Cour Pénale Internationale

International Criminal Court

Original: **English**

No.: **ICC-01/21-01/25**
Original: **12 November 2026**
Date: **18 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
"Defence Response to the Prosecution's Request to Admit Evidence Under Article 69(4) of the Statute"

Source: **Defence for Mr Rodrigo Roa Duterte**

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

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☒ **Counsel for the Defence**
Duterte Defence Team

☒ **Legal Representatives of the Victims**

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☐ **Unrepresented Victims**

☐ **Unrepresented Applicants (Participation/Reparation)**

☐ **The Office of Public Counsel for Victims**

☐ **The Office of Public Counsel for the Defence**

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I. INTRODUCTION

1. The Prosecution repeatedly indicated that P-0002's evidence would be introduced pursuant to Rule 68(2)(c),[1] meaning it would have to satisfy the requirement that the statement was **not** collected in the context of a unique investigative opportunity. Notwithstanding that submission, the present request now seeks to tender P-0002's evidence under Article 69(4) of the Statute,[2] on the basis that it was obtained in precisely those circumstances.[3]

2. This change of course is unexplained: the evidence was gathered more than [REDACTED] years ago, and the Prosecution is asserting that P-0002 [REDACTED] more than [REDACTED] years ago, meaning the Prosecution had time to identify the proper procedural basis for its admission. Regardless, an application for admission of P-0002's evidence should have been supported by documentation establishing that the witness is no longer available to testify. The Prosecution's claim that he [REDACTED] rests solely on information allegedly conveyed over [REDACTED] years ago by [REDACTED], the [REDACTED],[4] and is unsupported by any record corroborating this claim.[5] P-0002 is a [REDACTED], and the idea that [REDACTED] over [REDACTED] years ago is inconceivable.

3. P-0002 is a central Prosecution witness. He is the [REDACTED] most cited witness for Count 1, and the [REDACTED] most cited overall in the Prosecution Trial Brief. Admitting his prior recorded testimony, and hundreds of pages of related material concerning, *inter alia*, Mr Duterte's acts and conduct is prejudicial to the Accused. In the absence of adequate proof of P-0002's [REDACTED] and given the serious deficiencies in the reliability and probative value of his evidence, the Request should be rejected.

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[1] *See* Annex A to the Prosecution's Submission of the List of Witnesses and the List of Evidence, ICC-01/21-01/25-488-Conf-AnxA, 31 August 2026, p. 2; Confidential redacted version of "Prosecution's submissions pursuant to the 'Order scheduling first status conference'", ICC-01/21-01/25-440-Conf-Red, 15 May 2026, para. 15. This submission is filed **confidentially** pursuant to Regulation 23*bis*(2) of the Regulations of the Court as it provides a response to a filing bearing the same classification. All references to "Article" and "Rule" in the present submission are to the Rome Statute and International Criminal Court Rules of Procedure and Evidence, respectively.

[2] Prosecution's request to admit evidence under article 69(4) of the Statute, ICC-01/21-01/25-540-Conf, 30 October 2026 ("Request").

[3] In the Request, Rule 68(2)(c) is invoked merely in the alternative, without any substantive reliance on it nor reference in the relief sought.

[4] [REDACTED].

[5] Request, para. 21.

II. APPLICABLE LAW

4. Pursuant to Article 69(2), the testimony of a witness at trial shall be given in person. When the Prosecution considers an investigation to present a "unique opportunity to take testimony or a statement from a witness or to examine, collect or test evidence, which may not be available subsequently for the purposes of a trial", it must inform the Pre-Trial Chamber so that it may take the appropriate measures to safeguard the fairness of the proceedings.[6] This scenario encompasses, *inter alia*, circumstances in which there is a risk that a witness may become physically unable to attend the trial.[7]

5. Under Article 56(4), the admissibility of evidence preserved or collected under this procedure is governed by Article 69, with the weight to be accorded to such evidence left to the determination of the Trial Chamber. The Prosecution must demonstrate that the proposed evidence satisfies the applicable admissibility requirements, including whether it is relevant, probative and reliable, and whether its admission would cause prejudice to the accused.[8]

6. Where evidence has been collected pursuant to Article 56, it cannot subsequently be introduced under Rule 68(2)(c). The latter provision is intended to govern situations in which a witness is no longer available to testify and the need to take measures under Article 56 could not reasonably have been anticipated.[9]

III. SUBMISSIONS

i) Preliminary issue: lack of documentary evidence confirming P-0002's [REDACTED]

7. The procedures set out under Articles 18(6) and 56 of the Statute are designed to enable the collection and preservation of evidence that may not be subsequently available, including testimony or statements from witnesses who may be unable to appear before

[6] *Al Hassan*, Public redacted version of 'Decision on the Defence request to terminate the proceedings and related requests', ICC-01/12-01/18-1009-Red, 29 October 2020, para. 94.
[7] *Ongwen*, Decision on the "Prosecution application for the Pre-Trial Chamber to preserve evidence and take measures under article 56 of the Rome Statute", ICC-02/04-01/15-277-Red, 23 March 2016, para. 7.
[8] *Ongwen*, Decision on Request to Admit Evidence Preserved Under Article 56 of the Statute, ICC-02/04-01/15-520, 10 August 2016, para. 2.
[9] Rules of Procedure and Evidence, Rule 68(2)(c)(i). *See also Yekatom and Ngaïssona*, First Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies pursuant to Rule 68(2)(c) of the Rules, ICC-01/14-01/18-1975-Red, 12 July 2023 ("*Yekatom and Ngaïssona* Decision Under Rule 68(2)(c)"), paras 29-30; *Al Hassan*, Decision on the introduction into evidence of the prior recorded testimony of P-0605 and P-0582 pursuant to Rule 68(2)(c) of the Rules, ICC-01/12-01/18-2114-Red, 17 March 2022, para. 31; *Bemba et al.*, Decision on 'Prosecution Submission of Evidence Pursuant to Rule 68(2)(c) of the Rules of Procedure and Evidence', ICC-01/05-01/13-1481-Red-Corr, 12 November 2015, para. 19.

the Chamber for the purposes of a trial. Their admission is conditional upon proof that the witness can no longer testify orally, as would otherwise be required under Article 69(1). Absent such proof, the prior recorded testimony cannot be admitted and the witness must be called to give his evidence *viva voce*.

8. The Prosecution bases its Request on the circumstance that P-0002 "[REDACTED]".[10] In support of this assertion, the Prosecution states that in [REDACTED], it was informed of the witness's [REDACTED] by [REDACTED].[11]

9. This statement is unsupported by documentary evidence and is insufficient to establish that P-0002 [REDACTED] and unable to testify in person. [REDACTED].[12] In exceptional circumstances, where this cannot be obtained,[13] other documents *in lieu* of it may be accepted to conclude that a witness may [REDACTED].[14] Here, the sole source of the [REDACTED] is [REDACTED], who has not even provided a sworn statement accounting for the circumstances of P-0002's [REDACTED]. This is the same individual whose [REDACTED], [REDACTED].[15]

10. [REDACTED]'s [REDACTED] in these proceedings calls into question [REDACTED] credibility, and whether the Chamber can safely rely on [REDACTED] claim that P-0002 [REDACTED]. [REDACTED],[16] [REDACTED].

11. Relevantly, [REDACTED] presented [REDACTED] to P-1036's [REDACTED] as [REDACTED].[17] [REDACTED] described securing Mr Duterte's conviction as [REDACTED].[18] These statements, alongside [REDACTED],[19] reveal an intention to steer the proceedings to align with [REDACTED].

12. This falls well beyond [REDACTED]. Contrary to the Prosecution's stated position,[20] [REDACTED] did not only facilitate [REDACTED]; [REDACTED],[21] tried to

[10] Request, para. 21.
[11] Request, para. 21.
[12] [REDACTED].
[13] [REDACTED].
[14] An example of an alternative document is the [REDACTED]. *See* [REDACTED].
[15] [REDACTED].
[16] PHL-OTP-00096776-R01 at 0022, lines 747-748 ("[REDACTED]").
[17] PHL-OTP-00096776-R01 at 0012, lines 397-401 ("[REDACTED]") (emphasis added).
[18] PHL-OTP-00096776-R01 at 0012, line 405. *See also* at 0011, lines 341-343 ("[REDACTED]") (emphasis added).
[19] [REDACTED].
[20] [REDACTED] (emphasis added).
[21] *See e.g.* P-1285, PHL-OTP-00094890-R01 at 0013, lines 409-425.

[REDACTED], including to [REDACTED],[22] and assisted in [REDACTED]. The record shows that the Prosecution itself was concerned about [REDACTED].[23] Notwithstanding [REDACTED] and [REDACTED],[24] the Prosecution has continued to [REDACTED].

13. This [REDACTED] extended to P-0002. [REDACTED] [REDACTED], [REDACTED], and [REDACTED].[25] [REDACTED] also prepared [REDACTED], [REDACTED].[26] In his handwritten notes, P-0002 confirmed [REDACTED], describing [REDACTED] as "[REDACTED]".[27]

14. The Defence has found no material among the 62,000 items of disclosed evidence corroborating [REDACTED]' claim that P-0002 [REDACTED]. Rather, in [REDACTED],[28] in an attempt to [REDACTED], [REDACTED] informed P-1036's [REDACTED] that she had [REDACTED],[29] just like P-0002 and [REDACTED], who "[REDACTED]".[30] [REDACTED] claimed that [REDACTED] "[REDACTED]" and that [REDACTED] "[REDACTED]".[31] The use of the present tense suggests that the [REDACTED] described by [REDACTED] were ongoing at the time of that [REDACTED] in [REDACTED]. This is incompatible with [REDACTED] telling the Prosecution that P-0002 [REDACTED].

15. The Prosecution has provided no evidence corroborating P-0002's [REDACTED], such as [REDACTED]. The Request should be rejected on this ground alone. Should the Chamber consider that the Prosecution has established P-0002's [REDACTED], the evidence should not be admitted for the reasons set out below.

[22] PHL-OTP-00096776-R01 at 0012, lines 404-405 ("[REDACTED]"). [REDACTED] also (i) [REDACTED]; (ii) [REDACTED]. *See* P-1036, PHL-OTP-00093266-R02 at 0016-0017, 0020, lines 545-574, 603-607, 708-720, PHL-OTP-00094954-R02 at 0019-0020, lines 641-650, 660-692; P-1020, PHL-OTP-00240811-R01 at 00020-0021, lines 726-749, PHL-OTP-00240812-R01 at 0022, lines 782-792, PHL-OTP-00240814-R01 at 0030-0031, lines 1031-1069.
[23] PHL-OTP-00094873-R01 at 0001, para. 1 ("[REDACTED]").
[24] [REDACTED].
[25] P-0002, PHL-OTP-00015509-R02 at 0013, lines 490-507.
[26] P-0002, PHL-OTP-00015513-R02 at 0013, lines 405-423.
[27] PHL-OTP-0008-2337-R01 at 2358.
[28] The Prosecution investigation report "Metadata of [REDACTED] PHL-OTP-000095209" indicates the title of the [REDACTED] as "[REDACTED]". *See* PHL-OTP-00097064-R01. *See also* PHL-OTP-00094873-R01 at 0004, para. 17 ("[REDACTED]").
[29] PHL-OTP-00096776-R01 at 0003, lines 46-47.
[30] PHL-OTP-00096776-R01 at 0003, lines 49-50 ("[REDACTED]").
[31] PHL-OTP-00096776-R01 at 0013, lines 427-436 ("[REDACTED]") (emphasis added).

ii) P-0002's evidence is unreliable and lacks probative value

16. P-0002's statement and associated materials portray a witness deeply hostile towards Mr Duterte and paints a picture of an individual who is emotionally unstable. Both factors cast doubt on the reliability of the evidence the Prosecution now seeks to introduce.

17. In his handwritten notes, P-0002 accused Mr Duterte of "[REDACTED]",[32] "[REDACTED]",[33] with a "[REDACTED]",[34] that he was the principal source and author of [REDACTED],[35] and that he committed [REDACTED].[36] P-0002 called Mr Duterte, among various insults, a "[REDACTED]",[37] "[REDACTED]",[38] and "[REDACTED]",[39] and characterises his testimony as a [REDACTED].[40] He acknowledged to the Prosecution his desire and plans to [REDACTED] Mr Duterte, always [REDACTED] should the opportunity arise.[41] P-0002's evidence also reveals a paranoia that extends even to [REDACTED],[42] and leads him to exaggerate to such an extent that information presented as fact becomes indistinguishable from conjecture.

18. This aligns with P-0002's erratic conduct [REDACTED]. [REDACTED] – [REDACTED][43] – [REDACTED].[44] Then, [REDACTED].[45] He also stated that he had "[REDACTED]",[46] conflicting with the resentment shown in his later evidence.

19. P-0002's evidence, contrary to the Prosecution's assertion,[47] is also internally inconsistent. According to the Prosecution, in relation to Incident 1, P-0002

[32] PHL-OTP-0008-2337-R01 at 2440.
[33] PHL-OTP-0002-0240-R01 at 0247; PHL-OTP-0008-2003-R01 at 2091.
[34] PHL-OTP-0008-2003-R01 at 2091.
[35] PHL-OTP-0002-0277 at 0280.
[36] PHL-OTP-0008-2337-R01 at 2366, 2429.
[37] PHL-OTP-0008-2003-R01 at 2250-2251; PHL-OTP-0008-2337-R01 at 2440, 2446, 2448.
[38] PHL-OTP-0002-0039-R01 at 0170.
[39] PHL-OTP-0002-0039-R01 at 0080, 0103, 0116, 0118; PHL-OTP-0002-0248 at 0249; PHL-OTP-0002-0277 at 0278; PHL-OTP-0008-2003-R01 at 2021, 2192; PHL-OTP-0008-2337-R01 at 2356, 2430, 2459-2460, 2468, 2511.
[40] PHL-OTP-0008-2003-R01 at 2090 ("[REDACTED]").
[41] P-0002, PHL-OTP-00015509-R01 at 0008, lines 295-298 ("[REDACTED]"), PHL-OTP-00015539-R01 at 0005-0006, lines 131-134 ("[REDACTED]"), 142-144, 151-159 ("[REDACTED]").
[42] According to his handwritten notes, [REDACTED]). *See* PHL-OTP-0008-2337-R01 at 2436, 2510.
[43] PHL-OTP-00019317.
[44] PHL-OTP-00250015; P-0002, PHL-OTP-00015509-R01 at 0012, 0015, lines 430-435, 459-461, 571-573, PHL-OTP-00015515-R01 at 0019, lines 668-671; PHL-OTP-0006-0083 at 0083, para. 3.
[45] PHL-OTP-00250016; P-0002, PHL-OTP-00015509-R01 at 0012-0013, 0015, lines 462-464, 496-501, 570-572, 579-581, PHL-OTP-00015510-R01 at 0003, lines 45-50.
[46] PHL-OTP-00250016 at 0151.
[47] Request, para. 22.

"[REDACTED]".[48] During the same interview, P-0002 also said that he was inactive [REDACTED], that the incident concerned **two** victims, and that he was informed by **two** direct perpetrators "[REDACTED]".[49] In a separate [REDACTED], in the context of the incident being described as concerning **three** victims, P-0002 stated that the incident was instead narrated to him by [REDACTED].[50]

20. Relevantly, P-0002's account significantly contradicts the only other testimony regarding Incident 1, which is provided by [REDACTED]. Their versions diverge on fundamental points: the year of the incident, the number of victims, the identity of the perpetrators, the channel through which alleged clearance was conveyed, the method of killing, and whether P-0002 asked the perpetrators to claim a reward the day after the alleged incident occurred.[51]

21. P-0002's evidence is also inconsistent on other issues that the Prosecution asserts it supports, including when the DDS was founded and whether he [REDACTED],[52] and even the year when [REDACTED], contradicting himself by more than [REDACTED] years.[53]

22. Taken together, these shortcomings undermine P-0002's descriptions of Mr Duterte's alleged actions. His evidence fails to meet the requirements of reliability and probative value for admission. Therefore, there are compelling reasons to reject the Request. Given the Prosecution's submission that P-0002 is [REDACTED] and in the absence of any supporting documentation, the only appropriate remedy is the exclusion of his evidence.

iii) The admission of P-0002's evidence would be unfairly prejudicial

23. While the Prosecution argues that references to Mr Duterte's acts and conduct do not preclude admission, but are merely one factor for the Chamber to consider,[54] evidence that "could not be supplemented by that of other witnesses who will testify *viva voce*"

[48] Request, para. 19 citing to PHL-OTP-00000035 at 0004, PHL-OTP-00015535-R01 at 0002, 0005-0007, lines 20-24, 161-171 (emphasis added).
[49] P-0002, PHL-OTP-00015533-R01 at 0007, lines 206-226.
[50] PHL-OTP-00002133 at 0003.
[51] Transcript of Confirmation of Charges Hearing, ICC-01/21-01/25-T-006-CONF-ENG ET, 26 February 2026, p. 52, line 23 to p. 53, line 16; P-0026, PHL-OTP-00015436-R01 at 0004, 0006, lines 79, 161-172.
[52] PHL-OTP-00250016 at 0115 ("[REDACTED]" based on "[REDACTED]"), 0118 (confirmed "[REDACTED]"); PHL-OTP-0001-3619 at 3619, para. 3 ("[REDACTED]"); P-0002, PHL-OTP-00015507-R01 at 0004-0005, lines 114 ("[REDACTED]"), 143 ("[REDACTED]").
[53] PHL-OTP-00250016 at 0034 ("[REDACTED]"); P-0002, PHL-OTP-00015539-R01 at 0003, lines 72-75 ("[REDACTED]").
[54] Request, para. 26.

has been found prejudicial and therefore inadmissible, particularly where it has been given by an insider witness who may have an incentive to shift responsibility for their own actions onto others.[55]

24. [REDACTED]. P-0002's statement contains repeated references to Mr Duterte's acts and conduct, on which the Prosecution places heavy reliance in its Trial Brief. P-0002's statement appears to be the sole source for allegations that, for example, Mr Duterte taught P-0002 to plant evidence on criminal suspects;[56] created a police "Death Squad";[57] told police DDS members that they were being tasked as hitmen to kill individuals;[58] ordered Co-Perpetrator Vicente Danao to kill three or four men;[59] gave financial rewards to DDS handlers, thereby making them "more aggressive";[60] instructed DDS perpetrators to resort to rape and torture to force confessions from alleged criminals;[61] secured the dismissal of a criminal case against P-0002;[62] and financed weapons and ammunition used by the DDS through his intelligence fund.[63]

25. These are only some examples of allegations concerning Mr Duterte's purported conduct, spread across over a thousand pages of statements and associated materials. The risk of prejudice to the Accused is overwhelming: responsibility for serious acts would rest solely on the untested account of an unreliable witness with an obvious incentive to deflect blame, whose unavailability to testify has not even been established.

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[55] *Abd-Al-Rahman*, Decision on the Prosecution's second application to introduce a prior recorded testimony under Rule 68(2)(c), ICC-02/05-01/20-680-Red, 2 May 2022, para. 14 ("the Chamber finds […] that P-0954 provides evidence that is unique and cannot be supplemented by that of other witnesses who will testify *viva voce*. Moreover it is self-evident that greater caution is mandated when considering the admission - under the relevant rules - of statements made by 'insider' witnesses who may well have a motive to assign responsibility for their actions to others").
[56] Annex A to the Prosecution's Updated Trial Brief, ICC-01/21-01/25-522-Conf-AnxA, 16 October 2026 ("Prosecution Trial Brief"), para. 3, fn. 17.
[57] Prosecution Trial Brief, para. 7, fn. 30.
[58] Prosecution Trial Brief, para. 7, fn. 31. *See also* para. 36, fn. 176.
[59] Prosecution Trial Brief, para. 27, fn. 126.
[60] Prosecution Trial Brief, para. 32, fn. 159; para. 78, fn. 352.
[61] Prosecution Trial Brief, para. 41, fn. 203. Pre-Trial Chamber I found that the nexus between the alleged crimes of torture and rape had not been sufficiently established and, accordingly, did not include them in the warrant of arrest against Mr Duterte. *See* Warrant of Arrest for Mr Rodrigo Roa Duterte, ICC-01/21-01/25-83, 7 March 2025, para. 12.
[62] Prosecution Trial Brief, para. 59, fn. 273.
[63] Prosecution Trial Brief, para. 75, fn. 340.

26. Lastly, as noted by the Prosecution,[64] Pre-Trial Chamber I appointed a Defence Counsel to be present during the Prosecution interview of P-0002.[65] During the interview, while the investigator told the witness that Counsel was representing the interests of a future potential accused and may ask questions,[66] Counsel said that [REDACTED] was representing the general interests of the defence **as an observer** and would refrain from questioning him, referencing an order from a Single Judge.[67] This was a significant error. The order to which Counsel referred applied to an interview which was intended to take place at the Court and under the Judge's supervision.[68] The same instruction is absent from the decision re-appointing Counsel in February 2022.[69] With no such restriction, [REDACTED] should have participated actively in the interview, as would ordinarily be expected in such circumstances.[70]

27. Instead, Counsel's involvement was negligible. [REDACTED] posed only [REDACTED] questions during [REDACTED] pages of the transcribed interview, asking if P-0002 [REDACTED] and where [REDACTED] was taken.[71] Given that no suspect had been named at the time of the interview, and that the Prosecution now asserts that P-0002 is unavailable, Counsel's active participation was the only effective safeguard to protect the rights of the defence, and any future accused. Instead, [REDACTED] presence was a formality and afforded no substantive protection to a future defendant's rights. It cannot be relied upon to support the Prosecution's position that the admission of P-0002's evidence would not prejudice Mr Duterte.

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[64] Request, paras 24, 27.
[65] Request, para. 24. Decision on the Prosecutor's 'Request for authorisation of an investigative step under article 18(6) and rule 57', ICC-01/21-01/25-44-Conf, 20 June 2025 ("Decision on Request for Authorisation of an Investigative Step"), para. 17; the original *ex parte* Decision was issued on 18 February 2022.
[66] P-0002, PHL-OTP-00015505-R01 at 0004, lines 91-94 ("[REDACTED]"), 0012, lines 438-439 ("[REDACTED]").
[67] P-0002, PHL-OTP-00015505-R01 at 0002, lines 32-39 ("[REDACTED]"), PHL-OTP-00015506-R01 at 0003, lines 51-59 ("[REDACTED]") (emphasis added).
[68] Order on the conduct of proceedings for the preservation of testimonial evidence pursuant to rule 47(2) of the Rules of Procedure and Evidence, ICC-01/21-01/25-34-Conf, 20 June 2025; original decision issued on 22 December 2020. *See* paras 6, 12 ("[REDACTED]"), 15 ("[REDACTED]"), 19 ("[REDACTED]").
[69] Decision on Request for Authorisation of an Investigative Step.
[70] Guariglia, F. and Hochmayr, G. (2016) 'Article 56 – Role of the Pre-Trial Chamber in relation to a unique investigative opportunity', in Triffterer, O. and Ambos, K. (eds) *The Rome Statute of the International Criminal Court: A Commentary*. 3rd edn. München/Oxford/Baden-Baden: C.H. Beck/Hart/Nomos, p. 1417, para. 14.
[71] P-0002, PHL-OTP-00015509-R01 at 0018, lines 691-696, PHL-OTP-00015524-R01 at 0002-0003, lines 33-40.

iv) Certain associated materials do not meet the requirements for admission

28. The Prosecution also seeks to introduce a series of "associated material" on the basis that they form an integral part of P-0002's testimony.[72]

29. Four such items are not referred to in P-0002's transcribed statement, including: (i) two batches of handwritten notes;[73] (ii) a typed, unsigned, and undated affidavit;[74] and (iii) a Philippine National Police Personal Data Sheet.[75] These documents were not used or commented on by P-0002, nor are they in admissible form, with no verification and authentication of the purported handwriting and the unsigned and undated affidavit, which bears no indicia of authenticity.

30. In relation to the three affidavits and six batches of handwritten notes shown to him by the Prosecution, P-0002 does not meaningfully engage with their content or discuss any page during his interview, merely confirming his handwriting and signature.[76] These documents cannot properly be considered associated materials of the interview.[77]

31. The Prosecution argues that organigrams showing the structure of the DDS over time are admissible.[78] In relation to typed organigram PHL-OTP-0001-0310, the Prosecution describes that it was "[REDACTED]".[79] On the contrary, P-0002 commented that he

[72] Request, para. 20.
[73] PHL-OTP-00000035; PHL-OTP-00090437.
[74] PHL-OTP-0002-0192.
[75] PHL-OTP-00236407.
[76] PHL-OTP-0001-3619 ([REDACTED]-page typed affidavit **prepared by** [REDACTED], referenced in PHL-OTP-00015513-R01 at 0011-0018, lines 355-594); PHL-OTP-0002-0039-R01 (photographs of a [REDACTED]-page handwritten affidavit, referenced in PHL-OTP-00015511-R01 at 0005-0021, lines 123-686); PHL-OTP-0006-0083 ([REDACTED]-page affidavit, referenced in PHL-OTP-00015510-R01 at 0004-0011, lines 201-211, 298-305, 342-345); PHL-OTP-0002-0008 ([REDACTED]-page handwritten notes, referenced in PHL-OTP-00015512-R01 at 0008-0011, lines 241-342); PHL-OTP-0002-0029 ([REDACTED]-page handwritten notes, referenced in PHL-OTP-00015512a-R01 at 0012, lines 357-410); PHL-OTP-0002-0240-R01 ([REDACTED]-page handwritten notes, referenced in PHL-OTP-00015511-R01 at 0003-0005, lines 50-119); PHL-OTP-0002-0248 ([REDACTED]-page handwritten notes, referenced in PHL-OTP-00015512-R01 at 0006-0008, lines 161-238); PHL-OTP-0002-0277 ([REDACTED]-page handwritten notes, referenced in PHL-OTP-00015512-R01 at 0003-0006, lines 69-155); PHL-OTP-0002-0294 ([REDACTED]-page handwritten notes, referenced in PHL-OTP-00015512-R01 at 0002-0003, lines 22-63).
[77] First Decision on the Prosecution's Request to introduce prior recorded testimony pursuant to Rule 68(3), ICC-01/21-01/25-514-Conf, 2 October 2026, para. 32.
[78] Request, para. 20.
[79] Annex A to the Request, ICC-01/21-01/25-540-Conf-AnxA, 30 October 2026, p. 5.

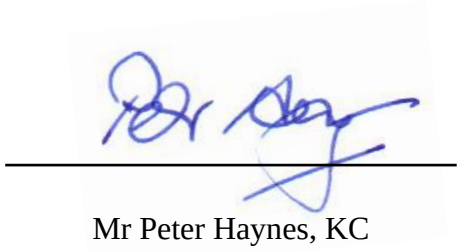
had no idea [REDACTED],[80] that he had [REDACTED],[81] [REDACTED],[82] and said "[REDACTED]".[83]

32. Furthermore, the Prosecution seeks to introduce an affidavit and deed of sale of firearm concerning P-0002's possession and sale of his assault rifle.[84] According to P-0002, he "[REDACTED]" and "[REDACTED]".[85] These documents do not relate to any matter in the case and are irrelevant. The Defence accordingly also objects to their admission.

IV. RELIEF SOUGHT

33. For the above reasons, the Defence requests that the Trial Chamber

> **REJECT** the Prosecution's Request to admit P-0002's evidence; or, in the alternative
>
> **REJECT** the request for admission of PHL-OTP-00000035; PHL-OTP-0001-0310; PHL-OTP-0001-3619; PHL-OTP-0002-0008; PHL-OTP-0002-0029; PHL-OTP-0002-0039-R01; PHL-OTP-0002-0192; PHL-OTP-0002-0240-R01; PHL-OTP-0002-0248; PHL-OTP-0002-0277; PHL-OTP-0002-0294; PHL-OTP-0006-0083; PHL-OTP-0008-1984-R01; PHL-OTP-0008-1985-R01; PHL-OTP-00090437; PHL-OTP-00236407 as associated materials.



Mr Peter Haynes, KC
Counsel for Mr Rodrigo Roa Duterte

Dated this 18th day of November 2026
At The Hague, the Netherlands

[80] P-0002, PHL-OTP-00015513-R01 at 0002, 0004-0005, 0009, 0011, lines 30-34, 83-87, 139-140, 285-287, lines 335-337.
[81] P-0002, PHL-OTP-00015513-R01 at 0003-0004, 0009-0010, lines 75-79, 282-284, 325-329.
[82] P-0002, PHL-OTP-00015513-R01 at 0004-0007, 0009, lines 95-99, 116-121, 155-156, 175-177, 182-185, 188-196, 278-281.
[83] P-0002, PHL-OTP-00015513-R01 at 0005, lines 131-132. *See also* at 0006, 0010, lines 150, 166-167, 329-330.
[84] Request, para. 20; PHL-OTP-0008-1984-R01; PHL-OTP-0008-1985-R01.
[85] P-0002, PHL-OTP-00015538-R01 at 0008, lines 240-244. *See also* P-0002, PHL-OTP-00015535-R01 at 0007, lines 230-233, PHL-OTP-00015538-R01 at 0006-0009, lines 179-194, 207-239.