Cour
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Court

Original: **English**

No.**: ICC-01/21-01/25**
Date: **5 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 Redacted Annex A

Public Redacted Version of "Prosecution's request for in-court protective and special measures and notice of application of Regulation 42(2)", 30 October 2026, ICC-01/21-01/25-542-Conf-Red

Source: **Office of the Prosecutor**

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

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☒ **Legal Representatives of the Victims**	☐ **Legal Representatives of the Applicants**
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☐ **The Office of Public Counsel for Victims**	☐ **The Office of Public Counsel for the Defence**
☐ **States' Representatives**	☐ **Amicus Curiae**

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☒ **Victims and Witnesses Unit**	☐ **Detention Section**
☐ **Victims Participation and Reparations Section**	☐ **Other**

I. INTRODUCTION

1. Pursuant to Trial Chamber III's ("Chamber") "Directions on the conduct of proceedings",[1] and in accordance with articles 64 and 68 of the Rome Statute ("Statute") and rules 87 and 88 of the Rules of Procedure and Evidence ("Rules"), the Prosecution requests in-court protective and special measures for 55 witnesses ("Request").

2. The Prosecution submits that at this stage an objectively justifiable risk[2] applies to six categories of witness: (i) insider witnesses residing in the Philippines; (ii) crime-base witnesses residing in the Philippines; (iii) witnesses [REDACTED] in the Philippines; (iv) witnesses residing abroad [REDACTED]; (v) witnesses who have been admitted into the ICC protection program ("ICCPP") [REDACTED]; and (vi) Prosecution staff members.[3]

3. In-court protective measures and special measures are required in order to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses that will testify before the Chamber.

4. Mr Duterte will not be unfairly prejudiced by the measures requested. The measures sought are proportionate and constitute the least restrictive means necessary to fairly balance Mr Duterte's right to a fair and public trial against the Court's competing obligation to protect the interests of victims and witnesses who appear before it. Further, the Prosecution undertakes to monitor the situation and inform the Chamber should the need for protective and special measures change for any of its witnesses.

5. Finally, the Prosecution notifies the Chamber that one witness the Prosecution intends to rely upon at trial—P-1439, is already subject to protective measures ordered by Trial Chamber [REDACTED], pursuant to regulation 42(2) of the Regulations of the Court ("Regulations").[4] As described below, those measures have not been varied and the

[1] Directions on the conduct of proceedings, 19 June 2026, ICC-01/21-01/25-471, ("Directions"), paras. 69-70. Trial Chamber III granted the Prosecution's request for extension of page limit pursuant to regulation 37(2), *see* Email of Trial Chamber III of 28 October 2026 at 12:57.
[2] *Prosecutor v. William Samoei Ruto & Joshua Arap Sang*, Public redacted version of Decision on 'Prosecution's First Request for In-Court Protective Measures for Trial Witnesses, 3 September 2013, ICC-01/09-01/11-902-Red2, para. 13 ("*Ruto & Sang* Decision on In-Court Protective Measures"); *Prosecutor v. Bosco Ntaganda*, Public redacted version of Decision on request for in-court protective measures relating to the first Prosecution witness, 15 September 2015, ICC-01/04-02/06-824-Red, para. 5-6 ("*Ntaganda* Decision on in-court protective measures").
[3] A number of witnesses who reside outside of the Philippines have expressed concerns [REDACTED]. However, the Prosecution will continue to monitor the security situation in the Philippines and inform the Chamber should there be any need for in-court protective measures in the future.
[4] [REDACTED].

circumstances of the witness remain unchanged. The Prosecution therefore submits that those measures should continue to apply in this case.

II. CONFIDENTIALITY

6. Pursuant to regulation 23*bis*(1) of the Regulations, the Prosecution files this Request as confidential, *ex parte*, only available to the Prosecution and the VWS, because it contains sensitive information pertaining to witness security. The Prosecution will file a confidential redacted version simultaneously with this filing and a public redacted version as soon as practicable.

II. SUBMISSIONS

A. Background

7. The trial will start on 30 November 2026.[5] The Prosecution intends to rely on the evidence of approximately 78 witnesses, including 69 witnesses to testify *viva voce* or pursuant to rule 68(3).[6] The Prosecution seeks identity protection for [REDACTED].

8. Annex A contains the list of witnesses for which protective measures are requested, indicating for each witness the: (i) witness code; (ii) name; (iii) in-court protective measures requested; (iv) other support suggested; and (v) key facts and security incidents reported by witnesses upon which the Request is based.

B. The Prosecution requests three types of in-court protective and special measures

9. The Prosecution seeks three types of in-court protective and special measures for its trial witnesses: (i) measures intended to protect a witness's identity from the public; (ii) closed or private session intended to protect particular portions of a witness's testimony from public disclosure;[7] and (iii) measures intended to support a witness psychologically during their testimony.

i. Measures intended to protect a witness's identity from the public

[5] Transcript of 27 May 2026 Status Conference, ICC-01/21-01/25-T-009-Red-ENG, p. 46, lines 12-14.
[6] Prosecution's List of Witnesses for Trial, ICC-01/21-01/25-488-Conf-AnxA; Email from the Prosecution to Trial Chamber III, 8 October 2026 at 16:25.
[7] *See infra*, paras. 12-13.

10. The Prosecution requests the use of a pseudonym, face, and voice distortion for [REDACTED] witnesses. These measures are sought only where other measures, such as the targeted use of private session, would be inadequate to protect the witness's (or another person's) safety, physical and psychological well-being, dignity, and privacy.

ii. Closed or private session intended to protect entire or particular portions of a witness's testimony from public disclosure

11. Private session in the circumstances anticipated by the Prosecution may be characterised as an in-court protective measure under rule 87 of the Rules or as a special measure under rule 88 of the Rules.

12. The Prosecution will request, orally at the time of testimony, closed or private session for limited portions of the testimony where necessary and in conformity with the instructions of the Chamber.[8]

13. The Prosecution will request closed session for the entire testimony of [REDACTED] insider witnesses,[9] [REDACTED] crime-base witnesses,[10] [REDACTED] in the Philippines,[11] and one witness [REDACTED].[12] These protective measures are warranted in light of the high vulnerability of these witnesses,[13] [REDACTED].[14]

iii. Measures intended to provide psychological support to a witness

14. Subject to recommendations from the Registry, the Prosecution requests that [REDACTED] witnesses [REDACTED] are granted the special measure of [REDACTED]. These measures are necessary because [REDACTED]. The special measures are intended to minimise the impact of testimony by providing psychological and emotional support to the witnesses.

C. Protective and special measures are required because [REDACTED]

15. [REDACTED].

[8] Directions, ICC-01/21-01/25-471, paras. 72-75.
[9] [REDACTED].
[10] [REDACTED].
[11] [REDACTED].
[12] [REDACTED].
[13] *See infra*, paras. 31-32, 35-38, 43; Annex A.
[14] *See infra*, paras. 17, 19, 24. [REDACTED].

16. The Court's jurisprudence makes clear that direct threats are not required to establish an objectively justifiable risk.[15] In addition, Trial Chambers in *Ntaganda*,[16] *Ruto and Sang*,[17] and *Abd-Al-Rahman*[18] have held that "the security situation in a particular territory may be pertinent when considered in relation to the circumstances of a particular witness."[19]

17. [REDACTED].[20]

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

19. [REDACTED],[22] [REDACTED],[23] [REDACTED],[24] [REDACTED].[25]

20. [REDACTED].[26] [REDACTED].

21. [REDACTED],[27] [REDACTED].

D. Protective and special measures are required because of [REDACTED]

22. [REDACTED],[28] [REDACTED].

23. [REDACTED],[29] [REDACTED][30] [REDACTED].[31] [REDACTED].[32] [REDACTED].[33]

24. [REDACTED].[34] [REDACTED].[35] [REDACTED].[36] [REDACTED].[37]

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[15] *Ruto & Sang* Decision on In-Court Protective Measures, para. 14.
[16] *Ntaganda* Decision on in-court protective measures, paras. 14-15.
[17] *Ruto & Sang* Decision on In-Court Protective Measures, para. 14.
[18] *Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman ('Ali Kushayb')*, 25 April 2022, Public redacted version of the Decision on in-court protective measures, 25 April 2022, ICC-02/05-01/20-645-Red2, para. 10.
[19] *Ruto & Sang* Decision on In-Court Protective Measures, para. 14
[20] [REDACTED].
[21] [REDACTED].
[22] [REDACTED].
[23] [REDACTED].
[24] [REDACTED].
[25] [REDACTED].
[26] [REDACTED].
[27] [REDACTED].
[28] [REDACTED].
[29] [REDACTED].
[30] [REDACTED].
[31] [REDACTED].
[32] [REDACTED].
[33] [REDACTED].
[34] [REDACTED].
[35] [REDACTED].
[36] [REDACTED].
[37] [REDACTED].

25. [REDACTED],[38] [REDACTED].

E. There is an objectively justifiable risk to witnesses

26. There is an objectively justifiable risk to witnesses. The vast majority of Prosecution witnesses reside in the Philippines, [REDACTED].[39] [REDACTED] while others remain [REDACTED] in the Philippines. As set out in Annex A to this Request, numerous witnesses have informed the Prosecution that [REDACTED] in the Philippines. Witnesses have also registered concerns about providing evidence, with some making their cooperation contingent upon being provided anonymity.

27. The reported experiences of witnesses demonstrate that [REDACTED], witnesses face significant objective risks which require protection.

F. Witnesses for whom protective measures are requested

i. Insider witnesses residing in the Philippines

28. The Prosecution requests in-court protective measures in the form of pseudonyms, face, and voice distortion and permitted private sessions as necessary for [REDACTED] insider witnesses residing in the Philippines ([REDACTED],[40] [REDACTED],[41] [REDACTED]). Their evidence pertains to extra-judicial killings perpetrated during the Mayoral and Presidential periods, charged incidents, and in some cases directly implicates Mr Duterte. Further, some of these witnesses [REDACTED], posing additional risks.[42]

29. Evidence provided by insider witnesses, including [REDACTED], will concern sensitive information about [REDACTED][43] and on the implementation of the alleged policy to "neutralise" persons in the Philippines who were perceived or alleged to be involved in drug-related and other crimes through violent crimes including murder. Their evidence may also implicate another suspect wanted by the Court: co-perpetrator Ronald 'Bato' Dela Rosa ("Dela Rosa") who, as former head of the PNP and a current Senator, maintains sufficient influence and support in the Philippines to evade arrest based on an ICC warrant— which has now been

[38] [REDACTED].
[39] [REDACTED].
[40] [REDACTED].
[41] [REDACTED].
[42] *See* Annex A.
[43] Public Redacted Version of "Prosecution's Updated Trial Brief", 16 October 2026, ICC-01/21-01/25-522-Conf, 20 October 2026, ICC-01/21-01/25-522-Red, Public Redacted Version of Annex A, para. 63.

public for five months, yet he remains at large.[44] Insider witnesses may further be at risk and the focus of renewed attention because of the unsealing of Dela Rosa's arrest warrant. [REDACTED], resulting in accrued risks.[45] [REDACTED][46] [REDACTED].

30. The aforementioned in-court protective measures are required for insider witnesses to ensure that they can give evidence freely without fear for their personal safety and without compromising their security. The protective measures sought will also enable these witnesses to provide full accounts of the events at issue and contribute to the truth-seeking mission of the Court.

31. Further, the Prosecution requests in-court protective measures in the form of pseudonyms and closed sessions for the duration of the testimony of [REDACTED] insider witnesses residing in The Philippines [REDACTED]. Considerations applicable to the other insider witnesses are also relevant for these [REDACTED] witnesses.[47] However, their high vulnerability and the specifics of their individual situations—addressed in Annex A, warrants more stringent in-court protective measures.

32. Stringent in-court protective measures for these [REDACTED] witnesses are necessary and will ensure that they can give evidence freely without fear for their personal safety or the safety of their family and without compromising their security.

ii. Crime-base witnesses

33. The Prosecution requests in-court protective measures in the form of pseudonyms, face and voice distortion and permitted private sessions as necessary for [REDACTED] crime base witnesses [REDACTED]. All of these witnesses reside in the Philippines.[48] Their evidence pertains to extra-judicial killings perpetrated during the Mayoral and Presidential periods, charged incidents, and in some cases directly implicates Mr Duterte. Further, some of these witnesses [REDACTED], posing additional risks.[49]

[44] Warrant of Arrest for Mr Ronald Marapon Dela Rosa, 6 November 2025, ICC-01/21-89.
[45] [REDACTED].
[46] [REDACTED].
[47] *Supra*, para. 29.
[48] *See* Annex A.
[49] *See* Annex A.

34. In-court protective measures for witnesses in this category will ensure that they can give evidence freely without fear for their personal safety and without compromising their security or the security of their family members.

35. With regard to [REDACTED], the Prosecution requests in-court protective measures in the form of pseudonyms and closed sessions for the entire duration of their testimony. The [REDACTED] witnesses are highly vulnerable: they all reside in the Philippines—[REDACTED].[50]

36. Stringent in-court protective measures for these [REDACTED] witnesses are necessary and will ensure that they can give evidence freely without fear for their personal safety or the safety of their family and without compromising their security. [REDACTED], withholding their identities from the public will allow them to avoid recounting their experiences [REDACTED] to members of the public, friends, colleagues, or even family members, who learn about those experiences as a result of the witnesses' testimony.

iii. [REDACTED] in the Philippines

37. The Prosecution requests in-court protective measures in the form of pseudonyms and closed session for the entire duration of the testimony of [REDACTED] witnesses [REDACTED] in the Philippines. These [REDACTED] witnesses are particularly at risk as: (i) their evidence implicates Mr Duterte; and (ii) [REDACTED],[51][REDACTED].

38. Stringent in-court protective measures for witnesses in this category are necessary and will ensure that they can give evidence freely without fear for their personal safety and without compromising their security or the security of their family members.

iv. Witnesses residing abroad [REDACTED]

39. The Prosecution requests in-court protective measures in the form of pseudonyms, face and voice distortion and permitted private sessions as necessary for three witnesses residing outside the Philippines [REDACTED].

[50] *See* Annex A.
[51] [REDACTED].

40. In-court protective measures for witnesses in this category will ensure that they can give evidence freely without fear for their personal safety [REDACTED]. Their particular circumstances justify protective measures being applied [REDACTED].[52]

v. Witnesses in the ICCPP [REDACTED]

41. The Prosecution seeks protective measures for [REDACTED] witnesses [REDACTED] who have been admitted into the ICCPP, [REDACTED] witnesses [REDACTED]. The [REDACTED] witnesses are in the Court's protection programme [REDACTED].[53] The in-court protective measures sought, namely pseudonym, face, and voice distortion, and permitted private sessions as necessary will ensure that the witnesses can give evidence without fear for their personal safety and without compromising the protection they have been afforded under the terms of the ICCPP or [REDACTED].[54]

42. Granting protective measures for this category of witnesses is also consistent with the Court's jurisprudence which has held that "[i]f any of [the ICCPP witness] identities were to become known, the whole purpose of their protection which has been afforded to the witnesses would be undermined, and they, together with their families would be at risk for an indefinite period of time. The accused has been given the full identifying details for these and is able, therefore, to deal with their evidence without restriction."[55]

43. The Prosecution seeks protective measures in the form of pseudonym and closed session for the entire testimony of [REDACTED]. As such, stringent in-court protective measures for [REDACTED] are necessary and will ensure that he can give evidence freely without fear for his personal safety and without compromising his security.

vi. Prosecution staff members

44. Witnesses P-1439 and P-1440 are Prosecution staff members. The Prosecution requests in-court protective measures in the form of the use of pseudonym, face, and voice distortion and, where applicable, the use of private session for P-1439 and P-1440.

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[52] *Supra*, paras. 22-25.
[53] [REDACTED].
[54] *See also*, paras. 11-12.
[55] *Prosecutor v. Thomas Lubanga Dyilo*, Status Conference, 16 January 2009, ICC-01/04-01/06-T-104-ENG ET WT 16-01-2009 1-62 SZ T, 4:4-18. *See also*, more recently, *Prosecutor v. Alfred Yekatom & Patrice-Edouard Ngaïssona*, Decision on the Prosecution Requests for In-Court Protective Measures for 73 Trial Witnesses, 19 April 2021, ICC-01/14-01/18-906-Red2, paras. 52-53. *See also*, *Prosecutor v. Mahamat Said Abdel Kani*, Public Redacted Version of 'Decision on Prosecution's Request for In-Court Protective Measures dated 21 September 2022 (ICC-01/14-01/21-481-Conf), 26 September 2022, ICC-01/14-01/21-481-Red, para. 20.

45. [REDACTED].[56] [REDACTED].[57]

46. [REDACTED].

47. Granting protective measures for such a witness is also consistent with the Court's jurisprudence. [REDACTED].[58]

48. With regard to P-1439, he testified in the [REDACTED].[59] Prior to his testimony, Trial Chamber [REDACTED] ordered in-court protective measures in the form of face and voice distortion, the use of a pseudonym and permitted private sessions, as necessary.[60]

49. P-1439 will be called to testify *viva voce* in this case.[61] The Prosecution submits that pursuant to regulation 42(1) of the Regulations, the in-court protective measures ordered by Trial Chamber [REDACTED] in relation to P-1439 remain in place and apply in these proceedings.

50. The circumstances justifying the in-court protective measures for P-1439 have not changed and P-1439 is still a Prosecution staff member. [REDACTED],[62] his testimony carries a risk of further increasing his public exposure. Therefore, the continuing in-court protective measures ordered by Trial Chamber [REDACTED] for P-1439 remain necessary and continue to be justified.

G. The requested measures are consistent with the rights of Mr Duterte

51. The requested measures will not prejudice Mr Duterte. Mr Duterte will have the same opportunity and ability to question the concerned witnesses as if their identities were publicly known and the Defence is not prevented from conducting its own enquiries to test the prospective evidence.

52. Further, the impact of withholding the identities of [REDACTED] witnesses from the public on the public nature of the proceedings is mitigated and justified in the circumstances of this case.

[56] [REDACTED].
[57] [REDACTED].
[58] [REDACTED].
[59] [REDACTED].
[60] [REDACTED].
[61] Prosecution's List of Witnesses for Trial, ICC-01/21-01/25-488-Conf-AnxA; Annex A.
[62] *See* Annex A; *supra* para. 45.

53. The measures requested are needed to ensure that the witnesses are able to provide unfettered evidence, and in so doing, assist the Court in establishing the truth. Although the public will not know the identities of the affected witnesses, the Prosecution will endeavour, as much as is feasible, to ensure that their testimony will be given in public session. Under the requested measures and with the exception of the witnesses for whom closed session is sought for the entirety of their testimony, closed or private session will be used only—and preferably for limited portions of testimony, to protect the identities of witnesses or information that is particularly private or sensitive and therefore likely to affect the physical and psychological well-being, dignity, or privacy of the witness if broadcast publicly.

III. RELIEF

54. For the above-mentioned reasons, the Prosecution respectfully requests in-court protective measures for [REDACTED] witnesses and in-court support for two witnesses.



Mame Mandiaye Niang, Deputy Prosecutor

Dated this 5th day of November 2026

At The Hague, the Netherlands