



Original: English

No.: ICC-01/04-02/06

Date: 24 March 2017

TRIAL CHAMBER VI

Before: Judge Robert Fremr, Presiding Judge
Judge Kuniko Ozaki
Judge Chang-ho Chung

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

**IN THE CASE OF
*THE PROSECUTOR v. BOSCO NTAGANDA***

Public

With Confidential Annexes 1, 1.1 to 1.7, 2 and 2.1 to 2.3

**Public redacted version of “Prosecution’s application under rule 68(2)(b) and regulation 35 to admit the prior recorded testimony of Witness P-0551”,
1 November 2016, ICC-01/04-02/06-1601-Conf**

Source: Office of the Prosecutor

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Introduction

1. The Prosecution requests that Trial Chamber VI ("Chamber") admit the prior recorded testimony of Witness P-0551 ("P-0551") under rule 68(2)(b) of the Rules of Procedure and Evidence ("Rules") and regulation 35 of the Regulations of the Court ("Regulations").
2. The prior recorded testimony being submitted under rule 68(2)(b) comprises:
 - (i) [REDACTED] statement provided by P-0551¹ with seven related annexes;² and
 - (ii) [REDACTED] witness statement³ with three related annexes.⁴
3. The prior recorded testimony is relevant and *prima facie* probative to the charges and, in accordance with rule 68(2)(b), goes to proof of a matter other than the acts of conduct of the Accused. P-0551 has acknowledged its truthfulness and accuracy before a certifying officer. The Prosecution will obtain shortly a declaration from P-0551 to this effect.⁵
4. The nature and content of P-0551's evidence is such that his appearance for cross-examination is unnecessary. Further, granting the motion would not cause any unfair prejudice to the Accused. To the contrary, all Parties and the Chamber will benefit from P-0551's detailed evidence regarding different types of school records used in Ituri, how they are created; as well as the impact of the conflict during the relevant period on school attendance, administration of the schools and regulation of school records; and evidence relevant to records regarding Prosecution Witnesses [REDACTED] and schools attended by

¹ Annex 1: DRC-OTP-1054-0031.

² Annexes 1.1 to 1.7: DRC-OTP-1054-0045, DRC-OTP-1054-0046, DRC-OTP-1054-0047, DRC-OTP-1054-0048, DRC-OTP-1054-0049, DRC-OTP-1054-0050, DRC-OTP-1054-0051.

³ Annex 2: DRC-OTP-2095-0376.

⁴ Annex 2.1 to 2.3: DRC-OTP-2082-0571 (DRC-OTP-2095-0388), DRC-OTP-2082-0572 (DRC-OTP-2095-0389); and DRC-OTP-2082-0368.

⁵ DRC-OTP-2095-0625.

[REDACTED]. Admitting P-0551's evidence would, therefore, best serve the interests of justice and determination of the truth.

5. In particular, it is in the interests of justice to vary the time limit of 2 March 2015 for submission of the Prosecution's list of witnesses and related evidence to allow admission of P-0551's prior testimony. There is also good cause to do so.
6. The Chamber may also admit this witness's testimony under rule 68(2)(b), pursuant to its powers, *inter alia*, under articles 64(6)(b) and (d), 69(3) and (4), and 64(9)(a) of the Rome Statute ("Statute") and rule 63(2) of the Rules, either as a Prosecution witness or as a witness of the Chamber.
7. The Prosecution intends to obtain and submit the necessary accompanying declaration certified by a duly authorised certifying officer of the DRC, pursuant to rule 68(2)(b).

Confidentiality

8. This filing is classified as "Confidential", as it refers to information that could reveal P-0551's identity to the public. The Prosecution will file a public redacted version.

Procedural Background

9. On 9 October 2014, the Chamber ordered the Prosecution to file by 2 March 2015 its final list of witnesses, and disclose remaining incriminatory material.⁶
10. On 22 April 2015, the Chamber decided that the Prosecution could submit an amended List of Evidence of evidence with any additional items that it seeks to admit, and the Defence could at any time challenge the use of items

⁶ ICC-01/04-02/06-382.

subsequently added to the List "on the basis that it received unduly late notice of them or had inadequate time to prepare".⁷

11. On 20, 21, 22 and 24 June 2016, Prosecution Witness P-0888 testified. Following P-0888's testimony, it became apparent that it would be in the interests of justice and the determination of the truth that the Chamber have detailed evidence, for the relevant period of conflict in Ituri, concerning, *inter alia*: (a) the different forms of school records used, and how they were created and stored; and (b) the impact of the conflict on school attendance. Moreover, it was considered that there would be a benefit in obtaining further evidence from an appropriate witness regarding existing school records or background information regarding schools attended by upcoming child soldier witnesses including [REDACTED].
12. Accordingly, the Prosecution sought as expeditiously as possible to identify an appropriate witness involved in school administration in Ituri during the relevant time period.
13. On 30 and 31 August 2016, the Prosecution interviewed P-0551 who had provided a prior witness statement [REDACTED].
14. On 31 August 2016, P-0551 verbally declared that the contents of his prior recorded testimony are true and correct to the best of his knowledge and belief before an officer of the DRC Judicial Police. The Prosecution will further obtain a written declaration from P-0551 to this effect in the coming weeks.
15. On 19 October 2016 the Chamber issued its Order setting certain deadlines related to the end of the presentation of evidence by the Prosecution. The Chamber indicated that any further Prosecution requests to be made pursuant to rule 68(2) should be submitted no later than 3 February 2017. The Chamber

⁷ ICC-01/04-02/06-T-19-ENG, p.11, line 7 – p.12, line 7.

further stated that applications under rule 68(2)(b) could be made in advance of the required accompanying declarations having been obtained.⁸

Prosecution's Submissions

(a) There is good cause to admit P-0551's prior testimony and it is necessary for the determination of the truth and in the interests of justice

16. Under regulation 35(2) of the Regulations, a Chamber may extend a time limit "if good cause is shown". The Appeals Chamber has held that "[s]uch reasons as may found a good cause are necessarily associated with a party's duties and obligations in the judicial process. A cause is good, if founded upon reasons associated with a person's capacity to conform to the applicable procedural rule or regulation or the directions of the Court. Incapability to do so must be for sound reasons, such as would objectively provide justification for the inability of a party to comply with his/her obligations".⁹
17. The Appeals Chamber has further decided to extend a time limit where it was in the "interest of justice".¹⁰
18. In *Katanga and Ngudjolo*, Trial Chamber II held that even where the conditions of regulation 35(2) are not met the Chamber may authorise the late addition of incriminating evidence pursuant to its powers under articles 64(6)(d) and 69(3) of the Statute to order the production of evidence that it deems necessary for the determination of the truth, provided it can be shown that:
 - (i) the new material is either significantly more compelling than other items of evidence already disclosed to the Defence, or brings to light a previously unknown fact which has a significant bearing upon the case, and (ii) the late addition will not cause undue prejudice to the

⁸ ICC-01/04-02/06-1588, para.7.

⁹ ICC-01/04-01/06-834, para.7.

¹⁰ See ICC-01/04-01/10-505, para.11.

Defence in relation to the latter's right to have adequate time and facilities to prepare in accordance with article 67(l)(b) of the Statute.¹¹

19. In this case, there is good cause to vary the time limit because the importance of P-0551's evidence only became entirely clear after P-0888 testified. The Chamber will be assisted by his evidence concerning: the types of school records used in Ituri schools and the school system in the DRC; how the schools operated during the conflict; and, information about the schools attended by upcoming Prosecution witnesses [REDACTED].
20. When finalising its witness list for March 2015, the Prosecution tried to strike the appropriate balance between providing sufficient evidence to prove its case and not overburdening the Court. Due to the organic nature of trials,¹² however, the import and utility of this evidence became clear only after P-0888's testimony.
21. Additionally, the requested variation of the time limit will not "derail the proceedings from their ordained course"¹³ and is not unduly prejudicial. It is in the interests of justice and the determination of the truth that the Chamber admit P-0551's evidence under articles 64(6)(b) and (d), and 69(3) of the Statute.
22. Witness P-0551 may be treated as a Prosecution witness, or, alternatively as a witness of the Chamber. If the Chamber decides to admit P-0551's testimony as that of a Chamber witness, then regulation 35 is, obviously, not relevant to its consideration. Like other Chambers, the Chamber may decide to include witnesses it considers appropriate. For example, Trial Chamber I in *Prosecutor*

¹¹ ICC-01/04-01/07-2325, para.15.

¹² Compare to ICC-01/05-01/08-682, para.27: "Otherwise, the Chamber simply adds the reasoning provided by Trial Chamber II that trials are essentially organic in nature and it is inevitable that as the evidence and the issues in the case develop, the Prosecution may in due course seek to argue that the probative value or significance of one or more areas of evidence described in the in-depth analysis chart have changed or developed. ..."

¹³ ICC-01/04-01/07-653, para.6.

v Thomas Lubanga decided to call four Chamber witnesses,¹⁴ whilst Trial Chamber III in *Prosecutor v Jean Pierre Bemba Gombo* called one Chamber witness.¹⁵ The Chamber may admit P-0551's prior testimony pursuant to rule 68(2)(b) whether as a Prosecution or Chamber witness, provided, as in this instance, the requirements of that provision are met.

23. In this instance, it is in the interests of justice and determination of the truth if the Chamber and Parties have detailed evidence regarding the functioning of schools in Ituri during the relevant time period and the system of school records, which are an important contemporaneous form of evidence to support the evidence of the former child soldier witnesses regarding their age. Moreover, P-0551 specifically commented upon: two of the school records of witness [REDACTED],¹⁶ a school record of [REDACTED];¹⁷ and, describes relevant schools located in [REDACTED],¹⁸ including [REDACTED],¹⁹ [REDACTED];²⁰ and, [REDACTED].²¹ P-0551 further described the customs regarding naming conventions in The DRC²² that is of relevance and use for the Chamber when assessing the names used by witnesses on various official records.

(b) The prior recorded testimony goes to proof of a matter other than the acts and conduct of the Accused

24. Rule 68(2)(b) provides for the introduction (admission) of a witness's prior recorded testimony that goes to proof of a matter other than the acts and

¹⁴ CHM-0001: ICC-01/04-01/06-T-89-ENG, p.41, l.24 to p.42, l.2; ICC-01/04-01/06-1559-Conf, para.3; CHM-0003: ICC-01/04-01/06-T-176-CONF-ENG, p.27, ll.2-10; ICC-01/04-01/06-2030-Anx1; CHM-0002: ICC-01/04-01/06-T-88-ENG, p.8, l16 to p.9, l.2; ICC-01/04-01/06-T-99-ENG, p.17, l.18 to p.18, l.22; ICC-01/04-01/06-1558; CHM-0004: ICC-01/04-01/06-1934, para.12.

¹⁵ See ICC-01/05-01/08-2863-Conf, para.4.

¹⁶ [REDACTED].

¹⁷ [REDACTED].

¹⁸ [REDACTED].

¹⁹ [REDACTED].

²⁰ [REDACTED].

²¹ [REDACTED].

²² DRC-OTP-2095-0376 at para.18.

conduct of the Accused. The “prior recorded testimony” includes statements taken pursuant to rule 111 of the Rules, together with associated exhibits.²³

25. The plain reading of rule 68 makes it clear that “prior recorded testimony” also covers written statements taken from the witness, because it includes, among others “any other documented evidence of such testimony”. This interpretation was adopted by ICC Chambers including in *Prosecutor v Lubanga*²⁴, *Prosecutor v Katanga et al.*²⁵, and, previously, by this Chamber.²⁶ The Chambers allowed the admission of prior recorded witness statements.²⁷
26. The Appeals Chamber has previously confirmed that “in-court personal testimony is not the exclusive mode by which a Chamber may receive witness testimony”, and that testimony may be admitted under rule 68.²⁸ The Appeals Chamber has implicitly supported the interpretation that this includes prior recorded witness statements taken by the Prosecution: for instance, when it confirmed that admission of prior recorded witness statements under rule 68 requires an item-by-item approach and must comply with the conditions of rule 68²⁹; and, today, when upholding Trial Chamber I’s approach when

²³ See ICC-01/05-01/08-1386, OA5 OA6, paras.79-81, confirming that written witness statements can be introduced as “prior recorded testimony” (stating that “[w]itness statements may only be introduced under rule 68 of the Rules of Procedure and Evidence if the strict conditions of that rule are met.”). See also ICC-01/09-01/11-1938-Red-Corr, paras.30-33, analysing the term “prior recorded testimony” in light of the Rules’ *travaux préparatoires*, the Court’s prior case-law and the need to ensure language consistency within the rule in interpreting it; ICC-01/05-01/08-2012-Red, para.136; ICC-01/05-01/08-886, para.6; ICC-01/04-01/06-1603, para.18; ICC-01/04-01/07-2289-Corr-Red; ICC-01/04-01/07-2362.

²⁴ ICC-01/04-01/06-1603, paras.18-19.

²⁵ ICC-01/04-01/07-2635, para.44: “Clearly, statements made out of court can equally qualify as testimony. This is apparent from the wording of article 56(1)(a), which refers to a ‘unique opportunity to take testimony’, and of article 93(1)(b), which expressly mentions the taking of evidence, ‘including testimony under oath’ in the context of assistance provided by States Parties ‘in relation to investigations or prosecutions’. Moreover, a narrow interpretation of the word ‘testimony’ in article 67(1)(a) would entirely undermine the very right protected by this article and deprive rule 68 of any meaning.”

²⁶ ICC-01/04-02/06-1205, (referring throughout the Decision to the ‘prior recorded testimony’ of P-0103).

²⁷ ICC-01/04-01/06-1603, paras.18, 25-26; ICC-01/04-01/06-1399, paras.40-42; ICC-01/04-01/07-412.

²⁸ ICC-01/05-01/08-1386 OA5, para. 77.

²⁹ ICC-01/05-01/08-1386 OA5, paras. 80-81.

admitting, pursuant to rule 68(2)(b) and 68(3), prior recorded Prosecution witness statements taken under rule 111 of the Rules.³⁰

27. The *travaux préparatoires* also confirms that “prior recorded testimony” was understood to include prior transcripts and written witness statements, taken by the Parties or authorities.³¹ This interpretation is further affirmed by the express requirements of rule 68(2)(b)(ii), which require an accompanying declaration to admit “testimony”. This would be unnecessary if rule 68 applied only to in-court testimony, which is always given under oath.
28. The acts and conduct of the Accused relates narrowly to the deeds and behaviour of the Accused. Other international tribunals have construed the legal expression “acts and conduct” to refer plainly to the “deeds and behaviour of the accused”,³² such that they seek to establish the accused’s responsibility under any applicable mode of liability.³³ Importantly, acts and conduct of the accused must be distinguished from acts and conduct of others

³⁰ ICC-02/11-01/15-744 OA8, paras. 6, 30-31, 48, 63-65, 68-76, 85, 87-88, 95-103.

³¹ ICC-ASP/12/37/Add.1, Annex II, A, Study Group on Governance Cluster I: Expediting the Criminal Process Working Group on Lessons Learnt Recommendation on a proposal to amend rule 68 of the Rules of Procedure and Evidence (Prior Recorded Testimony), para.13. *See also* paras.3, 35; confirming that the intent was to match or exceed the scope of ICTY Rules 92*quater* and 92*quinqies* that explicitly allow for introduction of written statements or transcripts of evidence.

³² “The phrase ‘acts and conduct of the accused’ in rule 92*bis* is a plain expression and should be given its ordinary meaning: deeds and behaviour of the accused. It should not be extended by fanciful interpretation. No mention is made of acts and conduct by alleged co-perpetrators, subordinates or, indeed, of anybody else. Had the rule been intended to extend to acts and conduct of alleged co-perpetrators or subordinates it would have said so”, *see Prosecutor v. Milošević*, IT-02-54-T, Decision on Prosecution’s Request to Have Written Statements Admitted under Rule 92 *bis*, 21 March 2002, para.22 (“*Milošević Decision*”); *Prosecutor v. Karadžić*, IT-95-5/18-PT, Decision on the Prosecution’s Third Motion for Admission of Statements and Transcripts of Evidence in Lieu of Viva Voce Testimony Pursuant to Rule 92 *bis* (Witnesses for Sarajevo Municipality), 15 October 2009, para.5 (“*Karadžić Decision*”); *Prosecutor v. Hadžić*, IT-04-75-T, Decision on Prosecution Omnibus Motion for Admission of Evidence Pursuant to Rule 92 *bis* and Prosecution Motion to Admit GH-139’s Evidence Pursuant to Rule 92 *bis*, 24 January 2013, para.15 (“*Hadžić Decision*”).

³³ *Karadžić Decision*, para.5; *Prosecutor v. Galić*, IT-98-29-AR73.2, Decision on Interlocutory Appeal Concerning Rule 92 *bis*(C), 7 June 2002, para.10 (“*Galić Decision*”); *Hadžić Decision*, para.15; *Prosecutor v. Lukić and Lukić*, IT-98-32/1-T, Decision on Prosecution Motion for Admission of Evidence Pursuant to Rule 92 *bis*, 22 August 2008, para.17 (“*Lukić Decision*”).

who commit crimes for which the accused is alleged to be responsible.³⁴ Proof of the latter is admissible under rule 68(2)(b).

(c) The interests of justice are served by the admission of the prior recorded testimony

29. Admitting the rule 68(2)(b) prior recorded testimony advances the interests of justice and contributes to a fair and expeditious trial by enabling the presentation of evidence in a more concise and streamlined manner without causing any prejudice to the fair trial rights of the Accused. This aligns with the stated goal behind the rule's adoption which was to "reduce the length of ICC proceedings and streamline evidence presentation."³⁵ Their admission under rule 68 complies with article 51(4) of the Statute.
30. By its terms, rule 68(2)(b) does not *per se* unfairly prejudice the Defence by permitting the introduction of uncross-examined evidence unrelated to the acts and conduct of an accused. That both parties can avail themselves of this provision further underscores its inherent neutrality and advances the interests of justice.

(d) The prior recorded testimony has sufficient indicia of reliability

31. The prior recorded testimony bears sufficient indicia of reliability, as defined by the Chambers of this Court. The exhibits comprising the prior recorded testimony (i) are accompanied by a signed declaration confirming P-0551's identity; (ii) are given voluntarily; (iii) state that the contents are true and

³⁴ *Karadžić* Decision, para.5; *Galić* Decision, para.9; *Hadzić* Decision, para.15; *Prosecutor v. Milutinović et al.*, IT-05-87-PT, Decision on Prosecution Rule 92bis Motion, 4 July 2006, para.6; *Lukić* Decision, para.17; *Milošević* Decision, para.22.

³⁵ Assembly of State Parties, Study Group on Governance, Working Group on Lessons Learnt: Recommendation on a proposal to amend rule 68 of the Rules of Procedure and Evidence (Prior Recorded Testimony), 31 October 2013, para. 11.

accurate to the best of P-0551's knowledge and belief;³⁶ (iv) are internally consistent and coherent; and (v) the Prosecution intends to submit a certified declaration from P-0551, in accordance with rule 68(2)(b).

32. The following factors also support the reliability of the evidence:

(i) P-0551 is well-placed to provide evidence regarding school records and schools in Ituri during the relevant period of conflict because he was a senior school inspector from 1989 to 2004 and worked his whole life in Ituri in the field of education;³⁷

(ii) he is an impartial witness: [REDACTED]; he explained that because he is [REDACTED]³⁸³⁹;

(iii) his prior recorded testimony mentions events in Bunia, and Djugu and Irumu territories⁴⁰ that are consistent with accounts of other witnesses who described events in Bunia, and Djugu and Irumu territories;⁴¹

(iv) his prior recorded testimony describing [REDACTED],⁴² is also consistent with accounts of other witnesses;⁴³ and

(v) there are no material inconsistencies in his account.⁴⁴

³⁶ DRC-OTP-1054-0031 at p.0044; DRC-OTP-2095-0376 at p.0387.

³⁷ See DRC-OTP-1054-0031 at p.0033, para.9.

³⁸ DRC-OTP-2095-0376, at para. 26.

³⁹ DRC-OTP-2095-0376, at para. 26.

⁴⁰ See e.g. DRC-OTP-1054-0031 at p.0033, paras.12-13, and para.24; DRC-OTP-2095-0376 at p.0382, paras.26-28.

⁴¹ See e.g. Testimony of **P-0901**: ICC-01/04-02/06-T-29-Conf-Eng, p.12, ll.6-12; Testimony of **P-0014**: DRC-OTP-2054-0612 (Lubanga, T-181), p.32, l.25 – p.37, l.11; Testimony of **P-0907**: ICC-01/04-02/06-T-89-Conf-Eng-ET, p.37, l.6 – p.39, l.11.

⁴² See e.g. DRC-OTP-2095-0376, paras. 26-29, 35-36.

⁴³ See e.g. Testimony of **P-0014**: ICC-01/04-02/06-T-136-Conf-Eng ET, p.62, l.6 – p.63, l.7; Testimony of **P-0886**: ICC-01/04-02/06-T-37-Conf-Eng ET, p.21, l.2 – p.23, l.10; Testimony of **P-0017**: ICC-01/04-02/06-T-59-Conf-Eng ET, p.62, l.22 – p.63, l.3.

⁴⁴ See e.g. *Prosecutor v Karadžić*, IT-95-5/18-T, Decision on Accused's Motion for Admission of Evidence of Radislav Krstic Pursuant to Rule 92quater, 26 November 2013, para.12.

33. There is no finite list of possible criteria to determine whether an exhibit or prior recorded testimony should be admitted as evidence or the factors that inform a review of the reliability of the document.⁴⁵ Absence of certain indicia of reliability may be considered when assessing the weight of that evidence but should not be a reason for excluding the evidence.⁴⁶ It is only necessary to establish *prima facie* - not definitive - proof of reliability based on sufficient indicia.⁴⁷ The Chamber's assessment of indicia of reliability requires an exercise of discretion, based on the circumstances of the case.⁴⁸
34. P-0551's prior recorded testimony bears *prima facie* indicia of reliability because it is truthful, authentic, consistent, and was provided voluntarily. There is no indication of a motive for P-0551 to fabricate or distort his account.
35. During his second statement, P-0551 provided clarifications and additional information to his first statement. He maintained consistency throughout his first and second statements.

(e) The evidence is relevant and has *prima facie* probative value

36. The Chamber is empowered to admit evidence it considers relevant. It can admit any evidence it considers necessary to determine the truth under articles 69(3) and (4) and 64(9)(a) of the Statute and rule 63(2).⁴⁹ Evidence is deemed

⁴⁵ ICC-01/04-01/06-1399, para.29.

⁴⁶ See e.g. *Prosecutor v Popović et al*, IT-05-88-T, Decision on Prosecution Motion for Admission of Evidence pursuant to rule 92quater, 21 April 2008, para.41, citing *Prosecutor v Rasim Delić*, IT-04-83-PT, Decision on Prosecution Motion for Admission of evidence pursuant to rule 92quater, 9 July 2007 and *Prosecutor v Miluntinović et al*, IT-05-87-T, Decision on Prosecution Motion for Admission of Evidence pursuant to Rule 92quater, 16 February 2007.

⁴⁷ ICC-01/09-01/11-1353, para.15. See also e.g. *Prosecutor v Popović et al*, IT-05-88-AR73.2, Decision on Joint Defence Interlocutory Appeal Concerning the Status of Richard Butler as an Expert Witness, 30 January 2008, para.22: "[p]rima facie proof of reliability on the basis of sufficient indicia is enough at the admissibility stage."

⁴⁸ See e.g. *Prosecutor v Prlić et al*, IT-04-74-AR73.16, Decision on Jadranko Prlić's Interlocutory Appeal Against the Decision on Prlić Defence Motion for Reconsideration of the Decision on Admission of Documentary Evidence, 3 November 2009, para.27.

⁴⁹ ICC-01/04-01/06-1399, para.24; ICC-01/04-01/06-2360, para.23.

relevant if it tends to prove or disprove a material issue or fact in question, making it more or less probable.⁵⁰

37. P-0551's two prior statements are relevant, *inter alia*, to the issue of school records that are some of the contemporaneous records upon which the Prosecution relies in part for proof of age of the former child soldier witnesses.
38. As shown above at paragraphs 31-35, the prior recorded testimony has *prima facie* probative value because it bears sufficient indicia of reliability. Additionally, the prior recorded testimony has *prima facie* probative value as it is generally consistent with several other witness testimonies with regard to events in Bunia, and the Djugu and Irumu territories.

(f) Admission of the prior recorded testimony causes no undue prejudice to the Accused

39. The inability to cross-examine P-0551 on his evidence, and the admission of the evidence at this stage of the proceedings, does not deprive the Accused of his right to challenge the evidence. He retains the right to lead evidence during the Defence case or to question other witnesses generally on the basis of information contained in the prior recorded testimony.

⁵⁰ ICC-01/09-01/11-1353, para.15; ICC-01/04-01/07-2635, para.34.

Request

40. For all the foregoing reasons, the Prosecution requests that the Chamber preliminarily admit the prior recorded testimony of P-0551 pending submission of his written declaration.



Fatou Bensouda
Prosecutor

Dated this 24th day of March 2017
At The Hague, The Netherlands