Cour
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International
Criminal
Court

Original: **English**

No.**: ICC-01/21-01/25**
Date: **2 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 seventh application under rule 68(3) to introduce into evidence prior recorded testimony of witnesses P-1097, P-1170, and P-1318", 28 October 2026, ICC-01/21-01/25-531-Conf

Source: **Office of the Prosecutor**

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☒ **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**
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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-1097, P-1170, and P-1318 ("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. As [REDACTED], the Three Witnesses provide evidence on the PNP's role in the implementation of Mr Duterte's "war on drugs" and the shift in [REDACTED] after Mr Duterte became President. Their evidence is also relevant to the Accused's individual criminal responsibility, including in relation to the targeting of individuals identified as High Value Targets ("HVTs") and included in various drug watch lists, including the President Rodrigo Roa Duterte list ("PRRD list").

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.

[1] Annex A (A1 to A3) lists the Prior Recorded Testimonies of P-1097, P-1170, and P-1318, 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, ICC-01/21-01/25-471, para. 59.
[2] Directions on the conduct of proceedings, 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 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-1097, P-1170, and P-1318

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-1097

8. P-1097's Prior Recorded Testimony consists of the transcribed statement of the witness's three-day interview of [REDACTED] and associated material that was used or explained by the witness during his interview and is listed in confidential Annex A.

9. P-1097 was [REDACTED][5] [REDACTED][6] [REDACTED].[7] P-1097 describes [REDACTED][8] [REDACTED]. He provides information about [REDACTED][9] [REDACTED][10] [REDACTED].[11] He also provides evidence of [REDACTED] and explains that *Tokhang* involved killings rather than "knock and plead" visits, adding that warning placards were placed on some of the victims.[12] P-1097's Prior Recorded Testimony further

[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-1097, PHL-OTP-00100558 at 0018, lines 554-563.
[6] P-1097, PHL-OTP-00100558 at 0009, lines 280-282, at 0010, lines 315.
[7] P-1097, PHL-OTP-00100558 at 0009-0010, lines 285-288.
[8] P-1097, PHL-OTP-00100561 at 0018, lines 529-531, at 0019-0020, lines 578-596, at 0020-0021, lines 607-617; PHL-OTP-00100558 at 0019-0020, lines 604-652, at 0022, lines 705-706, at 0023, lines 743-746, at 0024, lines 764-772; PHL-OTP-00100561.
[9] P-1097, PHL-OTP-00100559 at 0008-0009, lines 226-269, at 0023-0031, lines 706-987; PHL-OTP-00100560 at 0004-0009, lines 80-273, at 0010-0015, lines 294-468, at 0022, lines 711-715; PHL-OTP-00100562 at 0002-0009, lines 18-254, at 0009-0021, lines 262-676.
[10] P-1097, PHL-OTP-00100559 at 0013-0014, lines 395-424; PHL-OTP-00100560 at 0017-0019, lines 519-588; PHL-OTP-00100562 at 0022-0024, lines 730-751.
[11] P-1097, PHL-OTP-00100565 at 0003, lines 37-60.
[12] P-1097, PHL-OTP-00100562 at 0025-0026, lines 784-839.

provides evidence of the targeting of individuals, [REDACTED], identified as HVTs and included on Mr Duterte's "narco-list".[13] The witness [REDACTED].[14]

10. As such, P-1097's Prior Recorded Testimony is relevant to the PNP's role in the implementation of Mr Duterte's "war on drugs" and the shift in [REDACTED] after Mr Duterte became President. His evidence also goes to proof of the Accused's individual criminal responsibility, including in relation to the targeting of individuals identified as HVTs and included on his "narco-list".

11. The associated material for P-1097 which the Prosecution seeks to introduce into evidence[15] 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. The associated material is comprised of: (i) [REDACTED]; (ii) [REDACTED]; (iii) [REDACTED]; (iv) [REDACTED];[17] and (v) [REDACTED].

12. Should P-1097'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-1097's evidence related to, in particular: (i) [REDACTED]; and (ii) [REDACTED].

13. The Prosecution estimates that it would require [REDACTED] for the direct examination of P-1097, 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-1170

[13] P-1097, PHL-OTP-00100561 at 0029-0030, lines 899-908, at 0034, lines 1041-1062, at 0036-0037, lines 1110-1139, at 0038, lines 1169-1193; PHL-OTP-00100563 at 0002, lines 8-15, at 0011, lines 311-314, at 0022-0023, lines 705-733; PHL-OTP-00100564 at 0003-0004, lines 66-74; PHL-OTP-00100565 at 0008, lines 231-240.
[14] P-1097, PHL-OTP-00100560 at 0019, lines 601-606, at 0024, lines 755-763; PHL-OTP-00100561 at 0002, lines 11-28, at 0029, lines 887-898, at 0031, lines 940-946; P-1097: PHL-OTP-00100563 at 0003, lines 50-59, at 0024-0025, lines 768-806, at 0026, lines 835-840; PHL-OTP-00100565 at 0006, lines 152-159.
[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] Alternatively spelled as [REDACTED].

14. P-1170'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 A.

15. P-1170 [REDACTED].[18] P-1170 indicates that following Mr Duterte's presidential election, [REDACTED][19] [REDACTED] in the context of the "war on drugs".[20] The witness further refers to Mr Duterte's [REDACTED] related to the "war on drugs" more generally.[21] P-1170 explains that [REDACTED][22] and indicates that [REDACTED].[23] P-1170's evidence further demonstrates that Mr Duterte publicly accused [REDACTED] of involvement with illegal drugs.[24] The names of these targets were included in the PRRD list.[25]

16. As such, P-1170's Prior Recorded Testimony is relevant to the PNP's role in the implementation of Mr Duterte's "war on drugs" and the shift in [REDACTED] after Mr Duterte became President. His evidence also goes to proof of the Accused's individual criminal responsibility, including in relation to the targeting of individuals identified as HVTs and included on the PRRD list.

17. The associated material for P-1170 which the Prosecution seeks to introduce into evidence[26] 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. The associated material is comprised of [REDACTED].

18. Should P-1170'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-1170's evidence related to, in particular: (i) [REDACTED]; and (ii) [REDACTED].

19. The Prosecution estimates that it would require [REDACTED] for the direct examination of P-1170, if his Prior Recorded Testimony is not introduced through rule 68(3). Thus, the

[18] PHL-OTP-00088152 at 0002, lines 17-23 at 0007, lines 192-205.
[19] PHL-OTP-00088153 at 0009, lines 269-292; 0020-0021, lines 672-727.
[20] PHL-OTP-00088152 at 0008, lines 221-242; 0012-0014, lines 421-461; 0017-0020, lines 548-675; 0023-0027, lines 760-912; PHL-OTP-00088153 at 0002-0004, lines 24-86; 0006, lines 154-169.
[21] PHL-OTP-00088153 at 0006, lines 171-186.
[22] PHL-OTP-00088153 at 0005, lines 137-145; 0012, lines. 428-441.
[23] PHL-OTP-00088153 at 0015-0016, lines 482-547.
[24] PHL-OTP-00088154 at 0002-0004, lines 34-97; 0008, lines 226-255; 0010, lines 302-321; 0018, lines 592-600.
[25] PHL-OTP-00088154 at 0018-0020, lines 602-673.
[26] *See* Annex A(2), Part II.

[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-1318

20. P-1318's Prior Recorded Testimony consists of the transcribed statement of the witness's two-day interview of [REDACTED] and associated material that was used or explained by the witness during his interview and is listed in confidential Annex A.

21. P-1318 was [REDACTED].[27] [REDACTED][28] [REDACTED][29] and [REDACTED].[30] P-1318 describes [REDACTED] before and after 2016,[31] [REDACTED][32] [REDACTED] and [REDACTED] Operation Double Barrel and *Tokhang*.[33] He explains that some police killings were staged through *nanlaban* narratives, evidence planting, and cover-ups.[34] He further discusses the [REDACTED].[35] He describes [REDACTED][36] [REDACTED].[37] P-1318 provides [REDACTED].

22. As such, P-1318's Prior Recorded Testimony is relevant to the PNP's role in the implementation of Mr Duterte's "war on drugs" and the shift in [REDACTED] after Mr Duterte became President. His evidence also goes to proof of the Accused's individual criminal responsibility, including in relation to the targeting of individuals identified as HVTs and included on his "narco-list".

[27] P-1318, PHL-OTP-00232380 at 0006-0013, lines 168-417.
[28] P-1318, PHL-OTP-00232380 at 0007, lines 195-201.
[29] P-1318, PHL-OTP-00232384 at 0015, lines 546-555.
[30] P-1318, PHL-OTP-00232384 at 0014, lines 444-477.
[31] P-1318, PHL-OTP-00232381 at 0002-0005, lines 20-137; PHL-OTP-00232382 at 0002-0009, lines 19-280.
[32] P-1318, PHL-OTP-00232382 at 0004-0008, lines 89-227.
[33] P-1318, PHL-OTP-00232381 at 0005-0011, lines 139-362; PHL-OTP-00232384 at 0015-0017, lines 508-565; PHL-OTP-00232389 at 0005-0006, lines 138-181, 0010 lines 297-327; PHL-OTP-00236182 at 0022-0023, lines 717-735.
[34] P-1318, PHL-OTP-00232385 at 0009-0016, lines 281-558, 0017-0018, lines 573-625; PHL-OTP-00232387 at 0009, lines 258-281, 0011-0012, lines 322-387, 0014, lines 394-428, 0015-0021, lines 483-714.
[35] P-1318, PHL-OTP-00232383 at 0017-0024, lines 567-829; PHL-OTP-00232385 at 0003-0006, lines 64-157, 0007, lines 206-227; PHL-OTP-00232388 at 0021-0024, lines 691-814, 0027-0028, lines 929-950; PHL-OTP-00232389 at 0007-0009, lines 186-275, 0014-0015, lines 446-504; PHL-OTP-00236182 at 0011, lines 332-347.
[36] P-1318, PHL-OTP-00232383 at 0003-0005, lines 41-129, 0005-0007, lines 140-198, 0008-0024, lines 233-829; PHL-OTP-00232384 at 0003-0006, lines 47-173, 0008-0012, lines 226-386; PHL-OTP-00232385 at 0005-0007, lines 146-201; PHL-OTP-00232388 at 0014, lines 434-438, 0015-0017, lines 476-571, 0021, lines 691-704, 0025-0028, lines 844-950; PHL-OTP-00232389 at 0013-0014, lines 406-467; 0015-0016, lines 477-539, 0018-0020, lines 586-660; PHL-OTP-00236182 at 0022-0023, lines 717-735.
[37] P-1318, PHL-OTP-00232384 at 0006-0007, lines 169-190, 0008-0012, lines 226-386; PHL-OTP-00236182 at 0011-0012, lines 332-353.

23. The associated material for P-1318 which the Prosecution seeks to introduce into evidence[38] 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]; (v) [REDACTED] [REDACTED]; and (vi) [REDACTED].

24. Should P-1318'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-1318's evidence related to, in particular: (i) [REDACTED]; and (ii) [REDACTED].

25. The Prosecution estimates that it would require [REDACTED] for the direct examination of P-1318, 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-1097, P-1170, and P-1318 are internally consistent and corroborative of evidence to be provided by other witnesses

26. P-1097, P-1170, and P-1318's Prior Recorded Testimonies are internally consistent, mutually corroborative, and accompanied by supporting documents in relation to certain aspects.[39] They are also cumulative in nature and corroborative of other evidence,[40] as described below.

27. P-1097's evidence relating to [REDACTED] is corroborative of, and cumulative to, the evidence expected to be provided by, in particular, *viva voce* witnesses P-0009, P-1211 and P-1263. P-1097's evidence regarding [REDACTED] is corroborative of and cumulative to evidence expected to be provided by, in particular, *viva voce* witnesses P-1077 and P-1410.

28. P-1170's evidence relating to [REDACTED] is corroborative of, and cumulative to, the evidence expected to be provided by, in particular, *viva voce* witness P-1036. P-1170's

[38] *See* Annex A(3), Part II.
[39] *Ntaganda* Preliminary Rule 68(3) decision, para. 9.
[40] *Bemba* Rule 68 AJ, para. 78.

evidence regarding [REDACTED] is corroborative of, and cumulative to, the evidence expected to be provided by, in particular, *viva voce* witnesses P-1410 and P-1262.

29. P-1318's evidence relating to [REDACTED] is corroborative of, and cumulative to, the evidence expected to be provided by, in particular, *viva voce* witnesses P-1077 and P-1410. P-1318's evidence regarding [REDACTED] is corroborative of and cumulative to the evidence expected to be provided by, in particular, *viva voce* witness P-1066.

D. The introduction of P-1097, P-1170, and P-1318's Prior Recorded Testimonies is not prejudicial to or inconsistent with the rights of the Accused

30. The introduction of P-1097, P-1170, and P-1318'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 2026[41] and have adequate time to prepare for the cross-examination.

31. 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-1097, P-1170, and P-1318 are relevant, reliable, and probative to the case

32. 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,[42] such indicia are relevant to the Prior Recorded Testimonies' reliability and probative value.

33. P-1097, P-1170, and P-1318'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

[41] Prosecution's List of Witnesses for Trial, ICC-01/21-01/25-488-Conf-AnxA.
[42] *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.

Testimonies. All Three Witnesses were informed of the voluntary nature of their interviews and of their rights.[43] Other issues, including [REDACTED] were also explained to each witness. All Three Witnesses confirmed that they understood the procedure, as explained by the investigators, and agreed to proceed with their interviews.[44] 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.[45]

IV. CONCLUSION

34. 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 2nd day of November 2026

At The Hague, the Netherlands

[43] P-1097, PHL-OTP-00100558 at 0002-0005, lines 21-69, 92-119; P-1170, PHL-OTP-00088152 at 0004, lines 79-89; P-1318, PHL-OTP-00232380 at 0002, lines 15-34.

[44] P-1097, PHL-OTP-00100558 at 0006-0008, lines 174-220; P-1170, PHL-OTP-00088152 at 0004-0007, lines 90-187; P-1318, PHL-OTP-00232380 at 0003-0004, lines 62-118.

[45] P-1097, PHL-OTP-00100565 at 0014, lines 431-440; P-1170, PHL-OTP-00088152 at 0004, lines 79-89, at 0006-0007, lines 176-177, PHL-OTP-00088154 at 0026-0027, lines 898-904; P-1318, PHL-OTP-00236183 at 0005-0006, lines 138-149.