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Original: **English**

No.**: ICC-01/21-01/25**
Date: **3 November 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 tenth application under rule 68(3) to introduce into evidence prior recorded testimony of witnesses P-0025 and P-1382", ICC-01/21-01/25-537-Conf, 30 October 2026

Source: **Office of the Prosecutor**

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I. INTRODUCTION

1. The Prosecution requests the formal submission of the statement, transcripts, and associated material ("Prior Recorded Testimonies")[1] of P-0025 and P-1382, ("Two 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], thus saving at least [REDACTED] of court time.

3. The Prior Recorded Testimonies of P-0025 and P-1382 are relevant, reliable, and probative. As [REDACTED], P-0025 and P-1382's evidence primarily relate to [REDACTED] on the numerous victims of the "War on Drugs". The Two Witnesses elaborate on the increase of killings during Mr Duterte's presidency and the contradiction between [REDACTED] and the Philippine National Police ("PNP")'s self-defence allegations. P-0025 further describes [REDACTED] of the victims of incidents 14, 30, and 55. As such, the evidence of the Two Witnesses goes to proof of the contextual elements of crimes against humanity, particularly: the policy to 'neutralise' through violent crimes, including murder, alleged criminals in the Philippines; the widespread and systematic nature of crimes committed pursuant to this policy. P-0025's evidence further assists with the proof of incidents 14, 30, 46,[3] and 55.

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

[1] Annex A (A1 to A2) lists the Prior Recorded Testimonies of P-0025 and P-1382 which comprise their hyperlinked witness statement and transcripts (at I) and associated material (at II). For P-1382, 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, ICC-01/21-01/25-471, para. 59.
[2] Directions on the conduct of proceedings, ICC-01/21-01/25-471, para. 59.
[3] P-0025 will also discuss [REDACTED] of incident 46, which is not covered in her Prior Recorded Testimony.

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. 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).[4] The Prosecution also recalls that in this specific case the Chamber has explicitly encouraged the use of rule 68(3).[5]

B. Overview of the Prior Recorded Testimonies of P-0025 and P-1382

7. The Prior Recorded Testimonies of the Two 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-0025

8. P-0025's Prior Recorded Testimony consists of one written statement of the witness's four-day interview of [REDACTED] and associated material that was used or explained by the witness in her statement and is listed in confidential Annex A.

9. P-0025 is [REDACTED],[6] [REDACTED] a hundred persons killed by law enforcement forces in the context of the "War on Drugs",[7] including [REDACTED] charged incidents 14, 30, 46, and 55.[8] She describes the circumstances in which she was asked to [REDACTED];[9] and [REDACTED].[10] She also elaborates [REDACTED], which in several cases contradict allegations of self-defence made by the police.[11] In a number of cases, P-0025 determined [REDACTED].[12] P-0025 further indicates that the War on Drugs initiated by Mr Duterte led to

[4] ICC-01/21-01/25-484-Red, paras. 6-10.
[5] ICC-01/21-01/25-T-009-Red-Eng, p. 13, lines 15-21.
[6] P-0025, PHL-OTP-00002236 at 0006, 0008-0009, paras. 16-17, 24-25.
[7] P-0025, PHL-OTP-00002236 at 0040-0042, paras. 105-107, 109, 110-112.
[8] P-0025, PHL-OTP-00002236 at 0043, 0051-0055, paras. 118, 143-146, 150-154.
[9] P-0025, PHL-OTP-00002236 at 0016-0019, 0034-0035, 0041, 0051, 0053-0054, paras. 42-46, 49, 90-91, 110, 143, 150.
[10] P-0025, PHL-OTP-00002236 at 0021-0037, paras. 54-89, 92-97.
[11] *See, inter alia*, PHL-OTP-00002236 at 0047-0050, 0055-0056, 0058, paras. 127-129, 131-136, 156, 158, 163-164.
[12] P-0025, PHL-OTP-00002236 at 0040-0043, paras. 108-109, 113-119.

an increase in police killings.[13] P-0025's Prior Recorded Testimony goes to proof of a policy to 'neutralise' through violent crimes, including murder, alleged criminals in the Philippines. Her evidence also goes to proof of counts 2 and 3 murders of the victims of incidents 14, 30, 46, and 55. P-0025 is [REDACTED].[14]

10. The associated material for P-0025 which the Prosecution seeks to introduce into evidence[15] forms an integral part of her Prior Recorded Testimony.[16] These items are also necessary to fully comprehend the witness's account, as she uses and explains them in her statement. The associated material is comprised of: (i) her *curriculum vitae*; (ii) Excel sheets recording [REDACTED] individuals killed in the context of the "War on Drugs"; (iii) an Excel sheet recording [REDACTED] in relation to which P-0025 [REDACTED]; and (iv) a document titled "[REDACTED]", where P-0025 summarised the data from the above referenced Excel spreadsheets.

11. Should P-0025's Prior Recorded Testimony be introduced into evidence, the Prosecution requests approximately [REDACTED][17] to conduct a streamlined supplementary examination of this witness, in accordance with rule 68(3) and the prior jurisprudence of this Court.[18] In particular, the Prosecution would seek further clarifications from the witness regarding [REDACTED]; and ask P-0025 to elaborate further on [REDACTED] and [REDACTED]. P-0025 will also discuss [REDACTED]. Specifically, the witness would be asked to [REDACTED], and on which she bases [REDACTED]. These include *inter alia*, (i) [REDACTED]; (ii) [REDACTED]; (iii) [REDACTED]; (iv) [REDACTED]; (v), [REDACTED]; (vi) [REDACTED]; and (vii), [REDACTED].

12. The Prosecution estimates that it would require [REDACTED] for the direct examination of P-0025, if her Prior Recorded Testimony is not introduced through rule 68(3). Thus, the

[13] P-0025, PHL-OTP-00002236 at 0015-0017, paras. 39-43.
[14] [REDACTED].
[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-0025 is one such exception, due to the volume and relevance of the evidence she provides.
[18] Ntaganda Transcript of hearing, ICC-01/04-02/06-T-110-Red2-ENG, p. 34, l. 8-13; Gbabgo & Blé Goudé Decision to conditionally admit the prior recorded statements under rule 68(3), ICC-02/11-01/15-722-Red, para. 23; Al Hassan Directions on the Conduct of Proceedings, ICC-01/12-01/18-789-AnxA, para. 65; Yekatom & Ngaissona initial Guidance on Rule 68, ICC-01/14-01/18-685, para. 36.

[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-1382

13. P-1382'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 in his statement and is listed in confidential Annex A.

14. P-1382 was [REDACTED].[19] He was appointed as [REDACTED].[20] He was reassigned to [REDACTED];[21] and was then [REDACTED].[22] P-1382 provides evidence on his [REDACTED][23] and on the composition of [REDACTED].[24] P-1382's Prior Recorded Testimony goes to proof that during the "War on Drugs", the PNP [REDACTED] was required to conduct multiple [REDACTED] each day as a result of the surge in killings.[25] In addition, P-1382 is expected to testify that he was instructed to [REDACTED].[26] P-1382's Prior Recorded Testimony goes to proof of the contextual elements of crimes against humanity, particularly: the policy to 'neutralise' through violent crimes, including murder, alleged criminals in the Philippines; the widespread and systematic nature of crimes committed pursuant to this policy.

15. The associated material for P-1382 which the Prosecution seeks to introduce into evidence[27] forms an integral part of his Prior Recorded Testimony. This item is also necessary to fully comprehend the witness's account, as he uses and explains it in his statement. P-1382's associated material is comprised of one sketch that he produced.[28]

16. Should P-1382's Prior Recorded Testimony be introduced into evidence, the Prosecution requests approximately [REDACTED] to conduct a streamlined supplementary examination of this witness, in accordance with rule 68(3) and the prior jurisprudence of this Court. During this limited and focused supplementary examination the Prosecution would

[19] P-1382, PHL-OTP-00236208 at 0005-0006, lines 133-168.
[20] P-1382, PHL-OTP-00236208 at 0006-0007, lines 169-197.
[21] P-1382, PHL-OTP-00236208 at 0026, lines 871-886.
[22] P-1382, PHL-OTP-00236208 at 0029-0031, lines 967-1053.
[23] P-1382, PHL-OTP-00236208 at 0009-0011, lines 263-360.
[24] P-1382, PHL-OTP-00236208 at 0014-0016, lines 448-542.
[25] P-1382, PHL-OTP-00236208 at 0012-0013, lines 380-410.
[26] P-1382, PHL-OTP-00236207 at 0005, lines 126-146; PHL-OTP-00236208 at 0017-0024, lines 561-799.
[27] *See* Annex A(2), Part II.
[28] P-1382, PHL-OTP-00236208 at 0004.

explore and clarify aspects of P-1382's evidence related to, in particular: (i) [REDACTED]; (ii) and the [REDACTED].

17. The Prosecution estimates that it would require [REDACTED] for the direct examination of P-1382, 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.

C. The Prior Recorded Testimonies of P-0025 and P-1382 are internally consistent and corroborative of evidence to be provided by other witnesses

18. P-0025 and P-1382's Prior Recorded Testimonies are internally consistent and accompanied by supporting documents in relation to certain aspects.[29] They are also cumulative in nature and corroborative of other evidence,[30] as described below.

19. P-0025's [REDACTED] of incident 14 is corroborative of, and cumulative to the evidence expected to be provided by, in particular, *viva voce* witness P-1168 and witness P-1304. Her [REDACTED] of incident 30, is corroborative of, and cumulative to the evidence expected to be provided by, in particular, *viva voce* witnesses P-1235, and P-1236; and witness P-1198. Her [REDACTED] of incident 55, is corroborative of, and cumulative to the evidence expected to be provided by, in particular, *viva voce* witness P-1261 and witness P-1303.

20. P-1382's evidence relating to the significant increase [REDACTED] during Mr Duterte's Presidency is corroborative of, and cumulative to the evidence expected to be provided by, in particular, *viva voce* witness P-0009 and witnesses P-0025, P-1345, P-1359, and P-1162. P-1382's evidence regarding PNP [REDACTED] is corroborative of and cumulative to evidence expected to be provided by, in particular, *viva voce* witnesses P-0009 and P-1066 and witnesses P-0025, P-1345, and P-1359.

D. The introduction of P-0025 and P-1382's Prior Recorded Testimonies is not prejudicial to or inconsistent with the rights of the Accused

21. The introduction of P-0025 and P-1382'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

[29] *Ntaganda* Preliminary Rule 68(3) decision, para. 9.
[30] *Bemba* Rule 68 AJ, para. 78.

Prosecution's intention to call these witnesses pursuant to rule 68(3) since 31 August 2026[31] and have adequate time to prepare for the cross-examination.

22. 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 P-0025 and P-1382 is relevant, reliable, and probative to the case

23. 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,[32] such indicia are relevant to the Prior Recorded Testimonies' reliability and probative value.

24. P-0025 and P-1382's Prior Recorded Testimonies bear formal indicia of reliability,[33] as they 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. The Two Witnesses were informed of the voluntary nature of their interviews and of their rights.[34] Other issues, including the principle of confidentiality and protection measures were also explained to each witness.[35] The Two Witnesses confirmed that they understood the procedure, as explained by the investigators, and agreed to proceed with their interviews.[36] The witnesses also confirmed that they answered the questions of their own free will and had no complaints about the way the interview was conducted.[37] P-0025 also signed her statement after reading it over and attested to the fact that it was voluntarily given and records her recollection of events.[38]

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[31] Prosecution's List of Witnesses for Trial, ICC-01/21-01/25-488-Conf-AnxA.
[32] *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.
[33] *Ntaganda* Preliminary Rule 68(3) decision, para. 9.
[34] P-0025, PHL-OTP-00002236 at 0004, paras. 6-7; P-1382, PHL-OTP-00236207 at 0002-0003, lines 29-34, 48-61.
[35] P-0025, PHL-OTP-00002236 at 0005, 0061-0062, paras. 9, 175-176; P-1382, PHL-OTP-00236207 at 0003-0004, lines 72-84.
[36] P-0025, PHL-OTP-00002236 at 0005, para. 10; P-1382, PHL-OTP-00236207 at 0003, lines 62-63.
[37] P-0025, PHL-OTP-00002236 at 0062, paras. 178-180; P-1382, PHL-OTP-00236208 at 0036-0037, lines 1248-1255.
[38] P-0025, PHL-OTP-00002236 at 0063.

IV. CONCLUSION

25. 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.



Mame Mandiaye Niang, Acting Prosecutor

Dated this 3rd day of November 2026

At The Hague, the Netherlands