Cour
Pénale
Internationale

International
Criminal
Court

Original: **English**

No.**: ICC-01/21-01/25**
Date: **4 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 ninth application under rule 68(3) to introduce into evidence prior recorded testimony of witnesses P-0004, P-0014, and P-1371", 30 October 2026, ICC-01/21-01/25-539-Conf

Source: **Office of the Prosecutor**

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

☒ **The Office of the Prosecutor**	☒ **Counsel for the Defence**
☒ **Legal Representatives of the Victims**	☐ **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**

REGISTRY

Registrar **M. Osvaldo Zavala Giler**	☐ **Counsel Support Section**
☐ **Victims and Witnesses Unit**	☐ **Detention Section**
☐ **Victims Participation and Reparations Section**	☐ **Other**

I. INTRODUCTION

1. The Prosecution requests the formal submission of the statements and associated material ("Prior Recorded Testimonies")[1] of P-0004, P-0014, and P-1371 ("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. P-0004, P-0014, and P-1371 [REDACTED] extrajudicial killings in the Philippines in the context of the "War on Drugs" [REDACTED]. As such, their evidence is particularly relevant to the pattern of violence used against alleged criminals by the Philippines National Police ("PNP") and non-police assets. It also 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. In addition, the evidence of P-0004 also goes to the proof of charged incidents [REDACTED] and [REDACTED].

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 as soon as practicable.

III. SUBMISSIONS

[1] Annex A (A1 to A3) lists the Prior Recorded Testimonies of P-0004, P-0014, and P-1371, which comprise their hyperlinked witness statements (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, ICC-01/21-01/25-471, para. 59.
[2] Directions on the conduct of proceedings, ICC-01/21-01/25-471, para. 59.

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 in this specific case the Chamber has explicitly encouraged the use of rule 68(3).[4]

B. Overview of the Prior Recorded Testimonies of P-0004, P-0014, and P-1371

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-0004

8. P-0004's Prior Recorded Testimony consists of one witness statement dated [REDACTED] and the associated material that was used or explained by the witness in his statement and is listed in confidential Annex A.

9. P-0004 was [REDACTED].[5] P-0004 describes [REDACTED][6] as well as [REDACTED].[7] He also provides evidence about [REDACTED].[8] P-0004 further describes the patterns, trends and *modus operandi* of PNP killings including: [REDACTED][9] [REDACTED][10] [REDACTED][11] [REDACTED][12] [REDACTED][13] [REDACTED][14] [REDACTED][15] [REDACTED][16] and how operations changed following [REDACTED].[17] He also provides information related to incidents [REDACTED][18] [REDACTED][19] and

[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-0004, PHL-OTP-0004-0006.
[6] P-0004, PHL-OTP-0004-0006 at 0015-0026, paras 43-95.
[7] P-0004, PHL-OTP-0004-0006 at 0020, paras 63-64.
[8] P-0004, PHL-OTP-0004-0006 at 0017-0018, paras 51-56.
[9] P-0004, PHL-OTP-0004-0006 at 0025 0026, 0046, 0073, paras 93, 194, 329.
[10] P-0004, PHL-OTP-0004-0006 at 0035, para. 137.
[11] P-0004, PHL-OTP-0004-0006 at 0032, 0045-0046, 0049, 0074-0075, paras 126, 191, 336-340.
[12] P-0004, PHL-OTP-0004-0006 at 0034-0036, 0038 0039, paras 135-143, 156-160.
[13] P-0004, PHL-OTP-0004-0006 at 0059-0060, 0068, 0073, paras 259-265, 307-308, 330.
[14] P-0004, PHL-OTP-0004-0006 at 0042, 0072, paras 199, 352.
[15] P-0004, PHL-OTP-0004-0006 at 0030, para. 114.
[16] P-0004, PHL-OTP-0004-0006 at 0033-0034, paras 130-131.
[17] P-0004, PHL-OTP-0004-0006 at 0047, para. 197.
[18] P-0004, PHL-OTP-0004-0006 at 0066-0067, paras 292-294, 296-297; PHL-OTP-00249537 at 0011.
[19] P-0004, PHL-OTP-0004-0006 at 0053-0054, paras 255-258, PHL-OTP-00249505 at 0024.

[REDACTED].[20] P-0004's testimony goes to proof of the widespread and systematic attack on the civilian population as well as specific charged incidents.

10. The associated material for P-0004 which the Prosecution seeks to introduce into evidence[21] forms an integral part of his Prior Recorded Testimony.[22] These items are also necessary to fully comprehend the witness's account, as he uses and/or explains them in his statement. The associated material is comprised of: (i) [REDACTED]; (ii) [REDACTED]; and (iii) [REDACTED].

11. Should P-0004's Prior Recorded Testimony be introduced into evidence, the Prosecution requests approximately [REDACTED][23] 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-0004's evidence related to, in particular: (i) [REDACTED]; and (ii) [REDACTED].

12. The Prosecution estimates that it would require [REDACTED] for the direct examination of P-0004, 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-0014

13. P-0014's Prior Recorded Testimony consists of one witness statement dated [REDACTED] and the associated material that was used or explained by the witness in his statement and is listed in confidential Annex A.

14. P-0014 is [REDACTED].[24] [REDACTED] Mr Duterte's election to the presidency and his campaign against illegal drugs, known as the "War on Drugs".[25] P-0014 [REDACTED].[26]

[20] P-0004, PHL-OTP-0004-0006 at 0034, 0041, paras 158, 168-169; PHL-OTP-0004-0085 (Translation PHL-OTP-00088419).
[21] *See* Annex A(1), Part II.
[22] *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.
[23] The Prosecution is mindful of the Chamber's direction that it would be "[REDACTED]" 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-0004 is [REDACTED].
[24] PHL-OTP-00001910 at paras. 13-14.
[25] PHL-OTP-00001910 at paras. 13-14.
[26] PHL-OTP-00002215.

15. P-0014 is expected to testify in relation to [REDACTED], in particular: (i) [REDACTED][27] which provides [REDACTED][28][REDACTED][29] [REDACTED][30] and (ii) [REDACTED][31] [REDACTED].[32]

16. The associated material for P-0014 which the Prosecution seeks to introduce into evidence[33] 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. The associated material is comprised of:

(i) [REDACTED];

(ii) [REDACTED], comprised of: (1) [REDACTED]; (2) [REDACTED]; (3) [REDACTED]; and (4) [REDACTED]; and

(iii) [REDACTED]: (1) [REDACTED]; (2) [REDACTED]; and (3) [REDACTED] and their transcripts or translations.

17. Should P-0014'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-0014's evidence related to, in particular (i) [REDACTED]; and (ii) [REDACTED].

18. The Prosecution estimates that it would require [REDACTED] for the direct examination of P-0014, 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-1371

19. P-1371's Prior Recorded Testimony consists of one witness statement dated [REDACTED] and the associated material that was used or explained by the witness in his statement and is listed in confidential Annex A.

[27] PHL-OTP-00002215 at 0109-0160.
[28] PHL-OTP-00002215 at 0109-0160.
[29] PHL-OTP-00002215 at 0251-0292.
[30] PHL-OTP-00002215 at 0008-0023, 0163, 0176-0198, 0210-0212.
[31] PHL-OTP-00001910 at para. 15.
[32] PHL-OTP-00001910 at para. 15(a)(i).
[33] *See* Annex A(2), Part II.

20. P-1371 [REDACTED] the "War on Drugs" campaign in the Philippines.[34] [REDACTED]. He states that [REDACTED] actively participated in "Duterte's War on Drugs" by enforcing the broader policy that Mr Duterte enacted. According to P-1371, [REDACTED] to carry out extrajudicial killings.[35] He details [REDACTED].[36] In particular, he provides comprehensive accounts of [REDACTED].[37] P-1371's Prior Recorded Testimony goes to proof of the existence of the organisational policy to "neutralise" through murder and other violent crimes persons in the Philippines who were perceived or alleged to be involved in drug-related and other crimes.[38] It also provides evidence of the implementation of the policy through the use of [REDACTED] to perpetrate killings.[39]

21. The associated material for P-1371 which the Prosecution seeks to introduce into evidence[40] 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. The associated material is comprised of: (i) [REDACTED]; (ii) [REDACTED]; (iii) [REDACTED]; (iv) [REDACTED]; and (v) [REDACTED].

22. Should P-1371'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 witness would be asked [REDACTED]. In addition, the Prosecution would also explore and clarify aspects of P-1371's evidence related to, in particular: (i) [REDACTED]; and (ii) [REDACTED].

23. The Prosecution estimates that it would require [REDACTED] for the direct examination of P-1371, 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-0004, P-0014, and P-1371 are internally consistent and corroborative of evidence to be provided by other witnesses

24. P-0004, P-0014, and P-1371's Prior Recorded Testimonies are internally consistent, mutually corroborative, and accompanied by supporting documents in relation to certain

[34] P-1371, PHL-OTP-00239903 at 0005, para. 15.
[35] P-1371, PHL-OTP-00239903 at 0007, para. 29.
[36] P-1371, PHL-OTP-00239903 at 0006, para. 23.
[37] P-1371, PHL-OTP-00239903 at 0008-0010, paras. 34-48.
[38] ICC-01/21-01/25-490-Conf, paras.118-120.
[39] ICC-01/21-01/25-490-Conf, para.121.
[40] *See* Annex A(3), Part II.

aspects.[41] They are also cumulative in nature and corroborative of other evidence,[42] as described below.

25. P-0004's evidence relating to [REDACTED] killings during anti-illegal drug operations is corroborative of, and cumulative to, the evidence expected to be provided by *viva voce* witnesses [REDACTED]. His evidence regarding [REDACTED] PNP killings, is corroborative of, and cumulative to, the evidence expected to be provided by numerous other *viva voce* witnesses, including P-0003, P-1077, P-1160, P-1207, P-1211, P-1235, P-1236, P-1262, P-1285, P-1407 and P-1415. Finally, his evidence regarding charged incidents [REDACTED] and [REDACTED] is corroborative of, and cumulative to, the evidence of *viva voce* witnesses P-1202, P-1160 and P-0003, respectively.

26. P-0014's evidence relating to the [REDACTED], is corroborative of, and cumulative to, the evidence expected to be provided by, in particular, *viva voce* witnesses P-0026 and P-1022. P-0014's evidence regarding Mr Duterte's "War on Drugs" is corroborative of, and cumulative to, the evidence expected to be provided by, in particular, *viva voce* witnesses P-0009, P-1022, and P-1036.

27. P-1371's evidence relating to the existence of the organisational policy to "neutralise" through murder and other violent crimes persons in the Philippines who were perceived or alleged to be involved in drug-related and other crimes, is corroborative of, and cumulative to, the evidence expected to be provided by, in particular, *viva voce* witnesses P-0002, P-0003, P-1036, and P-1066. His evidence regarding [REDACTED] the policy to carry out extrajudicial killings [REDACTED] is corroborative of, and cumulative to, the expected *viva voce* testimonies of witnesses P-0001, P-0002, and P-0026.

D. The introduction of P-0004, P-0014, and P-1371's Prior Recorded Testimonies is not prejudicial to or inconsistent with the rights of the Accused

28. The introduction of P-0004, P-0014, and P-1371'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

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

of the Prosecution's intention to call these witnesses pursuant to rule 68(3) since 31 August 2026[43] and have adequate time to prepare for the cross-examination.

29. 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 Testimonies of P-0004, P-0014, and P-1371 are relevant, reliable, and probative to the case

30. The Prior Recorded Testimonies that the Prosecution seeks to introduce into evidence, pursuant to rule 68(3) are 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,[44] such indicia are relevant to the Prior Recorded Testimonies' reliability and probative value.

31. P-0004, P-0014, and P-1371's Prior Recorded Testimonies bear formal indicia of reliability,[45] as they were signed by the witnesses, who attested to the fact that they were voluntarily given and record their best recollection of events.[46]

IV. CONCLUSION

32. 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.

[43] Prosecution's List of Witnesses for Trial, ICC-01/21-01/25-488-Conf-AnxA.
[44] *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.
[45] *Ntaganda* Preliminary Rule 68(3) decision, para. 9.
[46] P-0004, PHL-OTP-0004-0006 at 0084; P-0014, PHL-OTP-00001910 at 0009; P-1371, PHL-OTP-00239903 at 0018.



Mame Mandiaye Niang, Acting Prosecutor

Dated this 4th day of November 2026

At The Hague, the Netherlands