Cour
Pénale
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International
Criminal
Court

Original: ***English***

No.: ***ICC-01/21-01/25***
Date: **19 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

Public Redacted Version of "Victims' Response to the Prosecution's Request for in-court protective measures of 30 October 2026"
(ICC-01/21-01/25-553 dated 12 November 2026)

Source: **Common Legal Representatives of the Victims**

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** 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**

REGISTRY

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") herewith file their response to the "Confidential Redacted Version of 'Prosecution's request for in-court protective and special measures and notice of application of Regulation 42(2)'" (the "Prosecution's Request" or the "Request").[1]

2. The CLRV support the Request in its entirety and provide observations specifically [REDACTED].

II. CLASSIFICATION

3. Pursuant to regulation 23*bis* (1) and (2) of the Regulations of the Court, the present submission is classified as confidential *ex parte* Prosecution and CLRV only because it contains information not available to the Defence. A confidential redacted version is filed simultaneously. A public redacted version will be filed in due course.

III. APPLICABLE LAW

4. Proceedings before the Court are, as a general rule, to be held in public. However, the principle of publicity is not absolute and is expressly subject to exceptions, including where necessary for the protection of victims and witnesses.[2] Accordingly, the public nature of proceedings must be balanced against the Court's obligation – pursuant to article 68(1) of the Rome Statute (the "Statute"), read together with articles 64 and 68 and rules 86, 87 and 88 of the Rules of Procedure and Evidence

[1] See the "Confidential Redacted Version of 'Prosecution's request for in-court protective and special measures and notice of application of Regulation 42(2)'", No. ICC-01/21-01/25-542-Conf-Red, 30 October 2026. A public redacted version No. ICC-01/21-01/25-542-Red was filed on 5 November 2026. (the " Prosecution Request" or the "Request").

[2] See e.g., the "Decision on the Prosecution's Application for In-Court Protective and Special Measures" (Trial Chamber IX), No. ICC-02/04-01/15-612-Red, 29 November 2016, para. 5 (the "*Ongwen* Decision").

(the "Rules") –, to safeguard the safety, physical and psychological well-being, dignity and privacy of victims and witnesses.[3]

5. While public hearings are a fundamental principle, restrictions on public access may be justified where necessary to prevent the disclosure of sensitive information, minimise risks of intimidation or retaliation, and protect victims and witnesses from unnecessary harm. Accordingly, the Chamber retains discretion to order appropriate in-court protective and special measures where warranted.

6. In determining whether the protective measures sought are justified, the Chamber must undertake an individualised assessment of the circumstances of each witness concerned, establishing whether an objectively justifiable risk exists and whether the proposed measures are necessary and proportionate to address that risk.[4] Such assessment must be grounded in the particular circumstances of the witness, including the nature and context of the alleged crimes, any relationship with the accused or other relevant persons, indications of threats or intimidation, and the potential consequences of disclosure for the witness and their family members.[5] In adopting such measures, the Chamber must ensure that they are limited to what is reasonably necessary to address the identified risks, without unduly prejudicing the rights of the Accused, including the right to a fair trial and the ability to challenge the evidence.[6]

[3] See e.g., the "Public Redacted Version of Decision on the Prosecution's Request for In-Court Protective Measures dated 21 September 2022 (ICC-01/14-01/21-481-Conf)" (Trial Chamber VI), No. ICC-01/21-01/25-481-Red, 26 September 2022, para. 12 (the "*Saïd* Decision").
[4] See the *Ongwen* Decision, *supra* note 2, para. 8; and the *Saïd* Decision, *supra* note 3, paras. 13-16.
[5] See e.g., the "Public Redacted Version of Decision on Defence Request for In-Court Protective Measures for Witness D-0251" (Trial Chamber VI), No. ICC-01/04-02/06-2142-Red, 6 December 2017, para. 11 (the "D-0251 Decision"). See also, the "Public redacted version of the Decision on in-court protective measures" (Trial Chamber I), No. ICC-02/05-01/20-645-Red2, 25 April 2022, para. 9.
[6] See the *Ongwen* Decision, *supra* note 2, para. 8; and the *Saïd* Decision, *supra* note 3, paras. 20-28 and 52.

IV. SUBMISSIONS

1. Specific circumstances of this case

7. Before addressing [REDACTED] of [REDACTED], the CLRV submit that this case involves exceptional circumstances arising from [REDACTED]. [REDACTED]. [REDACTED].

8. In these circumstances, the effectiveness of conventional protective measures, including pseudonyms, facial and voice distortion and restrictions on identifying information, must be assessed in light of the wider information environment. [REDACTED]. [REDACTED],[7] [REDACTED]. This demonstrates that the mere application of conventional protective measures does not necessarily eliminate the risk of identification and reinforces the need to assess their practical effectiveness in light of the specific circumstances of the case.

9. Accordingly, a comprehensive and prospective approach to the assessment of protective measures should be adopted, taking into account the cumulative effect [REDACTED]. The relevant consideration is not simply [REDACTED], but whether the protective arrangements, considered as a whole, are sufficient to prevent or mitigate the objectively justifiable risks faced by the witnesses concerned.

10. While advocating for the proceedings to be conducted as publicly as possible, the CLRV recognise that, in the exceptional circumstances of the present case, the use of closed session is necessary to ensure the effective protection of [REDACTED]. The protection of family members is consistent with the scope and purpose of article 68(1) of the Statute, and the jurisprudence confirms that the assessment of protective measures must extend to the particular circumstances of a witness and the potential consequences of disclosure.[8]

[7] REDACTED.
[8] See the D-0251 Decision, *supra* note 5, para. 11.

11. [REDACTED]. These concerns must be assessed in the particular political and social context of the present case. In this regard, [REDACTED]. [REDACTED]. [REDACTED].

12. The assessment must therefore consider the circumstances prevailing at the time of testimony, including [REDACTED]. [REDACTED]. The potential exposure of relatives is particularly concerning [REDACTED].

13. Ultimately, the effective administration of international criminal justice depends on victims and witnesses being able to participate in proceedings without fear of retaliation. Accordingly, the protection of those who assist the Court is essential to fulfilling its mandate and ensuring the integrity of the proceedings.

14. For these reasons, the CLRV respectfully submit that the requested protective measures, including the use of closed sessions for all the testimony, are necessary and justified under articles 64 and 68 of the Statute and rule 87 of the Rules.

2. Specific circumstances of dual status individuals

[REDACTED]

15. The CLRV support the request for the use of pseudonym and closed session testimony. In addition, they request that the Chamber direct VWU to [REDACTED] to follow the proceedings and participate effectively in [REDACTED] testimony. [REDACTED] personal circumstances demonstrate that [REDACTED] falls within a particularly vulnerable category of [REDACTED], and that the risks associated with [REDACTED] participation in the present proceedings [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].[9]

16. This history must be considered in its entirety. [REDACTED]. [REDACTED]. [REDACTED].

[9] REDACTED.

17. The Chamber should therefore give particular weight to the cumulative circumstances [REDACTED]. These circumstances provide a concrete factual basis for finding that [REDACTED] faces an objectively justifiable risk within the meaning of article 68(1) of the Statute and the applicable Court's jurisprudence.

18. Furthermore, the risks [REDACTED] must be assessed in light of the continuing presence and activities of individuals and networks supportive of the Accused, [REDACTED].[10] In this context, [REDACTED]. [REDACTED]. [REDACTED]. Consequently, even where a pseudonym is used, the disclosure of factual details [REDACTED] may enable members of the public to identify [REDACTED]. The use of a pseudonym, facial distortion or voice distortion, considered individually or in combination, would therefore not necessarily prevent [REDACTED] identification if the substance of [REDACTED] testimony were disclosed in open court. The CLRV therefore support the Prosecution's position[11] that the combination of a pseudonym and closed session testimony is necessary to provide effective protection to [REDACTED]. The pseudonym would prevent the formal identification of the witness in the proceedings, while closed session testimony would prevent the disclosure of the substantive and contextual details capable of revealing [REDACTED] identity.

[REDACTED]

19. The CLRV support the request for the use of pseudonym and closed session testimony.[12] [REDACTED]. [REDACTED]. [REDACTED].

20. [REDACTED] is a particularly vulnerable [REDACTED] in this case. [REDACTED],[13] [REDACTED].

[10] See the "Judgment on the appeal of Mr Rodrigo Roa Duterte against the decision of Pre-Trial Chamber I entitled "Decision on the Defence's 'Urgent Request for Interim Release' and 'Renewed Request for Interim Release'" (Appeals Chamber), No. ICC-01/21-01/25-326-Conf OA 2, 28 October 2025, para 62. A public redacted version No. ICC-01/21-01/25-326-Red OA 2 was filed on 28 November 2025.
[11] See the Request, *supra* note 1, para. 35.
[12] *Ibid.*, para.43.
[13] REDACTED.

21. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].

22. Although the protective measures requested by the Prosecution[14] would significantly limit the publicity of the proceedings, they are necessary and constitute the only appropriate measures capable of ensuring [REDACTED] safety and safeguarding [REDACTED] well-being.

[REDACTED]

23. The CLRV support the request for the use of pseudonym and closed session testimony.[15]

24. [REDACTED]. [REDACTED]. However, the circumstances in which [REDACTED] were fundamentally different from those in which [REDACTED]. Testifying in proceedings against the former President of the Philippines [REDACTED]. [REDACTED].[16] In this context, [REDACTED]. In this regard, the protective measures afforded to [REDACTED] must also take account of the potential repercussions for [REDACTED] family. [REDACTED]. [REDACTED].[17] Their circumstances must not be overlooked when assessing the protective measures required [REDACTED]. In the close-knit communities and family-oriented social context of the Philippines, the consequences of identifying a witness may extend well beyond [REDACTED]. Accordingly, the public identification of [REDACTED] could have significant security implications [REDACTED] adversely affect their safety and well-being.

25. Furthermore, to date, [REDACTED]. [REDACTED]. [REDACTED]. These potential consequences provide an additional reason for the Chamber to carefully consider the broader protective implications of public testimony in respect of [REDACTED].

[14] See the Request *supra* note 1, para. 43.
[15] *Ibid.*, paras. 35-36.
[16] REDACTED.
[17] REDACTED.

[REDACTED]

26. The CLRV support the request for the use of a pseudonym and closed session testimony.[18] As previously submitted, [REDACTED].[19] Publicly identifying the witness and [REDACTED]. In the prevailing political and social climate in the Philippines, [REDACTED] could expose [REDACTED] to a real risk of harm, intimidation and/or social ostracism.

27. The CLRV further emphasise that some [REDACTED]. [REDACTED]. The potential consequences of publicly identifying [REDACTED] extend beyond the witness [REDACTED] and may have a lasting impact on the safety, security and well-being [REDACTED]. Accordingly, in adjudicating the Request, the Chamber should consider not only the risks faced by the witness, but also the foreseeable repercussions [REDACTED] family.

[18] See the Request *supra* note 1, paras. 35-36.
[19] REDACTED.

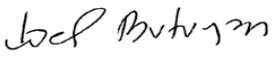
V. CONCLUSION

28. For the foregoing reasons, the CLRV respectfully request the Chamber

- To take the additional information concerning [REDACTED] provided above into consideration; and
- To grant the Prosecution's Request for protective measures in relation to [REDACTED], and to order special measures in relation to [REDACTED] as specified in paragraphs 15 above.



Gilbert Andres



Joel Butuyan



Paolina Massidda

Dated this 19th day of November 2026

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