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Original: **English**

No.**: ICC-01/21-01/25**
Date: **3 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 eighth application under rule 68(3) to introduce into evidence prior recorded testimony of witnesses P-0019, P-1032, and P-1409", ICC-01/21-01/25-532-Conf, 28 October 2026

Source: **Office of the Prosecutor**

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I. INTRODUCTION

1. The Prosecution requests the formal submission of the statement, transcripts and associated material ("Prior Recorded Testimonies")[1] of P-0019, P-1032, and P-1409 ("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 nine hours to three hours, thus saving at least six hours of court time.

3. The Prior Recorded Testimonies of P-0019, P-1032, and P-1409 are relevant, reliable, and probative. Their evidence primarily relates to the Davao Death Squad ("DDS")'s targeting of alleged criminals. P-0019, [REDACTED] extrajudicial killings ("EJK") perpetrated by the DDS in Davao City during the Mayoral period, further attests to: (i) the pattern and the widespread nature of these killings; (ii) the atmosphere of fear and impunity in Davao; (iii) and Mr Duterte's naming of alleged criminals on local television and their subsequent killings. As such, the evidence of the Three Witnesses is particularly relevant to the attack in Davao City and the policy to 'neutralise' through violent crimes, including murder during the Mayoral period. P-0019 and P-1409's evidence further goes to proof of Mr Duterte's individual criminal responsibility, including his knowledge and intent of these crimes.

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 shortly.

[1] Annex A (A1 to A3) lists the Prior Recorded Testimonies of P-0019, P-1032, and P-1409, which comprise their hyperlinked witness statement and transcripts (at I) and associated material (at II). *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-0019, P-1032, and P-1409

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-0019

8. P-0019's Prior Recorded Testimony consists of one witness statement of the witness's two-day interview [REDACTED] and associated material that was used or explained by the witness in her statement and is listed in confidential Annex A.

9. P-0019 [REDACTED].[5] In [REDACTED] extrajudicial killings in Davao City after the killing of [REDACTED].[6] In 2001, various [REDACTED].[7] [REDACTED] more than [REDACTED].[8] P-0019 [REDACTED] and the patterns which [REDACTED].[9] It also covers the atmosphere in Davao at the time, including the acceptance of killings as 'normal' and a part of dealing with criminality,[10] as well as Mr Duterte reading out the names of criminal suspects on *Gikan sa Masa, Para sa Masa* and some of those individuals subsequently being killed.[11] P-0019's Prior Recorded Testimony goes to proof of the contextual elements of crimes against humanity in Davao City during the Mayoral period and Mr Duterte's knowledge and intent.

[3] ICC-01/21-01/25-484-Red, paras 6-10.
[4] Transcript of 27 May 2026 Status Conference, ICC-01/21-01/25-T-009-Red-Eng, p. 13, lines 15-21; Transcript of 16 September 2026 Status Conference, ICC-01/21-01/25-T-011-Conf-ENG, p. 3, lines 7-12; Transcript of 13 October 2026 Status Conference, ICC-01/21-01/25-T-012-CONF-ENG, p. 11, line 25 to p. 12, line 5.
[5] P-0019, PHL-OTP-00239220 at 0004, paras. 22-24, 27.
[6] P-0019, PHL-OTP-00239220 at 0004-0007, paras. 12, 26-33, 38-41.
[7] P-0019, PHL-OTP-00239220 at 0007, para. 41.
[8] P-0019, PHL-OTP-00239220 at 0009, para. 53.
[9] P-0019, PHL-OTP-00239220 at 0008-0009, paras. 44-46, 53.
[10] P-0019, PHL-OTP-00239220 at 0006, paras. 35-36.
[11] P-0019, PHL-OTP-00239220 at 0011, para. 60.

10. The associated material for P-0019 which the Prosecution seeks to introduce into evidence[12] forms an integral part of her Prior Recorded Testimony.[13] These items are also necessary to fully comprehend the witness's account, as she uses and explains them in her statement. The associated material is comprised of: (i) an excel spreadsheet produced [REDACTED]; and (ii) news reporting which P-0019 mentioned in her interview.

11. Should P-0019's Prior Recorded Testimony be introduced into evidence, the Prosecution requests approximately one hour to conduct a streamlined supplementary examination of this witness, in accordance with rule 68(3) and the prior jurisprudence of this Court.[14] During this limited and focused supplementary examination the Prosecution would explore and clarify aspects of P-0019's evidence on: (i) her experience [REDACTED]; (ii) the [REDACTED], including [REDACTED]; (iii) certain killings [REDACTED]; and (iv) Mr Duterte's role in Davao City in relation to the "War on Drugs" whilst he was Mayor.

12. The Prosecution estimates that it would require three hours for the direct examination of P-0019, if her Prior Recorded Testimony is not introduced through rule 68(3). Thus, the one hour required for the limited supplementary examination would shorten the in-court testimony of this witness by two hours, should this Application be granted.

(ii) Prior Recorded Testimony of P-1032

13. P-1032's Prior Recorded Testimony consists of the transcribed statement of the witness's one-day interview of [REDACTED] and associated material that was used and explained by the witness during his interview and is listed in confidential Annex A.

14. In the mid-1990s, P-1032 [REDACTED] Davao City, [REDACTED] P-0002 as a [REDACTED].[15] In 1996, [REDACTED].[16] [REDACTED] two armed men forced

[12] *See* Annex A(1), Part II.
[13] *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.
[14] *Ntaganda* Transcript of hearing, ICC-01/04-02/06-T-110-Red2-ENG, p. 34, l. 8-13; *Gbabgo & Blé Goudé* Decision to conditionally admit the prior recorded statements under rule 68(3), ICC-02/11-01/15-722-Red, para. 23; *Al Hassan* Directions on the Conduct of Proceedings, ICC-01/12-01/18-789-AnxA, para. 65; *Yekatom & Ngaissona* initial Guidance on Rule 68, ICC-01/14-01/18-685, para. 36.
[15] P-1032, PHL-OTP-00096041 at 0013, 0015-0016, 0039, 0051-0054, 0066, lines 422-427, 546-557, 1457-1462, 1915-1929, 1972-1977, 2010-2017, 2443-2445.
[16] P-1032, PHL-OTP-00096041 at 0012-0013, lines 401-420, 0027-0030, lines 1046-1157.

[REDACTED].[17] [REDACTED] and then killed.[18] Several weeks later, [REDACTED].[19] P-1032 [REDACTED].[20] [REDACTED] and then let him go, but warned that there was an order that P-1032 be killed that night and another group would come for him.[21] P-1032 escaped to another part of the Philippines,[22] but after being threatened again [REDACTED] in another incident, [REDACTED].[23] P-1032 provides evidence on: (i) the existence and composition of the DDS ([REDACTED] involvement in the DDS);[24] (ii) the DDS's targeting of alleged criminals in Davao City;[25] (iii) the atmosphere of fear and impunity in Davao City;[26] (iv) the [REDACTED] for Mr Duterte's anti-criminality campaign;[27] and (v) the location of Laud Quarry and its use by the DDS as a gravesite.[28] P-1032's Prior Recorded Testimony goes to proof of the DDS as an "organisation", its long period of operation and its targeting of alleged criminals.

15. The associated material for P-1032 which the Prosecution seeks to introduce into evidence[29] 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 explains them in his statement. The associated material is comprised of sketches he produced during his interview of the locations that he spoke about in his interview.

16. Should P-1032's Prior Recorded Testimony be introduced into evidence, the Prosecution requests approximately one hour 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-1032's evidence on the DDS, including [REDACTED] involvement, its targeting of alleged criminals, funding, the atmosphere of fear and impunity in Davao City and the location and use of Laud Quarry as a gravesite.

[17] P-1032, PHL-OTP-00096041 at 0013-0014, lines 442-499, 0033-0039, lines 1267-1456.
[18] P-1032, PHL-OTP-00096041 at 0015, 0024, 0048-0049, 0052-0053, lines 510-546, 921-934, 1778-1817, 1945-1963.
[19] P-1032, PHL-OTP-00096041 at 0016-0018, 0056-0060, lines 577-640, 2078-2221.
[20] P-1032, PHL-OTP-00096041 at 0017-0019, lines 633-643, 684-694.
[21] P-1032, PHL-OTP-00096041 at 0018-0019, lines 645-665.
[22] P-1032, PHL-OTP-00096041 at 0020, lines 757-764.
[23] P-1032, PHL-OTP-00096041 at 0020, lines 766-907.
[24] *See e.g.* P-1032, PHL-OTP-00096041 at 0013, 0015-0016, 0039, 0051-0054, lines 422-427, 546-557, 1457-1462, 1915-1929, 1972-1977, 2010-2017.
[25] *See e.g.* P-1032, PHL-OTP-00096041 at 0053-0054, 0062, lines 1980-1995, 2310-2316.
[26] *See e.g.* P-1032, PHL-OTP-00096041 at 0016, 0025-0026, 0062, lines 556-575, 974-984, 2310-2316.
[27] *See e.g.* P-1032, PHL-OTP-00096041 at 0018, lines 666-677, 0039-0040, lines 1465-1528.
[28] *See e.g.* P-1032, PHL-OTP-00096041 at 0054-0055, 0067-0069, lines 2010-2032, 2472-2480, 2524-2543.
[29] *See* Annex A(2), Part II.

17. The Prosecution estimates that it would require three hours for the direct examination of P-1032, if his Prior Recorded Testimony is not introduced through rule 68(3). Thus, the one hour required for the limited supplementary examination would shorten the in-court testimony of this witness by two hours, should this Application be granted.

(iii) Prior Recorded Testimony of P-1409

18. P-1409's Prior Recorded Testimony consists of the transcribed statement of the witness's one-day interview [REDACTED] and associated material that was used and explained by the witness during his interview and is listed in confidential Annex A.

19. P-1409 is [REDACTED].[30] He worked [REDACTED][31] [REDACTED].[32] P-1409 describes his role [REDACTED], namely [REDACTED] the existence of the DDS and its involvement in extrajudicial killings from 2016 to 2017.[33] P-1409 provides his independent observations concerning the conduct [REDACTED] and in particular, [REDACTED].[34] He also discusses [REDACTED] which are consistent and corroborative of each other regarding the killings allegedly carried out pursuant to Mr Duterte's orders;[35] as well as the financial rewards for killings provided by Mr Duterte to the DDS handlers through Co-Perpetrator Sonny BUENAVENTURA.[36] P-1409 Prior Recorded Testimony goes to proof of the contextual elements of crimes against humanity in Davao City during the Mayoral period. His evidence also goes to proof of the Accused's individual criminal responsibility, including in relation to ordering killings and providing financial incentives to perpetrators of the charged crimes.

20. The associated material for P-1409 which the Prosecution seeks to introduce into evidence[37] 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 explains them in his statement. The associated material is comprised of [REDACTED], as well as its related transcript and translation.

21. Should P-1409 Prior Recorded Testimony be introduced into evidence, the Prosecution requests approximately one hour to conduct a streamlined supplementary examination of this

[30] P-1409, PHL-OTP-00248764 at 0006, lines 86-87.
[31] P-1409, PHL-OTP-00248764 at 0006, lines 161-162
[32] P-1409, PHL-OTP-00248764 at 0006, lines 81-82, 92-97.
[33] P-1409, PHL-OTP-00248764 at 0005-0034, lines 81-1193.
[34] P-1409, PHL-OTP-00248764 at 0018-0020, lines 641-698.
[35] P-1409, PHL-OTP-00248764 at 0006-0013, 0018-0019, 0022-0025, lines 171-442, 641-662, 763-864.
[36] P-1409, PHL-OTP-00248764 at 0030-0031, lines 1063-1109.
[37] *See* Annex A(3), Part II.

witness. During this limited and focused supplementary examination the Prosecution would explore and clarify aspects of P-1409's evidence related to, in particular: (i) the [REDACTED] of DDS during the Mayoral period; (ii) limitations encountered, including [REDACTED]; (iii) [REDACTED]; and (iv) [REDACTED].

22. The Prosecution estimates that it would require three hours for the direct examination of P-1409, if his Prior Recorded Testimony is not introduced through rule 68(3). Thus, the one hour required for the limited supplementary examination would shorten the in-court testimony of this witness by two hours, should this Application be granted.

C. The Prior Recorded Testimonies of P-0019, P-1032, and P-1409 are internally consistent and corroborative of evidence to be provided by other witnesses

23. P-0019, P-1032, and P-1409's Prior Recorded Testimonies are internally consistent and accompanied by supporting documents in relation to certain aspects.[38] They are also cumulative in nature and corroborative of other evidence,[39] as described below.

24. P-0019's evidence relating to the attack in Davao City is corroborative of, and cumulative to, the evidence expected to be provided by *viva voce* witnesses P-0001 and P-0026; and witnesses P-0002, P-1100, and P-1400.

25. P-1032's evidence relating to the DDS is corroborative of, and cumulative to, the evidence expected to be provided by, in particular, *viva voce* witnesses P-0001 and P-0026. His evidence [REDACTED] is corroborative of, and cumulative to that provided by P-0002.

26. P-1409's evidence relating to the DDS's EJKs, is corroborative of, and cumulative to, the evidence expected to be provided by, in particular, *viva voce* witness P-0026 as well as the evidence of P-0002.

D. The introduction of P-0019, P-1032, and P-1409's Prior Recorded Testimonies is not prejudicial to or inconsistent with the rights of the Accused

27. The introduction of P-0019, P-1032, and P-1409'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

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

of the Prosecution's intention to call these witnesses pursuant to rule 68(3) since 31 August 2026[40] and have adequate time to prepare for the cross-examination.

28. 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 Testimony of P-0019, P-1032, and P-1409 is relevant, reliable, and probative to the case

29. The Prior Recorded Testimonies that the Prosecution seeks to introduce into evidence, pursuant to rule 68(3) is 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,[41] such indicia are relevant to the Prior Recorded Testimonies' reliability and probative value.

30. P-0019, P-1032, and P-1409's Prior Recorded Testimonies bear formal indicia of reliability,[42] as they 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. All Three Witnesses were informed of the voluntary nature of their interviews and of their rights.[43] Other issues, including the principle of confidentiality and protection measures[44] were also explained to each witness. At the conclusion of the interviews the witnesses confirmed that they answered the questions of their own free will and had no complaints about the way the interview was conducted.[45] P-0019 also signed her Prior Recorded Testimony after reading it over and attested to the fact that it was voluntarily given and records her recollection of events.[46]

[40] Prosecution's List of Witnesses for Trial, ICC-01/21-01/25-488-Conf-AnxA.
[41] *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.
[42] *Ntaganda* Preliminary Rule 68(3) decision, para. 9.
[43] P-0019, PHL-OTP-00239220 at 0002, 0014, paras. 6, 9, 79; P-1032, PHL-OTP-00096041 at 0003-0004, lines 59-77; P-1409, PHL-OTP-00248764 at 0002, lines 22-30.
[44] P-0019, PHL-OTP-00239220 at 0002, 0014, para. 8, 75-76, 80; P-1032, PHL-OTP-00096041 at 0006-0008, lines 166-229; P-1409, PHL-OTP-00248764 at 0003, lines 59-69.
[45] P-0019, PHL-OTP-00239220 at 0014-0015, paras. 82-84; P-1032, PHL-OTP-00096041 at 0079, lines 2882-2896; P-1409, PHL-OTP-00248764 at 0038, lines 1334-1347.
[46] P-0019, PHL-OTP-00239220 at 0015.

IV. CONCLUSION

31. 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 3rd day of November 2026

At The Hague, the Netherlands