by this Court pursuant to rule 68(3), insofar as the relevant criteria set out by this rule were met, the proceedings expedited, and the requirements indicated in paragraph 6 above satisfied.⁶

8. In relation to the conditions for introducing evidence pursuant to rule 68(3), the Prosecution incorporates by reference the jurisprudence set out in its first application under rule 68(3).⁷

IV. SUBMISSIONS

i. P-1400 is as an expert

9. The Prosecution seeks to submit into evidence P-1400’s Expert Report and 15 associated items listed in Annex A to this Application.

10. P-1400 is [REDACTED].⁸ [REDACTED].⁹

11. P-1400 is included in [REDACTED].¹⁰

ii. The Expert Report falls within P-1400’s expertise

12. Further to an instruction by the Prosecution,¹¹ P-1400 provided the Expert Report which covers topics relevant to the case, including [REDACTED].

13. The subject matter falls within the expertise of P-1400. The witness’s [REDACTED] of the Expert Report.¹² Together with the Expert Report, the Prosecution seeks to introduce a

⁵ *Al Hassan* Decision on Proposed Expert Witnesses, [ICC-01/12-01/18-989-Red](#), para. 16. See also *Ruto and Sang* Decision on Expert Report, [ICC-01/09-01/11-844](#), para. 12; *Ntaganda* Decision on Prosecution’s expert witness, para. 8; *Abd-Al-Rahman* Decision on Expert Witness, [ICC-02/05-01/20-1044](#), para. 10.

⁶ *Al Hassan* Decision on Proposed Expert Witnesses; *Abd-Al-Rahman* Seventh Rule 68(3) Decision, [ICC-02/05-01/20-651-Red](#), para. 42; *Ongwen* Decision on Mental Health Expert Evidence, [ICC-02/04-01/15-1073](#), para. 14; *Ntaganda* Preliminary Ruling on Rule 68(3), [ICC-01/04-02/06-845](#), para. 8. See also *Duterte* First Rule 68(3) Decision, [ICC-01/21-01/25-514-Red](#), paras. 14, 29.

⁷ *Duterte* Prosecution’s First Rule 68(3) Application, [ICC-01/21-01/25-484-Red](#), paras. 6-10.

⁸ P-1400, PHL-OTP-00249401

⁹ See P-1400, PHL-OTP-00249401.

¹⁰ [REDACTED].

¹¹ P-1400, PHL-OTP-00249385.

¹² See P-1400, PHL-OTP-00249401, PHL-OTP-00250808 at 0006-0008, 0013, paras. 2, 10, fns. 1-3, 13, 43.

selection of the items that constitute the associated material to the Expert Report, consisting of: [REDACTED].

iii. The Expert Report and associated material will assist the Chamber

14. The Expert Report and associated material will assist the Chamber in its determination of the truth.¹³

15. In particular, the Expert Report [REDACTED].

16. More specifically, [REDACTED].

iv. The Prosecution requests two hours for its focused supplementary examination of P-1400

17. The Prosecution intends for P-1400 to adopt the Expert Report, pursuant to rule 68(3), and then ask focused supplementary questions. This will expedite the proceedings and obviate the need for P-1400 to address each issue covered in the Expert Report, while retaining the opportunity for the Parties, the Common Legal Representatives for Victims and the Chamber to question the witness.¹⁴

18. The Prosecution will seek to clarify some aspects of the Expert Report, including but not limited to: [REDACTED].

v. The Expert report is relevant, reliable, probative and is not prejudicial to or inconsistent with the Accused's rights

19. The Expert Report is relevant, reliable and probative, in particular: (i) it is internally consistent and accompanied by supporting documents, *i.e.* the associated material; and (ii) it bears formal indicia reliability for introduction into evidence under rule 68(3), including being dated and provided voluntarily to the Prosecution, with the understanding it could be introduced into evidence.¹⁵

20. The Prosecution notes that the use of rule 68(3) for this witness is not prejudicial to or inconsistent with the rights of the Accused, because the Defence: (i) has agreed, in principle,

¹³ [Al Hassan Decision on Proposed Expert Witnesses](#), para. 16.

¹⁴ *Gbagbo & Blé Goudé* Rule 68(2)(b) and 68(3) Appeals Decision, [ICC-02/11-01/15-744](#), paras. 59, 61, 79.

¹⁵ P-1400, PHL-OTP-00249385 at 0001, para. 2.

to the introduction of expert reports via rule 68(3);¹⁶ and (ii) will have ample opportunity to question the witness in relation to the Expert Report and the associated material.

V. CONCLUSION

21. For the foregoing reasons, the Prosecution respectfully requests that the Chamber grant the Request subject to the fulfilment of the further conditions of rule 68(3) of the Rules.

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

Mame Mandiaye Niang, Acting Prosecutor

Dated this 23rd day of October 2026

At the Hague, the Netherlands

¹⁶ *Duterte* Second Status Conference, p. 14, lines 21-25, p. 15, lines 1-14.