

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: **ICC-01/21-01/25**
Date: **27 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

**Public redacted version of the “Victims’ Response to the Prosecution’s first application under rule 68(2)(b) to introduce into evidence Prior Recorded Testimonies of Witnesses P-1370, P-1393 and P-1416”
(ICC-01/21-01/25-523-Conf)**

Source: Common Legal Representatives of the Victims

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

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☒ Counsel for the Defence
D36

☒ Legal Representatives of the Victims
V50

☐ 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

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Registrar
Mr. Osvaldo Zavala Giler

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☐ Detention Section

☐ Victims Participation and
Reparations Section

☐ Other

I. INTRODUCTION

1. The Common Legal Representatives of the Victims (the “CLRV”) hereby respond to the “Prosecution’s first application under rule 68(2)(b) to introduce into evidence Prior Recorded Testimonies” concerning witnesses P-1370, P-1393 and P-1416 (the “Request”).¹ P-1370 and P-1416 [REDACTED]. [REDACTED], [REDACTED] matters of particular importance to the participating victims as a group.

2. The Request should be granted, as the requirements of rule 68(2)(b) of the Rules of Procedure and Evidence (the “Rules”) are satisfied. In particular, the prior recorded testimonies and related documents: (i) do not appear to concern the acts and conduct of Mr Duterte. Rather, they relate primarily to the contextual elements of crimes against humanity; and (ii) appear relevant, reliable, probative and corroborative of the accounts of other witnesses, without being unduly cumulative. Accordingly, their introduction into evidence would not be prejudicial to or inconsistent with the Accused’s rights.

3. Furthermore, the CLRV support the Request on the ground that the introduction of the prior recorded testimonies and related documents would be consistent with the victims’ right to a fair and expeditious trial, and [REDACTED], [REDACTED].

II. PROCEDURAL BACKGROUND

4. On 19 June 2026, Trial Chamber III (the “Chamber”) issued the “Directions on the conduct of proceedings.”²

¹ See the “Prosecution’s first application under rule 68(2)(b) to introduce into evidence Prior Recorded Testimonies of Witnesses P-1370, P-1393 and P-1416”, [No. ICC-01/21-01/25-518-Conf](#), with Confidential Annex A, 7 October 2026. A public redacted version [No. ICC-01/21-01/25-518-Red](#) was filed on 12 October 2026 (the “Request”).

² See the “Directions on the conduct of proceedings” (Trial Chamber III), [No. ICC-01/21-01/25-471](#), 19 June 2026.

5. On 7 October 2026, the Prosecution filed the Request.³

III. CLASSIFICATION

6. Pursuant to regulation 23bis (1) and (2) of the Regulations of the Court, the present submission is classified as confidential, following the classification chosen by the Prosecution, and because it refers to the content of documents bearing the same classification. A public redacted version will be filed in due course.

IV. SUBMISSIONS

a) Applicable Law

7. Rule 68(2)(b) of the Rules provides that, where a witness who gave prior recorded testimony is not present before it, the trial chamber may allow the introduction of such testimony into evidence, subject to certain conditions. First, the testimony must relate to a matter other than the acts and conduct of the accused.⁴ The rule further provides that, in order to determine whether a statement may be so introduced, a trial chamber shall consider, *inter alia*, whether the prior recorded testimony in question (i) relates to issues that are not materially in dispute; (ii) is of a cumulative or corroborative nature, in that other witnesses will give or have given oral testimony of similar facts; (iii) relates to background information; (iv) its introduction best serves the interests of justice; and (v) has sufficient indicia of reliability.⁵ Second, the testimony “*may only be introduced if it is accompanied by a declaration by the testifying person that the contents of the prior recorded testimony are true and correct to the best of that*

³ See the Request, *supra* note 1.

⁴ See the “Public redacted version of the ‘First Decision on the Prosecution’s requests to introduce prior recorded testimonies under Rule 68(2)(b)’” (Trial Chamber I), [No. ICC-02/05-01/20-612-Red](#), 2 March 2022, para. 14(i).

⁵ See Rule 68(2)(b)(i) of the Rules.

person's knowledge and belief'.⁶ Third, the declaration must be witnessed by a person authorised by the relevant chamber to witness such declarations.⁷

b) The requirements of rule 68(2)(b) of the Rules are satisfied

8. The prior recorded testimonies and related documents of all three witnesses concerned, [REDACTED] of victims of murders, appear to relate to matters other than the acts and conduct of the Accused. In particular, the evidence principally concerns the alleged extrajudicial killings committed in Central Luzon, the Philippines, and is probative of the contextual elements of crimes against humanity. As such, they fall within the scope of Count 3, [REDACTED].

9. Specifically, the prior recorded testimony and related documents of P-1370 provide background information about [REDACTED], [REDACTED].⁸ The prior recorded testimony of P-1416, [REDACTED], similarly describes the circumstances in which [REDACTED].⁹ Finally, the prior recorded testimony and related documents of P-1393 recount the circumstances surrounding [REDACTED].¹⁰

10. Accordingly, the prior recorded testimonies and related documents of [REDACTED] do not concern the personal acts and conduct of Mr Duterte. Rather, they relate to the broader context of the so-called "*War on Drugs*", including the alleged policy of killing persons suspected of involvement in drug-related activities. The issues discussed by the witnesses in their prior recorded testimonies are such that the Chamber should determine them to constitute "*matters [...] not materially in dispute*". In this regard, "[a] Chamber shall make its own determination as to whether the prior recorded testimony relates to, or impacts on matters which are conceivably disputed between the parties, and whether these matters are of at least sufficient significance for the Chamber's eventual

⁶ See Rule 68(2)(b)(ii) of the Rules.

⁷ See the "Public redacted version of the 'First Decision on the Prosecution's requests to introduce prior recorded testimonies under Rule 68(2)(b)'" (Trial Chamber I), [No. ICC-02/05-01/20-612-Red](#), 2 March 2022, para. 14(ii), 17 and 18 referring to the requirements of Rule 68(2)(b)(iii).

⁸ See P-1370, [REDACTED].

⁹ See P-1416, [REDACTED].

¹⁰ See P-1393, [REDACTED], [REDACTED] and [REDACTED].

determination of the charges against the accused in its judgment under Article 74 of the Statute."¹¹ In addition, the testimonies are cumulative and corroborative of other anticipated evidence and witness testimony to be presented by the Prosecution. Therefore, the introduction of the prior recorded testimonies and related material would not prejudice Mr Duterte or otherwise be inconsistent with his rights.

11. As regards the other formal requirements, the prior recorded testimonies and related documents appear to have sufficient indicia of reliability, having been voluntarily recorded during the Prosecution's investigation in the Philippines. Their introduction would also serve the interests of justice by contributing to the expeditious conduct of the proceedings and conserving the Court's time and resources.

c) Granting the Request will facilitate the victims' right to an expeditious trial [REDACTED]

12. Lastly, the CLRV emphasise that all three witnesses [REDACTED] grave acts of violence and have been [REDACTED] by the killings of [REDACTED]. In this regard, the introduction of their prior recorded testimonies and related material would significantly contribute to [REDACTED] before the Court and the public.¹²

13. Victims are entitled to expect that the Chamber will conduct the trial in a manner that [REDACTED]. The nature of the prior recorded testimony enables the Chamber to [REDACTED] for the witnesses concerned against the Accused's right to confront witnesses. Given that the prior recorded statements relate to *contextual* elements of the Prosecution's case, rather than central matters, [REDACTED] well-being through the introduction of their testimonies pursuant to rule 68(2)(b) of the Rules.

¹¹ See the "Public redacted version of the corrected version of 'First Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies pursuant to Rule 68(2)(b) of the Rules'", (Trial Chamber V) [No. ICC-01/14-01/18-1833-Corr-Red](#), 17 April 2023, para. 39, referring to the "Public Redacted Decision on the Prosecution's Applications for Introduction of Prior Recorded Testimony under Rule 68(2)(b) of the Rules" (Trial Chamber IX), [No. ICC-02/04-01/15-596-Red](#), 18 November 2016, para. 15.

¹² See, in this regard, [REDACTED]. See also, for the [REDACTED].

14. In this regard, article 68(1) of the Statute requires the trial chamber to take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses. Granting the Request would therefore be consistent with the Chamber's obligation under article 64(2) of the Statute to ensure that the trial is fair and expeditious and is conducted with due regard to the protection of victims and witnesses.

V. CONCLUSION

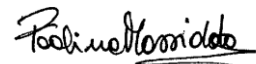
15. For the foregoing reasons, the CLRV respectfully request the Chamber to grant the Request.



Gilbert Andres



Joel Butuyan



Paolina Massidda

Dated this 27th day of October 2026

At The Hague (The Netherlands) and Manila (The Philippines)