

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/05-01/20
Date: 12 November 2025

TRIAL CHAMBER I

Before: Judge Joanna Korner, Presiding Judge
Judge Reine Adélaïde Sophie Alapini-Gansou
Judge Althea Violet Alexis-Windsor

SITUATION IN DARFUR, SUDAN

**IN THE CASE OF
THE PROSECUTOR *v.*
ALI MUHAMMAD ALI ABD-AL-RAHMAN ("ALI KUSHAYB")**

Public

**Public Redacted Version of "Prosecution's response to Defence requests for the submission of additional evidence and submission of testimony of witnesses pursuant to rule 68(2)(b) and rule 68(3) for sentencing", 27 October 2025,
ICC-02/05-01/20-1248-Conf**

Source: Office of the Prosecutor

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A. INTRODUCTION

1. On 20 October 2025, the Defence filed a request to present additional evidence for sentencing (“Additional Evidence Request”)¹ and an accompanying request to submit prior recorded testimony pursuant to rule 68 of the Rules of Procedure and Evidence (“Rule 68 Request”).² The Defence requests the submission of: (i) the statements of two new witnesses D-0040 and D-0041, and associated items, pursuant to rule 68(2)(b);³ (ii) a second witness statement for existing witness D-0016, and associated items, pursuant to rule 68(3);⁴ (iii) [REDACTED];⁵ and (iv) seven items of non-testimonial evidence.⁶

2. In the interest of efficiency and judicial economy, the Prosecution respectfully submits a consolidated response to the Additional Evidence Request and the Rule 68 Request.⁷

3. The Prosecution opposes the Defence’s request to submit the witness statements of D-0040 and D-0041 for sentencing pursuant to rule 68(2)(b) of the Rules. The statements contain evidence going to issues that are materially in dispute and evidence that is not of a cumulative or corroborative nature. D-0040 and D-0041 should appear before the Court for their evidence to be tested before being relied on by the Chamber in relation to sentence.

4. The Prosecution also opposes the Defence’s request to submit D-0016’s new witness statement and associated items for sentencing. There is no good cause nor compelling circumstances that justify the recall of D-0016, particularly where his evidence is used to re-litigate issues already decided at trial. Moreover, the statement contains evidence on Sudanese sentencing law, which is not a necessary factor for the Chamber’s determination of the sentence in this case.

5. [REDACTED].

6. With one exception,⁸ the Prosecution does not oppose the Defence’s request to submit the non-testimonial items of evidence.

¹ Defence Request to Present Additional Evidence for Sentencing, [ICC-02/05-01/20-1243-Conf](#) (“Additional Evidence Request”).

² Defence request to submit prior recorded testimony of witnesses pursuant to Rule 68(2)(b) and Rule 68(3) for sentencing, ICC-02/05-01/20-1244-Conf (“Rule 68 Request”).

³ Additional Evidence Request, paras. 16-18; Rule 68 Request, paras. 8-14.

⁴ Additional Evidence Request, paras. 12-15; Rule 68 Request, paras. 22-26.

⁵ [REDACTED].

⁶ Additional Evidence Request, paras. 27-31; Annex 1 to Additional Evidence Request, ICC-02/05-01/20-1243-Conf-Anx1 (“Additional Evidence Request Annex 1”), items 14-20.

⁷ Decision on sentencing procedure, [ICC-02/05-01/20-1241](#) (“Sentencing Procedure Decision”), para. 6.

⁸ [REDACTED].

B. CONFIDENTIALITY

7. Pursuant to regulation 23bis(2) of the Regulations of the Court, this submission is classified as confidential because it is responding to submissions of the same classification.

C. SUBMISSIONS

8. At the outset, the Prosecution observes that the sentencing phase is not an opportunity to re-litigate matters settled at trial.⁹ Any submitted items should only be used to the extent they support factors relevant to the determination of the sentence, and any evidence not going to the sentence should be excluded, consistent with the prior practice of the Court.¹⁰ Likewise, should the Chamber authorise the submission of witness testimony during the sentencing hearing, no testimonial evidence regarding the acts and conduct of Mr Abd-Al-Rahman, or any other matter decided at trial, should be elicited.

The Defence request to submit witness statements of D-0040 and D-0041, and associated items, into evidence pursuant to rule 68(2)(b) should be rejected

9. The Defence seeks to submit the witness statements of D-0040 and D-0041, and associated items, into evidence for sentencing pursuant to rule 68(2)(b) of the Rules. The Defence submits that the witnesses “provide relevant evidence of Mr Abd-Al-Rahman’s conduct [REDACTED] in terms of his role in inter-tribal conflict resolution from 2009 through local committees”¹¹ and that “Mr Abd-Al-Rahman’s actions contributed to the well-being of the communities [REDACTED].”¹² The Defence submits that the witnesses’ evidence is relevant to Mr Abd-Al-Rahman’s “conduct after the events underpinning the charges of which he has been convicted, and in determining the existence of mitigating circumstances.”¹³

⁹ In *Ntaganda*, the Trial Chamber instructed “the Defence to ensure that the witness’s statement remains limited to what is relevant for the purposes of sentencing and that it does not address matters that were already litigated at trial.” See *Ntaganda*, Preliminary ruling on prior recorded testimony pursuant to Rule 68(2)(b) in relation to sentencing, [ICC-01/04-02/06-2385-Red](#), para. 44. In *Bemba*, the Trial Chamber determined that “[i]t was on the basis of this evidence that the Chamber reached findings on these matters in the Judgment. The sentencing phase is not an opportunity to re-litigate such matters.” See *Bemba*, Decision on requests to present additional evidence and submissions on sentence and scheduling the sentencing hearing, [ICC-01/05-01/08-3384](#) (“*Bemba* Additional Evidence for Sentencing Decision”), paras. 21, 45.

¹⁰ *Katanga*, Order on the Prosecution and Defence requests for admission of documentary evidence into the record of the sentencing proceedings and on the Legal Representative’s request for reclassification of a Registry report, [ICC-01/04-01/07-3463-tENG](#), paras. 4, 8.

¹¹ Additional Evidence Request, para. 16; Rule 68 Request, para. 9.

¹² Additional Evidence Request, para. 16; Rule 68 Request, para. 9.

¹³ Rule 68 Request, para. 10.

10. The Defence submits that the statements of D-0040 and D-0041 do not go to the proof of the acts and conduct of Mr Abd-Al-Rahman, that they bear sufficient indicia of reliability, and that “neither statement contains evidence that could reasonably be in dispute.”¹⁴

11. The Prosecution opposes the Defence request to submit the witness statements of D-0040 and D-0041 under rule 68(2)(b). Whilst evidence of the convicted person’s conduct after the crimes is *prima facie* relevant to sentencing,¹⁵ contrary to the Defence’s assertion,¹⁶ the statements do contain evidence relating to issues materially in dispute,¹⁷ including: Mr Abd-Al-Rahman’s role in the conflict with the Salamat tribe;¹⁸ the nature of public speeches given by Mr Abd-Al-Rahman [REDACTED];¹⁹ and the attitude of the [REDACTED] community towards Mr Abd-Al-Rahman [REDACTED].²⁰

12. Further, the evidence is not cumulative or corroborative of evidence already on the record.²¹ To the contrary, aspects of the proposed testimony appear to be inconsistent with other information and evidence, for example, on the characterisation of Mr Abd-Al-Rahman’s public speeches [REDACTED],²² [REDACTED].²³

13. The scarcity of other evidence in the record that the Chamber could use to assess the reliability and credibility of D-0040 and D-0041’s evidence underscores the need for these witnesses to appear before the Court to provide their testimony so that their evidence can be tested before being relied on by the Chamber in relation to sentence. The Prosecution notes the Chamber’s multiple adverse findings on the credibility and/or reliability of 10 previous Defence witnesses following cross-examination by the Prosecution,²⁴ demonstrating the necessity and

¹⁴ Rule 68 Request, paras. 1, 7-10.

¹⁵ Rule 145(2)(a)(ii) of the Rules.

¹⁶ Rule 68 Request, para. 10.

¹⁷ Rule 68(2)(b)(i) of the Rules.

¹⁸ [REDACTED].

¹⁹ [REDACTED].

²⁰ [REDACTED].

²¹ Rule 68(2)(b)(i) of the Rules.

²² See e.g. the violent and inflammatory content of public speeches given by Mr Abd-Al-Rahman in Um Sory and [REDACTED]: Um Sory Video, DAR-OTP-00012474 (Transcript DAR-OTP-0223-0519-R01; Translation DAR-OTP-00012491-R01). See esp. DAR-OTP-00012491, l. 89-90 (“if they so much as spray water on a member of any of these marginal tribes, then we’ll spray them with blood”), 111-112 (“there’s a gun here, which if we open fire with it on the market, it’ll kill everyone. In just one shot everyone will die. It’s also internationally prohibited.”), 115-116 (“what Radio Dabanga says is true because I’ve killed a great many people and I’m still going to kill people”), 121-123 (“Just one gas shell on the market, on that market there, I swear by Allah, not even a chicken... not one chicken will survive. And the weapon is internationally banned, but I did it. I’ve got two of them.”); Teachers Video, DAR-OTP-00000236 (Transcript at DAR-OTP-0220-3194; Translation at DAR-OTP-0220-3199). See esp. DAR-OTP-0220-3199, l. 43-44 (“I’d have stabbed and killed any individual who mocked Rehed al-Birdi or denigrated the teacher”).

²³ [REDACTED].

²⁴ [REDACTED].

efficacy of witnesses appearing before the Chamber to be questioned in order to establish the truth, in particular, on matters materially in dispute.

14. The Prosecution would not oppose the statements of D-0040 and D-0041, and associated items, being submitted under rule 68(3) of the Rules. [REDACTED]. [REDACTED],²⁵ [REDACTED] nor does it submit that D-0040 or D-0041 have indicated that they cannot travel to provide their testimony. D-0041 merely indicates in his statement that he would need to discuss the question of travelling [REDACTED],²⁶ while nothing in D-0040's statement indicates that the Defence asked him about his ability or willingness to travel.

15. Should the Chamber allow the submission of the statements of D-0040 and D-0041, the Prosecution requests that the portions going to issues litigated at trial, rather than sentencing, be excluded from evidence.²⁷ The Prosecution takes no position on whether these witnesses should be granted the requested protective measures.²⁸

The Defence request to submit the new witness statement of D-0016, and associated items, into evidence should be rejected

16. The Prosecution objects to the introduction of the statement of D-0016 and associated items²⁹ during the sentencing proceedings, whether via rule 68(3) of the Rules, as requested by the Defence, or otherwise.

17. Firstly, the Defence has not demonstrated good cause to recall D-0016. As determined in *Bemba*, "judicial economy demands that recall [including for purposes of sentencing] should be granted only in the most compelling circumstances where the evidence is of significant probative value and not of a cumulative nature".³⁰ As in *Bemba*, in the Directions on the conduct of proceedings issued in this case, the Chamber expressly contemplated questions, albeit from the non-calling party, related to "mitigating and/or aggravating circumstances".³¹ Furthermore, D-0016 did in fact provide testimony in relation to penalties within Sudan.³² As such, the fact that the Defence failed to elicit further evidence it now considers relevant to sentencing from

²⁵ [REDACTED].

²⁶ [REDACTED].

²⁷ [REDACTED]. See also para. 8 above.

²⁸ Additional Evidence Request, paras. 18, 32(ii).

²⁹ Additional Evidence Request Annex 1, items 9-13.

³⁰ [Bemba Additional Evidence for Sentencing Decision](#), para. 18, citing to *Bemba*, Public redacted version of "Decision on 'Defence Motion concerning 'Information on contacts [of] Witnesses 169 and 178 with other witnesses'", [ICC-01/05-01/08-2924-Red](#), para. 35 (referring to jurisprudence from the *ad hoc* tribunals establishing that only in the most compelling circumstances where the evidence is of significant probative value and not of a cumulative nature should a witness be recalled).

³¹ Directions on the conduct of proceedings, ICC-02/05-01/20-478, para. 37.

³² [REDACTED].

witness D-0016 when he was first called to testify specifically on the issue of Sudanese criminal law,³³ does not constitute good cause to warrant his recall.³⁴

18. Secondly, as observed above, the sentencing phase should not be used to re-litigate issues already decided at trial.³⁵ D-0016's new statement, which is almost 30 pages in length, seeks to provide further evidence on the concept of *hiraba* and elements thereof,³⁶ a detailed comparison between the crimes charged in the Document Containing the Charges and analogous crimes under Sudanese law,³⁷ as well as Sudanese legislation that post-dates the charged crimes.³⁸ D-0016's evidence on all these topics was already carefully considered by the Chamber in the Trial Judgment.³⁹ In particular, the Chamber assessed the relevant Sudanese laws and international instruments submitted in this case which were in force at the time of the charged events and thus were applicable to the Accused.⁴⁰ No further evidence on these issues should be provided during sentencing proceedings.

19. Thirdly, the Defence has requested, without reference to any supporting jurisprudence, to recall D-0016 "to assist the Chamber in its assessment of the applicable sentencing practice in Sudan, which constitutes one of the various relevant factors that the Chamber may weigh in the balance in its determination of Mr Abd-Al-Rahman's sentence pursuant to Rule 145(1)(b) of the Rules".⁴¹ Nevertheless, evidence the Defence seeks to elicit from D-0016 is neither unique nor does the Defence explain why it is relevant.⁴²

20. D-0016's new statement is not unique, as it simply lists the penalties prescribed in various Sudanese laws already in evidence for crimes analogous to those for which Mr Abd-Al-Rahman has been convicted, without any reference to relevant jurisprudence or any interpretative guidance. The Chamber has already considered the texts of these laws⁴³ and requires no further assistance from D-0016 in reading them.

³³ The Defence interviewed D-0016 during five days to take his first statement, then had four days of preparation with the witness, before leading evidence in chief during three days and yet failed to question him about the issues raised in his second statement.

³⁴ Regardless of the main defence adopted at trial, Defence could and should have put to D-0016 all the questions it considered relevant in relation to sentencing in Sudan.

³⁵ See above para. 8.

³⁶ DAR-D31-00000363, para. 32-33.

³⁷ DAR-D31-00000363, paras. 16, 18-21, 24-26, 29, 31-35, 38, 41, 44-45, 48-55, 58, 60, 63, 66, 69, 71-76.

³⁸ DAR-D31-00000363, paras. 14, 17, 22-23, 27-30, 36-37, 39-40, 42-43, 46-47, 56-59, 61-62, 64-65, 67-70, 74-76.

³⁹ [REDACTED].

⁴⁰ Trial Judgment, ICC-02/05-01/20-1240 ("Trial Judgment"), paras. 32-51.

⁴¹ Additional Evidence Request, para. 13; Rule 68 Request, para. 22.

⁴² *Ntaganda*, Decision on requests for admission of evidence related to sentencing from the bar table, [ICC-01/04-02/06-2402](#), para. 15

⁴³ Trial Judgment, para. 32.

21. The Defence has also not demonstrated why the penalties applicable to various crimes in Sudan, as set out in D-0016's new statement, are relevant factors for sentencing in this case.

22. As clearly established by the Appeals Chamber, provisions contained in the Rome Statute and the Rules "establish a comprehensive scheme for the determination of a sentence"⁴⁴ and "contain an exhaustive identification of the types of penalties that can be imposed against the convicted person and specify mandatory aggravating and mitigating circumstances as well as the parameters to be considered for the determination of the quantum of such penalties."⁴⁵ The Appeals Chamber also upheld the sentencing decision in *Ongwen* which rejected the Defence's request to incorporate the Acholi traditional justice system into the sentencing regime on the basis that "[a]rticle 23 of the Statute provides that a person convicted by the Court may be punished only in accordance with the Statute. In turn, Article 77 of the Statute specifies – exhaustively – the penalties to be imposed for the commission of crimes within the jurisdiction of the Court".⁴⁶ As such, no basis has been given for why it is necessary for the Chamber to consider the national laws of Sudan in relation to the sentencing proceedings in this case.⁴⁷

⁴⁴ *Lubanga*, Judgment on the appeals of the Prosecutor and Mr Thomas Lubanga Dyilo against the "Decision on Sentence pursuant to Article 76 of the Statute" ("*Lubanga Appeals Judgement*"), [ICC-01/04-01/06-3122](#), para. 32.

⁴⁵ *Bemba et al.*, Judgment on the appeals of the Prosecutor, Mr Jean-Pierre Bemba Gombo et al. against the decision of Trial Chamber VII entitled "Decision on Sentence pursuant to Article 76 of the Statute", [ICC-01/05-01/13-2276-Red](#) ("*Bemba et al. Appeals Judgment*"), para. 77. See also paras. 78-79 (on the irrelevance of the practice adopted in national legislations and other *ad hoc tribunals* as a legal basis for sentencing practices adopted by this Court).

⁴⁶ *Ongwen*, Sentence, [ICC-02/04-01/15-1819-Red](#), para. 26 (upheld on the *Ongwen*, Judgment on the appeal of Mr Dominic Ongwen against the decision of Trial Chamber IX of 6 May 2021 entitled "Sentence", [ICC-02/04-01/15-2023](#), paras. 96-126).

⁴⁷ In relation to the practice of *ad hoc tribunals*, it should be noted that, unlike the ICTY and ICTR, the Rome Statute does not prescribe that Chambers "shall have recourse to the general practice regarding prison sentences" in national courts (*contra* art. 24(1), ICTY Statute; art. 23(1), ICTR Statute). Even in the *ad hoc tribunals*, nonetheless, national provisions were not interpreted as limiting or binding. See e.g. *Mladić*, Appeals Judgment, [MICT-13-56-A](#), paras. 563-564 ("*Mladić AJ*"); *Tadić*, Sentencing Appeals Judgment, [IT-94-1A-Bis](#), para. 21; *Delalić et al.* Judgment, [IT-96-21-A](#) ("*Čelebići AJ*"), para. 816; *Serushago*, Reasons for Appeals Judgment, [ICTR-98-39-A](#), para. 30; *Nahimana et al.*, Judgment, [ICTR-99-52-A](#), para. 1063. The Prosecution notes that in *Bemba et al.* the Trial Chamber did note it was aware of "case-law rendered in international and national jurisdictions involving similar offences in similar circumstances". However, it ultimately concluded that because each case must be assessed individually, it makes it "difficult, at the least, to infer from the sentence that was imposed in one case the appropriate sentence in another case" (*Bemba et al.*, Decision on Sentence pursuant to Article 76 of the Statute, [ICC-05/01-01/12-2123-Corr](#), paras. 37-38). In *Lubanga*, the Appeals Chamber held, additionally, that "the value of other sentencing practices is even lower when the reference is to the sentencing practices of another tribunal, as opposed to that of a Trial Chamber of the Court. This is because, even though there are similarities in the sentencing provisions of the Court and those of other international criminal courts and tribunals, the Court has to apply, in the first place, its own Statute and legal instruments." (*Lubanga Appeals Judgement*, para. 77). In *Al Mahdi*, the Trial Chamber further established that "the Defence's arguments about the sentences in other cases to be irrelevant. These sentences were based on vastly different circumstances, including the applicable modes of liability and sources of law" (*Al Mahdi*, Judgement and Sentence, [ICC-01/12-01/15-171](#), para. 107). The Prosecution, therefore, submits that in light of these findings, the Defence has not shown how, in this case, any weight should be given to abstract sentences for analogous crimes in Sudanese law.

23. The fact that non-exhaustive⁴⁸ reference was made to analogous Sudanese national offences in the Trial Judgment, for the sole purpose of finding that a reasonable person in the position of Mr Abd-Al-Rahman “could have expected, at the time of his conduct, to find himself faced with the crimes charged”,⁴⁹ is immaterial to the Chamber’s determination on sentence. Mr Abd-Al-Rahman was convicted for international crimes in the Rome Statute and should be exclusively subjected to the penalties imposed thereon.

24. In the Trial Judgment, the Chamber found that “the domestic laws of Sudan applicable to the Accused, at the time of his conduct, clearly described the prohibited conduct and crimes comparable to the crimes charged”⁵⁰ and, as such, it is clear that the relevant domestic crimes would potentially attract serious penalties of a gravity at least comparable to the penalties which can be imposed under the Statute.⁵¹

25. Likewise, the approach to persons of more than 70 years of age under Sudanese law⁵² is irrelevant to sentencing procedures before international tribunals,⁵³ especially in considering what a reasonable person in the position of Mr Abd-Al-Rahman would have foreseen when he committed the charged crimes—at a much younger age. The proposed evidence of D-0016 will therefore not further assist the Trial Chamber on these issues.

The Defence request to submit [REDACTED] and associated items, into evidence should be rejected

26. The Defence filed confidential *ex parte* versions of the Additional Evidence Request and Rule 68 Request on 20 October 2025. Without context or explanation, the Defence disclosed copies [REDACTED],⁵⁴ [REDACTED] in the evening of 21 October 2025.⁵⁵ At that time, the relevant Defence submissions still remained *ex parte*, only available to the Chamber. The

⁴⁸ Trial Judgment, paras. 34, 44.

⁴⁹ Trial Judgment, para. 55.

⁵⁰ Trial Judgment, para. 59.

⁵¹ See also [Čelebići AJ](#), para. 817 (“[T]he governing consideration for the operation of the *nullem crimen sine lege* principle is the existence of a punishment with respect to the offence.” There can be no doubt that the maximum sentence permissible under the Rules (“imprisonment for [...] the remainder of a convicted person’s life”) for crimes prosecuted before the Tribunal, and any sentence up to this, does not violate the principle of *nulla poena sine lege*. There can be no doubt that the accused must have been aware of the fact that the crimes for which they were indicted are the most serious violations of international humanitarian law, punishable by the most severe penalties.”) (*references omitted*). The Appeals Chamber in that case also held that “judgements rendered at Nuremberg and Tokyo and the other successor tribunals provide clear authority for custodial sentences up to and including life imprisonment” [Čelebići AJ](#), para. 817, fn. 1401. See also [Mladić AJ](#), para. 564.

⁵² DAR-D31-00000363, paras. 77-79.

⁵³ See [Bemba Appeals Judgment](#), paras. 77-79 (regarding the impossibility to apply suspended sentences); Bošković & Tarčulovski, Appeals Judgment, [IT-04-82-A](#), para. 220 (regarding the irrelevance of national amnesty laws). See also ECtHR, *Ould Dah v. France*, Appl. 13113/03, [Decision](#), p. 18-19.

⁵⁴ [REDACTED].

⁵⁵ Email from the Defence to the Parties and Participants on 21 October 2025 at 18:37. The Defence also disclosed an academic article [REDACTED] which will be addressed in “Non-Testimonial Evidence”. See below para. 32.

Prosecution did not receive notification of the unredacted versions of the Defence submissions⁵⁶ until the evening of 22 October and morning of 23 October, respectively.⁵⁷ The Defence disclosed an additional [REDACTED] in the evening of 24 October.⁵⁸

27. The Defence has not provided any explanation justifying its failure to disclose these items in a timely fashion.⁵⁹ [REDACTED].⁶⁰ The Defence has not explained why it did not obtain Mr Abd-Al-Rahman's consent earlier, [REDACTED].⁶¹

28. The Prosecution opposes the submission [REDACTED].⁶² [REDACTED],⁶³ [REDACTED].⁶⁴ [REDACTED].⁶⁵ [REDACTED].⁶⁶ As a result, the submission [REDACTED] would be premature at this stage.

29. [REDACTED], the Prosecution submits that the Defence should have formally requested an extension for submission of additional evidence under regulation 35 of the Regulations,⁶⁷ with the required demonstration of good cause, as soon as it became aware that it would be unable to meet the deadline. [REDACTED].⁶⁸

30. Should the Chamber be minded to allow the submission [REDACTED], the Prosecution reserves the right to make further submissions regarding its existing and potential future concerns [REDACTED], and other observations related to rule 68.

The Defence request to submit non-testimonial item [REDACTED] into evidence should be rejected

31. The Prosecution does not oppose the Defence request to submit two items of non-testimonial evidence [REDACTED].⁶⁹ The Prosecution also does not oppose the submission of three publications regarding the role of pharmacists and other health care providers in various

⁵⁶ The Defence requested reclassification of these submissions on 21 October 2025, and the authorisation was granted on 22 October. See Email from the Defence to Trial Chamber I on 21 October 2025 at 17:42; Email from Trial Chamber I to the Parties and Participants on 22 October at 15:27.

⁵⁷ The reclassified confidential version of the Additional Evidence Request was notified on 22 October 2025 at 16:46, and the reclassified confidential version of the Rule 68 Request was notified on 23 October 2025 at 09:49.

⁵⁸ [REDACTED].

⁵⁹ [REDACTED].

⁶⁰ [REDACTED].

⁶¹ Additional Evidence Request, para. 20.

⁶² [REDACTED].

⁶³ Assessment Letter, p. 1 [REDACTED]. See also Additional Evidence Request, paras. 19, 21-22.

⁶⁴ [REDACTED].

⁶⁵ [REDACTED].

⁶⁶ [REDACTED]. See also Additional Evidence Request, paras. 22-23.

⁶⁷ [Sentencing Procedure Decision](#), paras. 4(a) and 4(b) (ordering that filings should include, *inter alia*, "a copy of any prior recorded testimony to be introduced [...]").

⁶⁸ [REDACTED].

⁶⁹ [REDACTED].

different communities,⁷⁰ although it considers these items to be of limited to no relevance or probative value for sentencing as they do not reflect Mr Abd-Al-Rahman's individual circumstances or the specific community context [REDACTED].⁷¹ The Prosecution reserves its position on the proposed submission of a [REDACTED] report from the Detention Unit at this stage, pending further submissions from the Registry on this matter.⁷²

32. Finally, the Prosecution opposes the submission of one item, an academic publication [REDACTED],⁷³ as irrelevant. The Defence provided no explanation regarding the supposed relevance of this item which relates to sentencing practices in a jurisdiction with no discernible link to Mr Abd-Al-Rahman, [REDACTED].⁷⁴

⁷⁰ Additional Evidence Request Annex 1, items 16-18 (DAR-D31-00000370; DAR-D31-00000371; DAR-D31-00000372); Additional Evidence Request, para. 29.

⁷¹ *Katanga*, Decision on sentence pursuant to article 76 of the Statute, [ICC-01/04-01/07-3484-tENG-Corr](#), para. 38 ("When determining the sentence, the Chamber must further ensure that, pursuant to rule 145(1)(a) of the Rules, the sentence reflects the degree of culpability while contributing to the restoration of peace and reconciliation in the communities concerned. Lastly, the extent to which the sentence reflects the culpability of the convicted person addresses the desire to ease that person's reintegration into society, although, in particular in the case of international criminal law, this goal cannot be considered to be primordial as the sentence on its own cannot ensure the social reintegration of the convicted person.").

⁷² Additional Evidence Request Annex 1, item 19; Additional Evidence Request, para. 30. *See also* Email from Trial Chamber I to the Parties and Participants on 21 October 2025 at 12:06; Email from Trial Chamber I to the Parties and Participants on 23 October 2025 at 13:16.

⁷³ [REDACTED].

⁷⁴ *See* above para. 28.

D. CONCLUSION

33. For the foregoing reasons, the Prosecution respectfully requests that the Chamber:

- a) Reject the Defence request to submit the statements of witnesses D-0040 and D-0041, and associated items, pursuant to rule 68(2)(b) of the Rules;
- b) Reject the Defence request to submit the new statement of witness D-0016, and associated items, into evidence for sentencing;
- c) Reject the Defence request to submit [REDACTED], and associated items, into evidence for sentencing; and
- d) Reject the Defence request to submit non-testimonial item [REDACTED].



Nazhat Shameem Khan
Deputy Prosecutor

Dated this 12th day of November 2025

At The Hague, The Netherlands