

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/21-01/25

Date: 19 June 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

Directions on the conduct of proceedings

Decision 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

Mr Osvaldo Zavala Giler

☐ Counsel Support Section

☒ Victims and Witnesses Unit

☐ Detention Section

☐ Victims Participation and Reparations
Section

☐ Other

TRIAL CHAMBER III (the ‘Chamber’) of the International Criminal Court, in the case of *The Prosecutor v. Rodrigo Roa Duterte* (the ‘Duterte case’), having regard to Article 64(8)(b) of the Rome Statute (the ‘Statute’), issues these ‘Directions on the conduct of Proceedings’.

I. PROCEDURAL HISTORY

1. On 27 May 2026, during the First Status Conference, the Chamber indicated, as part of its oral rulings, that it intended to use the same conduct of proceedings model adopted in the *Abd-Al Rahman case*,¹ which was based on the Chamber’s Practice Manual.² The Chamber further ordered the parties and participants to submit any recommendations for amendments to that model by 5 June 2026.³
2. On 5 June 2026, the Prosecution,⁴ the Defence⁵ and the Registry⁶ filed their respective submissions (respectively, the ‘Prosecution’s Submissions’; the ‘Defence’s Submissions’; and the ‘Registry’s Observations’).
3. On 15 June 2026, the Defence⁷ and the Prosecution⁸ filed further observations (the respectively, the ‘Defence’s Reply’, the ‘Prosecution’s Reply’ and ‘Prosecution’s Reply to Registry’s Observations’).
4. On that same date, the Registry submitted five proposed Protocols to be applied in the case (the ‘Registry’s Submission of Protocols’).⁹

¹ *Prosecution v. Ali Muhammad Ali Abd-Al-Rahman* (‘*Ali Kushayb*’), Directions on the conduct of proceedings, 4 October 2021, ICC-02/05-01/20-478.

² Transcript of hearing on 27 May 2026, ICC-01/21-01/25-T-009, p. 48.

³ Transcript of hearing on 27 May 2026, ICC-01/21-01/25-T-009, p. 48.

⁴ Prosecution’s Observations regarding the Directions on the Conduct of Proceedings, ICC-01/21-01/25-456.

⁵ Defence Submissions on the Directions on the Conduct of Proceedings, ICC-01/21-01/25-455.

⁶ Registry’s Observations on the Directions on the Conduct of the Proceeding, adopted in the *Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman case* (ICC-02/05-01/20-478 dated 04 October 2021), ICC-01/21-01/25-454.

⁷ Defence Response to the “Prosecution’s Observations regarding the Directions on the Conduct of Proceedings”, ICC-01/21-01/25-456, ICC-01/21-01/25-463.

⁸ Prosecution’s Response to “Defence Submissions on the Directions on the Conduct of Proceedings” (ICC-01/21-01/25-455), ICC-01/21-01/25-465.

⁹ Registry Submission of the Witness Preparation, Familiarisation, Vulnerability, Dual Status Witness and Redactions Protocols, ICC-01/21-01/25-464, with public annexes I-V.

5. On 17 June 2026, the Registry submitted a proposed E-Court Protocol.¹⁰

II. SUBMISSIONS

6. The Prosecution suggests three amendments to the proposed conduct of proceedings, namely: (i) to have applications pursuant to Rule 68(2) of the Rules of Procedure and Evidence (the ‘Rules’) on a rolling basis, and by no later than 30 September 2026; (ii) to have applications pursuant to rule 68(3) of the Rules on a rolling basis, and by no later than 30 September 2026 for any witnesses testifying in 2026, and 30 October 2026 for the remainder; and (iii) to have applications for in-court protective measures filed by 30 October 2026.¹¹ The Prosecution also indicates that the proposed mode of testimony for each witness will be provided with the list of witnesses on 31 August 2026.¹² In response to the Defence’s Submissions, the Prosecution makes proposals on the submission regime,¹³ the confrontation of witnesses’ credibility by the non-calling party,¹⁴ the submission of associated evidence via Rule 68 of the Rules,¹⁵ and the submission of a schedule for witnesses whose interviews are recorded in transcripts.¹⁶ In response to the Registry’s Observations, the Prosecution suggests to modify and adjust the language of the procedure for the issuance of public redacted versions of the transcripts.¹⁷
7. The Defence proposes several amendments to the proposed conduct of proceedings, including a number of textual amendments to specific paragraphs of the model conduct of proceedings. These recommendations concern, *inter alia*: (i) the balance between the admission and submission of evidence regimes,¹⁸ (ii) the detailed ‘breakdowns’ of topics for all witness called to testify whose evidence includes

¹⁰ Registry’s Report Pursuant to the Chamber’s Oral Decision issued on 27 May 2026 on Consultations with the Parties and Participants Regarding the ‘E-Court Protocol’, ICC-01/21-01/25-469 with public annex.

¹¹ Prosecution’s Submissions, paras 3, 5 and 7.

¹² Prosecution’s Submissions, para. 3.

¹³ Prosecution’s Reply, para. 4.

¹⁴ Prosecution’s Reply, para. 5.

¹⁵ Prosecution’s Reply, paras 6-7.

¹⁶ Prosecution’s Reply, paras 8-10.

¹⁷ Prosecution’s Response to “Registry’s Observations on the Directions on the Conduct of the Proceeding, adopted in the Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman case (ICC-02/05-01/20-478 dated 04 October 2021)” (ICC-01/21-01/25-454), 15 June 2026, ICC-01/21-01/25-466, paras 3-7.

¹⁸ Defence’s submissions, paras 7-9.

prior transcribed interviews,¹⁹ (iii) the examination of witnesses,²⁰ (iv) the introduction of evidence through a witness,²¹ (v) limits to the use of Rule 68 of the Rules and associated exhibits,²² and (vi) metadata updates between parties and participants across all databases.²³ In response to the Prosecution's Submissions, the Defence makes proposals on the timing of Rule 68(3) applications.²⁴

8. The Registry makes several recommendations, including on: (i) public redacted versions of transcripts,²⁵ (ii) *post facto* redactions of transcripts,²⁶ (iii) transcript corrections;²⁷ (iv) in-court redactions;²⁸ and (v) the use of the Judicial Workflow Platform ('JWP') throughout the trial, including the evidentiary materials (E-binders) and the witness-entity modules.²⁹ The Registry further informs that it has held meetings with the parties and participants to present the JWP models and that further discussions will take place, the outcome of which will be reported to the Chamber.³⁰ The Registry further submits the Witness Preparation Protocol³¹ used in previous cases and indicates that the parties, participants and the Registry have further agreed on the following protocols: Familiarisation,³² Vulnerability,³³ Dual Status Witness,³⁴ Redaction,³⁵ and E-Court.³⁶

¹⁹ Defence's submissions, paras 10-12.

²⁰ Defence's submissions, paras 13-15.

²¹ Defence's submissions, paras 17-19.

²² Defence's submissions, paras 20-21.

²³ Defence's submissions, paras 22-23.

²⁴ Defence's Reply, paras 9-10.

²⁵ Registry's Observations, paras 8-9.

²⁶ Registry's Observations, para. 9.

²⁷ Registry's Observations, para. 10.

²⁸ Registry's Observations, para. 11.

²⁹ Registry's Observations, para. 12.

³⁰ Registry's Observations, para. 13.

³¹ This Protocol is contained in Annex I and is based entirely on the Protocol adopted in the *Abd-Al Rahman* case. Registry's Submission of Protocols, paras 2, 11.

³² This Protocol is contained in Annex II and the Registry informs it has on minor change in para. 3. Registry's Submission of Protocols, para. 6.

³³ This Protocol is contained in Annex III and the Registry informs it is based on previous cases and is agreed upon by the parties, participants and the Registry. Registry's Submission of Protocols, paras 4-5.

³⁴ This Protocol is contained in Annex IV. The Registry informs that amendments made are reflected in the footnotes and they have been agreed by the parties, participants and the Registry. Registry's Submission of Protocols, paras 7-8.

³⁵ This Protocol is contained in Annex V. The Registry informs that it contains one proposed amendment which has been agreed upon by the parties, participants and the Registry. Registry's Submission of Protocols, paras 9-10.

³⁶ Registry's Report Pursuant to the Chamber's Oral Decision issued on 27 May 2026 on Consultations with the Parties and Participants Regarding the 'E-Court Protocol', ICC-01/21-01/25-469, para. 12. The Protocol is contained in the Annex to that filing.

III. DIRECTIONS ON THE CONDUCT OF PROCEEDINGS

Introduction

9. The present decision constitutes the Chamber's directions for the conduct of proceedings. In issuing this decision, the Chamber has had regard to the model directions on the conduct of proceedings,³⁷ as well as the practice of other Trial Chambers of this Court. It has also taken into consideration the proposals and recommendations made by the parties and the Registry.
10. Issues left unaddressed in the present decision and which require intervention by the Chamber will be dealt with during the course of the trial, unless either party considers that there are matters which need to be addressed before trial. In that event, submissions may be made at the next status conference.
11. In particular, the Chamber will not regulate the questioning of witnesses in the abstract. The necessity or propriety of any particular question will be dealt with on a case-by-case basis, noting the Chamber's obligations under Rule 88(5) of the Rules and the requirements of Regulation 43 of the Regulations of the Court (the 'Regulations').

Reading of the charges

12. Article 64(8)(a) of the Statute mandates that the charges, as previously confirmed by the Pre-Trial Chamber, are read to the Accused. The Chamber announces that this will be done at the commencement of the trial, on 30 November 2026.

Trial Briefs

13. The Prosecution shall file by 31 August 2026,³⁸ a detailed Trial Brief, in addition to a list of witnesses it intends to call during the trial and a list of all items it plans to submit as evidence during the trial (the 'List of Evidence').
14. The contents of the Trial Brief shall include:

³⁷ Chambers' Practice Manual, para. 84. See in particular, *Prosecution v. Ali Muhammad Ali Abd-Al-Rahman ('Ali Kushayb')*, Directions on the conduct of proceedings, 4 October 2021, ICC-02/05-01/20-478.

³⁸ Transcript of hearing on 27 May 2026, ICC-01/21-01/25-T-009, p. 47.

- The principal facts of the Prosecution case;
- The witnesses who will speak to those facts;
- Any exhibits relevant to those facts; and
- The propositions of law on which the Prosecution proposes to rely.

15. The list of witnesses shall include:

- the witness pseudonym and identity (including different spellings if applicable);
- known kinship or other relationship to other witnesses or other relevant persons in this case;
- summary of anticipated testimony;³⁹
- projected order of calling;
- estimated length of questioning by the Prosecution;
- whether testimony is expected to be submitted via Rule 68 of the Rules;
- anticipated in-court protective measures to be sought, if any; and
- anticipated requests under Rule 74 of the Rules.

16. Witnesses and evidence may be added to the aforesaid lists after the deadline only with leave of the Chamber.

³⁹ The Chamber recalls its instruction that when the Prosecution calls a witness who has been interviewed pursuant to Article 55 of the Statute, it shall provide the Chamber and the parties with a breakdown, in schedule form, indicating: (i) the topics to be addressed with the witness; (ii) anticipated order in which those topics will be addressed; and (iii) references to the relevant pages of the interview transcripts. In light of the parties' submissions, the Chamber clarifies that this instruction applies to all witnesses who have transcripts of interviews instead of signed statements. *See* Transcript of hearing on 27 May 2026, ICC-01/21-01/25-T-009, pp. 12-13. *See also*, Defence's submissions, paras 10-12; Prosecution's Reply, paras 8-10.

17. The Common Legal Representatives of Victims (the ‘CLRVs’) may file a trial brief by 28 September 2026.⁴⁰

18. The Defence shall indicate by way of filing no later than 30 October 2026,⁴¹ the following:

- The principal matters of fact or law on which issue is taken with the Prosecution and the reasons for such issue being taken; and
- The general nature of the Accused’s defence, including any particular defence under Rule 79 of the Rules on which he intends to rely.

19. The Chamber reiterates that this filing does not preclude the Defence from raising further issues at a later stage if these become evident in the course of the trial or the Defence’s investigations.⁴²

Opening statements

20. The Chamber will hear the Prosecution’s opening statement first, followed by opening statements from the CLRVs and Defence.

21. The Prosecution will be given the requested six hours to present its opening statements. The CLRVs will be given three hours. The Chamber notes that the Defence cannot estimate at this moment the duration of its opening statement. Accordingly, it will rule upon this in due course.

22. The CLRVs and Defence may make their opening statements either at the commencement of the trial or just prior to the presentation of their evidence, if any.

23. In the interest of streamlining the presentation of these statements, an opening statement must be presented all at one time – the CLRVs and Defence are not permitted to reserve unused time from their opening statements and continue them later during the trial.

⁴⁰ Transcript of hearing on 27 May 2026, ICC-01/21-01/25-T-009, p. 48.

⁴¹ Transcript of hearing on 27 May 2026, ICC-01/21-01/25-T-009, p.48.

⁴² Transcript of hearing on 27 May 2026, ICC-01/21-01/25-T-009, p. 34.

24. The CLRVs and Defence are to inform the Chamber 15 days prior to the commencement of trial whether they intend to present their opening statements at the commencement of the trial.
25. The parties and participants are directed to transmit to the Chamber and other parties and participants any material they intend to use in the course of their opening statements eight days prior to the commencement of trial. Any objections to the use of such material shall be filed five days prior to the commencement of trial. The parties and participants will be permitted to use audio/visual material during opening statements.
26. The opening statements shall be presented entirely in public session. The parties and participants are therefore instructed to prepare accordingly.

Presentation of evidence

27. Subject to Articles 64(6)(b) and 69(3) of the Statute, the trial will be organised into:
 - (i) presentation of evidence by the Prosecution;
 - (ii) any presentation of evidence by the CLRVs, should leave to do so be granted; and
 - (iii) any presentation of evidence by the Defence.
28. The Chamber's leave must also be sought in order for either party to present 'rebuttal'/'rejoinder' evidence.
29. The Chamber may issue further directions at a later stage of the proceedings, in particular with regard to the Defence's opening statements and presentation of evidence, as well as the CLRVs' presentation of evidence and/or of their views and concerns, should leave be granted.
30. In order to ensure efficient time-tabling, the parties and participants are expected to make advance preparations for the presentation of any evidence, including the submission of requests for co-operation by a third-party.

Length and timing of the presentation of evidence by the Prosecution

31. The Chamber will issue a separate decision on the length and timing of the presentation of evidence by the Prosecution after receipt of the Prosecution's final List of Evidence.
32. Directions regarding the length of the Defence's presentation of evidence, as well as the CLRVs' presentation of evidence, should leave be granted, if any, will be issued at a later stage of the proceedings.

Documentary, digital or physical evidence

33. The parties shall formally submit documentary, digital or physical evidence to the Chamber in accordance with the procedure detailed below.
34. Generally, the Chamber will recognise the submission of such items without a prior ruling on the admissibility of the evidence. The Chamber will ultimately assess the relevance, probative value and potential prejudice of the evidence (the 'standard evidentiary criteria') as part of the holistic assessment of all evidence submitted when deciding on the guilt or innocence of the Accused, in its judgment pursuant to Article 74 of the Statute. During its deliberations, the Chamber will consider all the standard evidentiary criteria for each item of evidence submitted, though it may not necessarily discuss in the judgment every submitted item.
35. Exceptionally for items of evidence that are considered by the Chamber to be of particular importance, including items which have been relied upon repeatedly by the parties, the Chamber acting *proprio motu* or at request of either party, may give a ruling on admissibility at the time of that item's presentation, having first heard the parties' submissions on admissibility.⁴³
36. On this point, the Chamber observes that Rule 64(1) of the Rules requires the parties and participants to raise issues as to admissibility of evidence, including on any of the standard evidentiary criteria, at the time when the evidence is submitted to the Chamber or immediately after such an issue becomes known.

⁴³ See Transcript of hearing on 27 May 2026, ICC-01/21-01/25-T-009, pp. 19-20; Defence submissions, para. 9.

37. The Chamber in its discretion may decide to rule on any such specific objection in advance of the judgment, particularly when it is necessary for a fair and expeditious trial as mandated by Article 64(2) of the Statute.

38. In this regard, the Chamber recalls that the Court's legal framework contains a number of exclusionary rules which mandate that certain evidence is inadmissible in the proceedings. Rulings on the potential application of any such rule must be rendered separately from, and preliminarily to, the assessment of evidence for a decision under Article 74 of the Statute.⁴⁴

39. Further, the Chamber recognises that specific issues may arise where it will be necessary to rule on an evidentiary challenge at the time it is raised in order to provide clarity to the parties and participants, to avoid the calling of unnecessary evidence or to otherwise advance the fairness or efficiency of the trial proceedings.

40. For clarity, the following is a summary of the procedure to be followed with respect to the formal submission of documentary, digital or physical evidence in this case:

- i) The parties and participants shall formally request the submission of evidence either via the applicable procedures as specified in the relevant sections of the present decision or, for items used during a hearing, by communicating to the Chamber and the other parties and participants, and clearly identifying these items no later than one working day after the conclusion of the testimony of the relevant witness;
- ii) no later than three working days following receipt of the communication in item (i) above, the non-calling party and participant may send responses, raising issues related to the relevance or admissibility of the items submitted;

⁴⁴ For example, Rule 63(3) of the Rules mandates that rulings on admissibility shall be made by the Chamber when an application is made by a party or the Chamber by its own motion under Article 69(7) of the Statute. (This Article sets out procedural bars to the admission of evidence obtained in violation of the Statute or of internationally recognised human rights under specified circumstances.) The Chamber will rule on these issues, as appropriate, in the course of the trial or at the end of the proceedings. The Chamber will take a similar approach to other procedural requirements, including those arising under Rules 68 (prior recorded testimony of a witness), 71 (evidence of the prior or subsequent sexual conduct of a victim or witness) and 72 (evidence in cases of sexual violence) of the Rules.

- iii) no later than one working day following receipt of any response in item (ii) above, the tendering party or participant may reply indicating its position on the arguments raised by the other party or participant. The Chamber will then decide and identify which items are recognised as being formally submitted evidence;
- iv) the Registry will then reflect all formally submitted items in the eCourt metadata. The Registry must also submit reports for each witness who testifies, indicating which items have been formally submitted by the parties and participants in relation to that witness. The communications referenced in items (i) to (iii) above are to be annexed to this filing, applying redactions as appropriate.

41. Through this process each item of evidence which is submitted (in batches or otherwise) will be formally recognised as submitted. For large or lengthy items of evidence, although the entire item will be submitted, the submitting party must specify the portion or portions shown to the witness, and about which the witness has given evidence. Only those portions will be relied upon by the Chamber, unless the Chamber decides otherwise.⁴⁵

42. In principle, recognising the formal submission of audio-visual material automatically includes recognising the formal submission of any associated transcripts or translations which were duly disclosed.⁴⁶ This would be the case irrespective of whether these transcripts/translations were on the List of Evidence or formally submitted, though it is clearly preferable to do both so there is no confusion as to their status.

⁴⁵ Although the Chamber notes the Defence's submission, seeking that only the portions shown to a witness are submitted on the record, the Chamber considers it is necessary to have the totality of the item, for the completeness of the record. *See* Defence's Submissions, paras 16-19.

⁴⁶ When one version of an item is formally submitted (*i.e.* lesser redacted versions), all versions of this item are also formally submitted.

Witnesses

(1) Order of questioning

43. The calling party will conduct its questioning of the witness first, followed by the questioning by the CLRVs, if any, and thereafter questioning by the non-calling party.
44. The non-calling party is expected to indicate, in advance of the appearance of the witnesses, which part of their anticipated evidence, if any, is not contested.
45. The CLRVs are not required to provide an advance written note of the specific questions they intend to ask⁴⁷ – a general advance notification that they intend to pose questions suffices. The necessity or propriety of questions asked will be addressed on a case-by-case basis.
46. In this regard, the Chamber stresses that the role of the CLRVs is different from that of the Prosecution, which must be reflected in the types of questions asked. It is the Prosecution who exclusively carries the burden of proof to establish the alleged crimes. Consequently, and irrespective of whether the Prosecution has elicited information on a certain point relevant to the alleged crimes, the CLRVs' questioning is limited to matters relevant to the personal interests of the victims. This may, for instance, include questions about harms which the witness personally suffered or harms of other victims which the witness observed. Such questions may also relate to any future reparations proceedings which may occur.⁴⁸
47. Questioning by the non-calling party is not limited to issues raised during the questioning by the calling party. Indeed, the Chamber will allow inquiry into additional matters. During this questioning the non-calling party may, for example, seek to ask questions related to the credibility of a witness, the reliability of the evidence presented, as well as mitigating and/or aggravating circumstances. However, the questioning by the non-calling party is not without limitation, notably

⁴⁷ This is an optional requirement in Rule 91(3) of the Rules.

⁴⁸ Regulation 56 of the Regulations.

in that the questions posed must be demonstrably relevant to the issues in the case or to the credibility or the testimony of the witness.

48. If the non-calling party challenges the accuracy or veracity of a witness's evidence relating to a major issue in the case (other than matters which are collateral or insignificant), this challenge must be included in the questioning of the witness.⁴⁹
49. Further, the Chamber will ensure that the questioning by the non-calling party is conducted in accordance with its responsibility for the protection of victims and witnesses under Article 68 of the Statute.
50. The calling party may re-examine the witness after questioning by the non-calling party has concluded provided the questions are limited to issues which arose from this examination.
51. The Chamber may pose questions to the witness at any time including after the conclusion of the questioning by the parties and participants.
52. The Defence has the right to be the last to question a witness, if necessary.

(2) Use of materials during the questioning

53. As a rule, the parties and participants can only use during questioning materials which they have previously disclosed. The party or participant intending to use any documents shall ensure that electronic, searchable copies of the documents have been uploaded into eCourt prior to their use, in accordance with the eCourt Protocol.⁵⁰
54. The calling party or participant shall provide to the Chamber and the other party and participants, at least five days before a witness commences testifying, a list (hereinafter: 'List of Material') setting out:

⁴⁹ The Chamber has taken into consideration the parties' submissions in this regard, as well as the practice in the *Abd-Al-Rahman* case. See Defence's submissions, paras 13-15; Prosecution's Reply, para. 5; *The Prosecutor v. Abd-Al Rahman*, Trial Judgment, 6 October 2025, ICC-02/05-01/20-1240, para. 199.

⁵⁰ The parties and participants are expected to provide the ERN of the material when indicating them in accordance with the following paragraph. Should the item exceptionally not have been uploaded into the eCourt system yet, the parties and participants are expected to indicate this fact in the procedure set out in the following paragraph.

- i) the materials it intends to use during the questioning of the witness;
- ii) any passages intended to be used within any lengthy document; and
- iii) whether the materials are intended to be tendered as evidence, including under Rule 68 of the Rules, where appropriate.

55. The non-calling party shall, no later than two days prior to the start of the witness's testimony, provide notice of its objection to the use of any material with the witness. This is without prejudice to the possibility to object, during the testimony, to the manner in which the material is presented to the witness.

56. The non-calling party or participant will provide to the Chamber and the other party and participants, at least one day before they commence their questioning of the witness, a list of any materials they intend to use during questioning. Exceptionally, if the materials were not already disclosed, copies shall be attached. Objections to the use of any material by the non-calling party shall be raised orally, prior to the start of the examination of the non-calling party.

57. The Registry shall inform the parties and participants of the relevant procedure in relation to the use of audio-visual recordings during hearings. In principle, video or audio recordings may only be used in court if a transcript, and translation if applicable, are available. The party or participant intending to use a video or audio recording shall indicate in its List of Material the sections of the transcript, if any, corresponding to the excerpts of the material it intends to use; as well as, if applicable, the corresponding sections of the translation. To avoid taking up hearing time to address these matters, the parties and participants shall consult with one another to resolve any disagreement as to the transcription or translation of the excerpts. If a disagreement cannot be resolved, the parties and participants shall notify the Chamber.

(3) Prior recorded testimony under Rule 68

58. The Chamber recalls that the Prosecution has been ordered to file its final list of witnesses it intends to call by 31 August 2026 and to indicate whether it seeks leave to introduce any prior recorded testimony of a witness under Rule 68(2) and (3) of the Rules.

59. The Prosecution shall file applications pursuant to Rule 68 of the Rules on a rolling basis and no later than 31 August for witnesses testifying in 2026 and no later than 30 October for the remainder of the witness.⁵¹ The applications shall be filed together with:

- i) copies of the previously recorded testimony or hyperlink to same;
- ii) other material referred to in the previously recorded testimony, without which the testimony would not be understandable, if this material is available to the Prosecution;⁵² and
- iii) a specification as to whether the Prosecution seeks to ask further questions to the witness and the specific time sought for such examination, and an indication of the topics to be addressed orally with the witness.

60. Concerning applications pursuant to Rule 68(3) of the Rules, the Chamber will issue preliminary rulings ahead of the relevant in-court testimony. The final determination will be made at the time of the appearance of the witness before the Chamber and when all conditions of Rule 68(3) have been fulfilled. The Chamber expects the calling party to streamline its questioning considerably when the introduction of the previously recorded testimony is allowed.

61. Where a witness adds, or alters evidence in the prior recorded testimony during witness preparation by the calling party, such additions or alterations shall be recorded in writing, signed by the witness and disclosed to the non-calling party and participants. Thereafter it will be formally submitted in the trial record together with the prior-recorded testimony.

⁵¹ The Chamber notes the Defence's submissions requesting leave to respond to Rule 68(3) applications by no later than 45 days prior to the witnesses' schedule testimony. The Chamber recalls that an extension of time limit may be requested pursuant Regulation 35(2) of the Regulations of the Court. *See* Defence's Reply, paras 9-10.

⁵² The Chamber notes the Defence's submission in this regard (*see* Defence's submissions, paras 20-21). On the basis of this direction, the Chamber will decide on a case-by-case basis, when deciding on individual applications under Rule 68 of the Rules, whether material shown to the witness during the interview must be submitted together with the statement or transcript of interview to properly understand the testimony.

(4) Expert witnesses

62. The Chamber recalls that the Prosecution has been ordered to file its final list of witnesses it intends to call by 31 August 2026 and to indicate whether it intends to call expert witnesses.⁵³
63. As a general rule, challenges to a witness's expertise should be made in writing so that they can be resolved prior to the start of testimony. No later than 30 days before the anticipated testimony of an expert witness, any non-calling party or participant may file a notice indicating whether it challenges the qualifications of the witness as an expert, or any part of the report as falling outside of their expertise.
64. Submitted expert reports must satisfy the procedural prerequisites of Rule 68 of the Rules.
65. Where parties wish to introduce expert evidence on the same issue at trial, the Chamber will, hear this evidence grouped together, if possible, in order to enhance the expeditiousness of the proceedings. The Chamber will determine at what stage in the proceedings it will hear such evidence. Alternatively, in accordance with Regulation 44 of the Regulations, the Chamber may itself identify and instruct experts on the issue after seeking submissions.
66. The Chamber may provide specific instructions should the parties decide to call expert witnesses on the same issues.

Introduction of evidence other than through a witness

67. A party or participant wishing to tender evidence without it being introduced through a witness shall file a written application containing:
- i) a short description of the content of each item;
 - ii) in the case of a lengthy document, an index of the most relevant portions of the document or recording; and
 - iii) the relevance and probative value to an issue in the case and an explanation why the exhibit was not tendered through a witness.

⁵³ Transcript of hearing on 27 May 2026, ICC-01/21-01/25-T-009, p. 47.

68. Before submitting the application, the tendering party or participant shall first inquire whether the non-calling party or participant consents or objects to the tendering of the items and include this information in the table. The non-calling party's or participant's reasons do not need to be included in the table.

In-court protective measures and special measures

69. Applications for in-court protective or special measures pursuant to Rules 87 and 88 of the Rules shall be made as soon as possible.

70. The Prosecution shall file a motivated application seeking relevant in-court protective measures pursuant to Rule 87 of the Rules for all Prosecution witnesses for whom it is reasonably foreseeable that protective measures are required no later than 30 October 2026. This will allow the Chamber to receive submissions on any request and the Victims and Witnesses Unit (the 'VWU') to fulfil its mandate in due time. The Chamber will rule on these applications as much as possible in advance of the witnesses' appearance, with the possibility to modify any determination on protective measures subject to further information provided by the VWU immediately prior to the testimony as necessary.

Use of private and/or closed session⁵⁴

71. Insofar as possible, witness testimony shall be given in public. If in-court protective measures are in place for a witness, parties and participants shall at all times be cautious and ensure that questions asked during public sessions do not compromise these measures.

72. Requests for private and/or closed sessions shall be made in a neutral and objective way, if possible, referring to the topics that will be covered.

73. It is the responsibility of examining counsel to ensure that the use of private and/or closed sessions is limited to what is strictly necessary. As such, examining counsel shall immediately request moving back to open session when the reasons that motivated the use of private and/or closed session are no longer present.

⁵⁴ For private sessions, the public in the gallery is not removed, but no audio-visual broadcast is made to the gallery or outside the Court. Closed sessions are held entirely *in camera*.

74. To the extent possible, parties and participants are directed to group identifying questions together and to ask these questions at the beginning of the testimony in order to avoid unnecessary recourse to private and/or closed sessions. Similarly, other questions necessitating recourse to private and/or closed session are to be grouped as much as possible. The Chamber further encourages parties and participants to consider, in appropriate cases, the use of codes, which may further avoid recourse to private and/or closed sessions.

75. In case the calling party or participant anticipates that a private and/or closed session will be needed, it shall, when submitting the List of Material for a witness, indicate the information which it considers cannot be discussed in open session (topics, names, places, etc.). The calling party or participant may supplement this information upon receipt of the List of Materials of the non-calling party or participant.

Public versions of filings

76. Pursuant to Regulation 23 *bis* of the Regulations, filings shall be in principle public and only marked as confidential, or *ex parte*, if duly justified. The parties and participants shall file public and confidential redacted versions together with any confidential or *ex parte* filing (to the extent possible, at the same time, and if not, no later than five days after the filing). Where the basis for the original classification no longer exists, the parties and participants shall request reclassification or file lesser redacted versions, to ensure that their respective filings are as publicly available as possible.

Transcripts

(1) Public redacted versions of transcripts

77. The following procedure for producing such transcripts shall be applied so that there is only one public redacted version of each hearing transcript.⁵⁵

- i) The Registry shall make public redacted versions of transcripts. When producing the confidential corrected version of a transcript, the Registry

⁵⁵ See Registry's Observations, paras 8-9; Prosecution's Reply to Registry's Observations, paras 3-7.

must ensure that all passages that are subject to ordered in-court redactions are clearly marked as such.⁵⁶

- ii) Once the Registry has transmitted the corrected and highlighted transcripts relating to a witness to the parties and participants, the calling party or participant shall review the marked redactions and propose any lesser redacted version within 21 days of transmission by the Registry. Discrete requests for additional redactions may also exceptionally be proposed in the context of this review.⁵⁷
- iii) Within 10 days of receiving the proposed lesser-redacted version or additional redactions, the other parties or participants may raise any objections. Should no objections to the proposed lesser-redacted version or additional redactions be made, the Registry shall file the public redacted version of the corrected transcript on the record of the case with the appropriate document number designation so it can be published in the Court's website.
- iv) If, within 10 working days, no agreement is reached among the parties and participants, the party proposing the contested redaction(s) or lifting of court-ordered redactions shall seize the Chamber for its authorisation, setting out: (i) the justification for the proposed redaction(s) or lifting of court-ordered redactions; (ii) the arguments of the opposing parties and/or participants; and (iii) why no agreement could be reached. The opposing party or participant may reply within two working days (*i.e.* if they believe that the calling party has not reflected their position accurately or if the calling party raised new arguments that were not mentioned during the *inter partes* discussions). Once the Chamber has ruled on the contested redactions, the Registry shall prepare a public redacted version of the corrected transcript to be filed on the record of the case with the appropriate document number designation so it can be published in the Court's website.

⁵⁶ For the purposes of this trial, the English version of the transcripts shall be given priority.

⁵⁷ The parties and participants shall clearly identify any proposed *post facto* redactions in accordance with the Registry's Observations, paras 8-9.

(2) Corrections to transcripts

78. The Registry shall inform the parties and participants of the relevant procedure for preparing requests for verification of the transcripts. The Registry shall apply eventual corrections to the transcripts in accordance with its transcript verification methods.⁵⁸

In-court redactions

79. Requests for redactions pursuant to Regulation 21(8) of the Regulations shall be sent in writing so as not to attract undue attention to any confidential information. Such requests should be sent to the Chamber's legal staff in the courtroom, copying the Court Officer and all other parties and participants. The request must clearly identify the word(s) to be redacted and the timestamps of the real-time transcript. Such requests must be made as soon as possible, and no later than 12 minutes after the information was revealed.⁵⁹

80. The parties and participants have four minutes to object. In the absence of any objections, the redaction is presumed to have been approved and can be applied without an extra signature of the Presiding Judge. In case of disagreement, the Presiding Judge will rule on the request in the hearing or shortly thereafter.

81. This procedure applies unless otherwise ordered. The parties' and participants' agreement on any redaction is not binding on the Chamber. Moreover, due to the impracticability of making a detailed assessment within 30 minutes of an ongoing hearing, such redactions are also without prejudice to a revised assessment.

82. The Registry is instructed to publish uncontested redactions in periodic reports.

Email decisions

83. The Chamber notes that, to expedite decisions or in order to react to urgent circumstances, the Chamber may issue rulings by way of email sent to the parties and participants. In order to ensure that the principles of fairness and publicity are

⁵⁸ The parties are to raise any potential issues related to the accuracy of the in-court interpretation and/or transcription, insofar possible, orally during the hearing in order to allow any corrections to be made on the record in the presence of the witness. *See* Registry's Observations, para. 10.

⁵⁹ *See* Registry's Observations, para. 11, inviting the Chamber to shorten the time-limit for such requests.

respected, the Chamber finds it appropriate to adopt a system whereby these email decisions are systematically put on the record of the case.

84. The Chamber therefore directs the Registry to file all email decisions on the case record in quarterly reports starting on 1 September 2026. The Registry shall simultaneously file public and confidential versions of these reports. When a decision concludes a chain of emails, these emails shall also be filed on the record of the case.

85. Parties and participants are also instructed to frame their email submissions in a way that makes their publication possible. In exceptional circumstances, when emails cannot be made public at all, the sender shall indicate this clearly in the subject line of the email.⁶⁰ Further, the Registry is instructed to apply the following redactions: i) names of Chambers staff members, where applicable; ii) names of Registry staff members, if deemed necessary by the Registry; and iii) any email address or other private or personal information. The Registry shall consult the parties and participants on the redactions applied. In case of disagreement, the Chamber will rule.

IV. PROTOCOLS

86. The Chamber notes that the Registry, has filed the Witness Preparation Protocol adopted in previous trials, as well as the Witness Preparation, Familiarisation, Vulnerability, Dual Status, Redaction and E-Court Protocols agreed upon by the parties, participants and the Registry.⁶¹ Accordingly, the Chamber adopts all protocols filed by the Registry.⁶²

⁶⁰ See Instructions on the use of Trial Chamber III Communications, email of 7 May 2026 at 11:19.

⁶¹ See para. 8 above.

⁶² Registry's Submission of Protocols, Annexes I-V; Registry's Submission of E-Court Protocol, Annex.

FOR THESE REASONS, THE CHAMBER HEREBY

ADOPTS the aforementioned directions concerning the conduct of proceedings; and

ADOPTS the Protocols in paragraph 86 above.

Done in both English and French, the English version being authoritative.



Judge Joanna Korner

Presiding Judge



Judge Keebong Paek



Judge Nicolas Guillou

Done in both English and French, the English version being authoritative.

Dated 19 June 2026

At The Hague, The Netherlands