

**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 fifth application under rule 68(3) to introduce into evidence prior recorded testimony of witnesses P-1155, P-1156, and P-1157”, 22 October 2026, ICC-01/21-01/25-528-Conf

Source: Office of the Prosecutor

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☒ **Legal Representatives of the Victims**

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I. INTRODUCTION

1. The Prosecution requests the formal submission of the transcripts and associated material (“Prior Recorded Testimonies”)¹ of P-1155, P-1156, and P-1157 (“Three Witnesses”) in accordance with article 69(2) and (4) of the Rome Statute (the “Statute”), rule 68(3) of the Rules of Procedure and Evidence (the “Rules”), and the “Directions on the Conduct of Proceedings” (the “Directions”).² The Prosecution further requests leave to conduct a focused *viva voce* supplementary examination of each witness, as detailed below.

2. Granting the request will enhance the expeditiousness of the proceedings by reducing the length of the witnesses’ direct examination from [REDACTED] hours to [REDACTED] hours, thus saving at least [REDACTED] hours of court time.

3. The Prior Recorded Testimonies of the Three Witnesses are relevant, reliable, and probative. The Three Witnesses provide evidence in relation to the [REDACTED] murders charged in Incident [REDACTED] under Count 3, with P-1155 and P-1156 notably [REDACTED]. The Three Witnesses provide evidence of [REDACTED]. P-1155 and P-1156 also provide direct evidence on the actual murders, as well as evidence of the Accused’s individual criminal responsibility in relation to his knowledge and intent of this specific incident. The Three Witnesses’ evidence further goes to the proof of the contextual elements of crimes against humanity and to the policy to ‘neutralise’ through violent crimes, including murder, alleged criminals in the Philippines.

4. The introduction into evidence of the Prior Recorded Testimonies is not prejudicial to or inconsistent with the rights of the Accused, as the witnesses will be available for cross examination by the Defence and any further questioning by the Chamber, the parties, and the Common Legal Representatives of Victims (the “CLRV”).

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.

¹ Annex A (A1 to A3) lists the Prior Recorded Testimonies of P-1155, P-1156, and P-1157, which comprise their hyperlinked witness transcripts (at I) and associated material (at II). The material related to the witness’s Prior Recorded Testimony which the Prosecution does not seek to introduce into evidence, is also included (at III). See Directions on the conduct of proceedings, 19 June 2024, ICC-01/21-01/25-471, (“Directions”), para. 59.

² The Directions, ICC-01/21-01/25-471, para. 59.

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(3).³ The Prosecution also recalls that the Chamber has explicitly encouraged the use of rule 68(3).⁴

B. Overview of the Prior Recorded Testimonies of P-1155, P-1156, and P-1157

7. The Prior Recorded Testimonies of the Three Witnesses may be introduced under rule 68(3). Each witness will attest to their accuracy, be present in court, and available for examination by the Parties, the Chamber, and the CLRV. Their evidence is highly relevant and probative, as set out below.

(i) Prior Recorded Testimony of P-1155

8. P-1155's Prior Recorded Testimony consists of the transcribed statement of the witness's one-day interview of [REDACTED] and of associated material that was used or explained by the witness during his interview and is listed in confidential Annex A1.

9. P-1155 was [REDACTED]⁵ and [REDACTED].⁶ P-1155's Prior Recorded Testimony goes to proof of the [REDACTED] murders perpetrated in Incident [REDACTED],⁷ as well as: the motives for targeting these victims;⁸ the orders "from above"⁹ and the instructions of police [REDACTED];¹⁰ [REDACTED];¹¹ [REDACTED];¹² and the reward associated with the incident.¹³ P-1155 also evidences [REDACTED] alleged involvement in this incident.¹⁴

³ ICC-01/21-01/25-484-Red, paras 6-10.

⁴ ICC-01/21-01/25-T-009-Red-Eng, p. 13, lines 15-21.

⁵ P-1155, PHL-OTP-00016420 at 0011-0022, lines 307-699. [REDACTED].

⁶ P-1155, PHL-OTP-00016420 at 0011-0053, lines 307-1750.

⁷ P-1155, PHL-OTP-00016420 at 0011-0053, lines 307-1750.

⁸ P-1155, PHL-OTP-00016420 at 0006-0007, 0023, 0030, lines 136-170, 710-728, 951-966.

⁹ P-1155, PHL-OTP-00016420 at 0011-0012, 0033, 0051, lines 330-343, 1068-1077, 1671-1687.

¹⁰ P-1155, PHL-OTP-00016420 at 0011-0015, 0025-0027, 0030, 0048-0051, lines 314-454, 798-857, 951-964, 1587- 1691.

¹¹ P-1155, PHL-OTP-00016420 at 0014-0015, 0018, 0027, 0030, 0050-0053, lines 431-458, 543-547, 858-861, 972-995, 1645-1665, 1703-1750.

¹² P-1155, PHL-OTP-00016420 at 0015-0018, lines 460-552.

¹³ P-1155, PHL-OTP-00016420 at 0021-0022, 0026, 0035-0042, lines 665-699, 823-826, 1149-1395.

¹⁴ P-1155, PHL-OTP-00016420 at 0020-0021, 0032-0035, lines 612-652, 1031-1147.

10. The associated material for P-1155 which the Prosecution seeks to introduce into evidence¹⁵ forms an integral part of his Prior Recorded Testimony.¹⁶ These items are also necessary to fully comprehend the witness's account, as he uses and/or explains them in his statement. P-1155's associated material is comprised of: (i) P-1155's sworn statement/affidavit signed on [REDACTED]; and (ii) [REDACTED].

11. Should P-1155's Prior Recorded Testimony be introduced into evidence, the Prosecution requests approximately [REDACTED]¹⁷ to conduct a streamlined supplementary examination of this witness. During this limited and focused supplementary examination, the Prosecution would explore and clarify aspects of P-1155's evidence on Incident [REDACTED].

12. The Prosecution estimates that it would require [REDACTED] hours for the direct examination of P-1155, if his Prior Recorded Testimony is not introduced through rule 68(3). Thus, the [REDACTED] required for the limited supplementary examination would shorten the in-court testimony of this witness by [REDACTED], should this Application be granted.

(ii) Prior Recorded Testimony of P-1156

13. P-1156's Prior Recorded Testimony consists of the transcribed statement of the witness's one-day interview of [REDACTED] and associated material that was used or explained by the witness during his interview and is listed in confidential Annex A2.

14. P-1156 was [REDACTED].¹⁸ His Previous Recorded Testimony goes to proof of the [REDACTED] murders perpetrated in Incident [REDACTED],¹⁹ as well as the order and instructions,²⁰ reason for targeting,²¹ planning and preparations,²² [REDACTED]²³ and

¹⁵ See Annex A(1), Part II.

¹⁶ *Yekatom & Ngaissona* Decision on the Prosecution Requests under Rule 68(3), ICC-01/14-01/18-907-Red, para. 26; *Ongwen* Decision on Defence Rule 68(2)(c) request, ICC-02/04-01/15-1288, paras 8, 10; *Gbagbo & Blé Goudé* Decision on the Prosecution's rule 68(2)(b) and 68(3) applications, ICC-02/11-01/15-573-Red, para. 9.

¹⁷ The Prosecution is mindful of the Chamber's direction that it would be "limited to an hour or maybe slightly more in a really major witness" when conducting supplementary examination under rule 68(3) (see ICC-01/21-01/25-T-012-CONF-ENG, p. 11, lines 21-24) and submits that P-1155 is one such exception, due to the particular relevance of this witness' evidence, as set out herein.

¹⁸ P-1156, PHL-OTP-00017506 at 0014, line 429, 0032, lines 1044-1052.

¹⁹ P-1156, PHL-OTP-00017506 at 0014, 0032-0033, lines 425-433, 1025-1056, 1065-1082.

²⁰ P-1156, PHL-OTP-00017506 at 0009-0010, 0019, 0022, lines 264-300, 586-597, 695-702.

²¹ P-1156, PHL-OTP-00017506 at 0010, 0019-0020, lines 280-284, 603-645.

²² P-1156, PHL-OTP-00017506 at 0010-0012, 0024-0031, lines 299-340, 356-422, 760-1020.

²³ P-1156, PHL-OTP-00017506 at 0013, 0031, lines 377-389, 1001-1006.

payment²⁴ associated with this incident. P-1156 further evidences [REDACTED] alleged involvement in this incident.²⁵

15. The associated material for P-1156 which the Prosecution seeks to introduce into evidence²⁶ 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/or explains them in his statement. P-1156's associated material is comprised of: (i) P-1156's affidavit which was signed on [REDACTED]; and (ii) [REDACTED].

16. Should P-1156's Prior Recorded Testimony be introduced into evidence, the Prosecution requests approximately [REDACTED]²⁷ to conduct a streamlined supplementary examination of this witness. During this limited and focused supplementary examination, the Prosecution would explore and clarify aspects of P-1156's evidence on Incident [REDACTED].

17. The Prosecution estimates that it would require [REDACTED] hours for the direct examination of P-1156, if his Prior Recorded Testimony is not introduced through rule 68(3). Thus, the [REDACTED] required for the limited supplementary examination would shorten the in-court testimony of this witness by [REDACTED], should this Application be granted.

(iii) Prior Recorded Testimony of P-1157

18. P-1157's Prior Recorded Testimony consists of the transcribed statement of the witness's one-day interview of [REDACTED] and associated material that was used or explained by the witness during his interview and is listed in confidential Annex A3.

19. P-1157 is [REDACTED]²⁸ and [REDACTED].²⁹ P-1157's Prior Recorded Testimony goes to proof of [REDACTED] the killing of [REDACTED].³⁰ He provides evidence of [REDACTED] prior to the incident,³¹ and [REDACTED] about a police operation planned

²⁴ P-1156, PHL-OTP-00017506 at 0016-0017, 0044-0046, lines 508-525, 1461-1526.

²⁵ P-1156, PHL-OTP-00017506 at 0010, 0015, 0019, 0023, 0034-0035, 0042-0043, lines 280-287, 460-478, 598-600, 744-745, 1099-1139, 1383-1407.

²⁶ See Annex A(2), Part II.

²⁷ The Prosecution is mindful of the Chamber's direction that it would be "limited to an hour or maybe slightly more in a really major witness" when conducting supplementary examination under rule 68(3) (see ICC-01/21-01/25-T-012-CONF-ENG, p. 11, lines 21-24) and submits that P-1156 is one such exception, due to the particular relevance of this witness' evidence, as set out herein.

²⁸ P-1157, PHL-OTP-00017072 at 0024, lines 811-817.

²⁹ P-1157, PHL-OTP-00017072 at 0003-0004, 0007- lines 46-62, 97-100, 201-228.

³⁰ P-1157, PHL-OTP-00017072 at 0003, lines 46-62.

³¹ P-1157, PHL-OTP-00017072 at 0004, 0008, 0018, lines 97-116, 231-253, 585-601.

against the targets.³² [REDACTED],³³ which facilitated [REDACTED]³⁴ and [REDACTED].³⁵ He also provides evidence about [REDACTED] on the day of the incident.³⁶

20. The associated material for P-1157 which the Prosecution seeks to introduce into evidence³⁷ 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/or explains them in his statement. P-1157's associated material is comprised of: (i) P-1157's affidavit signed on [REDACTED]; and (ii) [REDACTED].

21. Should P-1157's Prior Recorded Testimony be introduced into evidence, the Prosecution requests approximately [REDACTED] to conduct a streamlined supplementary examination of this witness. During this limited and focused supplementary examination, the Prosecution would explore and clarify aspects of P-1157's evidence on Incident [REDACTED].

22. The Prosecution estimates that it would require [REDACTED] hours for the direct examination of P-1157, if his Prior Recorded Testimony is not introduced through rule 68(3). Thus, the [REDACTED] required for the limited supplementary examination would shorten the in-court testimony of this witness by [REDACTED] hours, should this Application be granted.

C. The Prior Recorded Testimonies of P-1155, P-1156, and P-1157 are internally consistent and corroborative of evidence to be provided by other witnesses

23. P-1155, P-1156, and P-1157's Prior Recorded Testimonies are internally consistent and accompanied by supporting documents in relation to certain aspects.³⁸ They are also cumulative in nature and corroborative of other evidence.³⁹ In particular, the Three Witnesses' evidence relating to Incident [REDACTED], is mutually corroborative. It is also corroborative of, and cumulative to, aspects of the evidence expected to be provided by *viva voce* witness [REDACTED].

³² P-1157, PHL-OTP-00017072 at 0004, 0008-0010, 0021, 0024, lines 102-116, 254-300, 680-711, 784-809.

³³ P-1157, PHL-OTP-00017072 at 0011-0012, lines 341-375.

³⁴ P-1157, PHL-OTP-00017072 at 0005, 0010-0013, 0023, 0034, lines 119-138, 301-408, 755-769, 1144-1159.

³⁵ P-1157, PHL-OTP-00017072 at 0005-0006, 0012-0017, lines 136-165, 399-566.

³⁶ P-1157, PHL-OTP-00017072 at 0006-0007, 0021-0022, lines 159-197, 712-741.

³⁷ See Annex A(3), Part II.

³⁸ *Ntaganda* Preliminary Rule 68(3) decision, para. 9.

³⁹ *Bemba* Rule 68 AJ, para. 78.

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

24. The introduction of P-1155, P-1156, and P-1157's Prior Recorded Testimonies into evidence would not be prejudicial to or inconsistent with the rights of the Accused, as the Defence will have ample opportunity to cross-examine them. The Defence have been notified of the Prosecution's intention to call these witnesses pursuant to rule 68(3) since 31 August 2026⁴⁰ and have adequate time to prepare for the cross-examination.

25. In accordance with the conditions set out in rule 68(3), the witnesses will be asked whether they consent to the introduction of their Prior Recorded Testimonies into the record of the case at the start of their testimony and the parties, the CLRV, and the Chamber will have the opportunity to examine them and observe their demeanour during testimony.

E. The Prior Recorded Testimony of the Three Witnesses is relevant, reliable, and probative to the case

26. The Prior Recorded Testimonies that the Prosecution seeks to introduce into evidence, pursuant to rule 68(3) is relevant, reliable, and probative. While rule 68(3) contains no requirement that the prior recorded testimony has sufficient indicia of reliability, contrary to other sub-rules of rule 68,⁴¹ such indicia are relevant to the Prior Recorded Testimonies' reliability and probative value.

27. P-1155, P-1156, and P-1157'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 of the Statute and rule 112 of the Rules, with the audio-recordings of their interviews – transcribed, resulting in the interview transcripts forming their Prior Recorded Testimonies. All Three Witnesses were informed of the voluntary nature of their interviews and of their rights.⁴² At the conclusion of the interviews the witnesses confirmed that they answered the questions of their own free will and had no complaints about the way the interview was conducted.⁴³

⁴⁰ Prosecution's List of Witnesses for Trial, ICC-01/21-01/25-488-Conf-AnxA.

⁴¹ *Yekatom & Ngaissona* Fifteenth Decision on Rule 68(3), ICC-01/14-01/18-1480-Red, para. 16; *Yekatom & Ngaissona* Twentieth Rule 68(3) Decision, para. 11.

⁴² P-1155, PHL-OTP-00016420 at 0004-0008, lines 87-230; P-1156, PHL-OTP-00017506 at 0003-0006, lines 38-166; P-1157, PHL-OTP-00017072 at 0002-0004, lines 16-96.

⁴³ P-1155, PHL-OTP-00016420 at 0057, lines 1868-1880; P-1156, PHL-OTP-00017506 at 0059, lines 1954-1964; P-1157, PHL-OTP-00017072 at 0035, lines 1182-1189.

IV. CONCLUSION

28. For the above reasons, the Prosecution respectfully requests that the Chamber grant the application 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