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TRIAL CHAMBER I

Before: Judge Joanna Korner, Presiding Judge
Judge Reine 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 third application under rule 68(3) to introduce into evidence prior recorded testimony of witnesses P-0657, P-0673, P-0843 and P-0954” 21 January 2022

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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I. INTRODUCTION

1. Pursuant to article 69(2) and (4) of the Rome Statute, and rule 68(3) of the Rules of Procedure and Evidence (“Rules”), the Office of the Prosecutor (“Prosecution”) requests that Trial Chamber I (“Chamber”): (i) introduce into evidence the statements and associated material (“Prior Recorded Testimonies”)¹ of witnesses P-0657, P-0673, P-0843 and P-0954 (“Four Witnesses”); and (ii) grant the time requested in the paragraphs below for *viva voce* questioning of each witness (“Application”).²

2. Granting the Application will enhance the expeditiousness of the proceedings by reducing the length of the Four Witnesses’ in-court testimony from 14 hours to 5, thus saving approximately 9 hours of court time.³

3. As set out below, the Prior Recorded Testimonies of the Four Witnesses are relevant, reliable and probative. The Prior Recorded Testimonies of the Four Witnesses relate primarily to the identity of Mr Ali Muhammad Ali Abd-Al-Rahman (“Abd-Al-Rahman”), who is also known as “Ali Kushayb”,⁴ the contextual elements of war crimes⁵ and crimes against humanity,⁶ the modes of individual criminal responsibility for Mr Abd-Al-Rahman⁷ and the charged crimes of persecution (Counts 11, 21 and 31)⁸ and murder in Deleig in March 2004 (Counts 27-28).⁹

¹ Annex A (A1 to A4) lists the Prior Recorded Testimonies of the Four Witnesses which consists of their witness statements (at I) and associated material (at II). The material related to the witnesses’ prior recorded testimony which the Prosecution does not seek to introduce into evidence is included (at III). Hyperlinks to this material are also included. See Conduct of Proceedings Directions, [ICC-02/05-01/20-478](#), para. 47.

² This Application is submitted in accordance with the [Conduct of Proceedings Directions](#), paras. 46-48.

³ Under article 64(3)(a) of the Statute, the Chamber shall, “[c]onfer with the parties and adopt such procedures as are necessary to facilitate the fair and expeditious conduct of proceedings.” See also Chambers Practice Manual (2019), p. i (“The overall question of the expeditiousness of proceedings is one of considerable complexity and the conduct and readiness of all parties and participants to Court proceedings play a crucial role—the commitment to expediency must, in this regard, be a collective one.”); *Katanga*, Unlawful Detention and Stay of Proceedings Appeals Judgment, [ICC-01/04-01/07-2259](#), para. 43 (“The Appeals Chamber observes that expeditiousness is a recurrent theme in the Court’s legal instruments. The Statute and the Rules of Procedure and Evidence place an onus on all those involved in the trial to act in a diligent and expeditious manner in the performance of their obligations. The duty applies to the Chambers of the Court, the parties and participants.[...]”). See also *Ntaganda*, Rule 68(3) Decision, [ICC-01/04-02/06-961](#), para. 13; *Gbagbo & Blé Goudé*, Rules 68(2)(b) and 68(3) Decision, [ICC-02/11-01/15-573](#), paras. 25, 42.

⁴ Confirmation Decision, [ICC-02/05-01/20-433-Corr](#), p. 50.

⁵ [Confirmation Decision](#), p. 51.

⁶ [Confirmation Decision](#), p. 50-51.

⁷ [Confirmation Decision](#), p. 51-54.

⁸ [Confirmation Decision](#), p. 68-70.

⁹ [Confirmation Decision](#), p. 70.

4. Should the Chamber grant the request to conduct a limited supplementary *viva voce* examination, the Prosecution would elicit further focused evidence on certain issues that require clarification or elaboration as set out below. The Prosecution will ensure that the Four Witnesses are not asked merely to repeat information already provided in their Prior Recorded Testimonies.

5. The introduction into evidence of the Prior Recorded Testimonies is not prejudicial to or inconsistent with the rights of Mr Abd-Al-Rahman, as the Four Witnesses will be available, *inter alia*, for cross examination by the Defence and any further questioning by the Chamber.

II. CLASSIFICATION

6. Pursuant to regulation 23bis(1) of the Regulations of the Court, this Application and Annex A are classified as confidential, because they contain sensitive information regarding the identities of the Four Witnesses. A public redacted version of the Application will be filed as soon as practicable.

III. SUBMISSIONS

7. The Prosecution relies on its previous submissions on the legal framework for the introduction into evidence of prior recorded testimony under rule 68(3) of the Rules, as set out in its first application under rule 68(3).¹⁰

8. The associated material which the Prosecution seeks to introduce into evidence for each of the Four Witnesses¹¹ forms an integral part of their prior recorded testimonies.¹² These items are also necessary to fully comprehend the accounts of the Four Witnesses, as they discuss the items and when required, clarify them in their statements. The introduction of this material is supported by Trial Chamber VI's finding in *Ntaganda* that "exhibits associated with a previously recorded testimony

¹⁰ First Rule 68(3) Application, [ICC-02/05-01/20-547-Conf](#), paras. 7-9.

¹¹ See Annex A (Part II of A1 to A4). Where applicable, the Prosecution includes in the Annex, the English translations of items referred to in the associated material.

¹² See *Yekatom & Ngaissona*, Decision on the Prosecution Requests under Rule 68(3), ICC-01/14-01/18-907-Red, para. 26.

are admissible if the witness uses or explains them in the prior recorded testimony, and particularly when these are necessary to read and understand the prior recorded testimony being introduced.”¹³

A. Overview of the Prior Recorded Testimonies of the Four Witnesses

(i) *Prior Recorded Testimony of P-0657*

9. The Prosecution seeks to submit into evidence P-0657’s prior recorded testimony, including the associated material listed in Annex A (A1) to this Application. P-0657’s prior recorded testimony consists of one witness statement¹⁴ and eleven associated items that relate to information and events discussed in the statement.¹⁵ P-0657’s prior recorded testimony is relevant to, *inter alia*, establishing [REDACTED].¹⁶ P-0657, a Fur [REDACTED], provides direct eyewitness testimony regarding Mr Abd-Al-Rahman’s [REDACTED],¹⁷ physical description,¹⁸ [REDACTED].¹⁹

10. P-0657’s associated material consists of: (a) [REDACTED];²⁰ (b) a sketch depicting Garsila Army Headquarters, Security Intelligence and Police Station buildings;²¹ (c) a sketch depicting the layout of Garsila Police Station;²² (d) a sketch depicting the layout of the Security Intelligence Building in Garsila;²³ (e) a picture of a signed CD containing the photograph of Mr Abd-Al-Rahman that was shown to P-0657 by an investigator;²⁴ (f) a photograph that P-0657 identified as being Mr Abd-Al-Rahman;²⁵ (g) a picture of a signed CD containing the photographs of P-0657’s

¹³ *Ntaganda*, Transcript of 20 June 2016, [ICC-01/04-02/06-T-105-Red-ENG ET](#), p. 94, l. 2-7. See also *Ntaganda*, Decision on Prosecution Application under Rule 68, [ICC-01/04-02/06-1205](#), para. 7; *Ntaganda*, Decision on Rule 68, [ICC-01/04-02/06-1029](#), paras. 23, 35; *Ruto & Sang*, Decision on the Admission of Prior Recorded Testimony, [ICC-01/09-01/11-1938-Corr-Red2](#), para. 33.

¹⁴ [REDACTED].

¹⁵ [REDACTED].

¹⁶ [REDACTED].

¹⁷ [REDACTED].

¹⁸ [REDACTED].

¹⁹ [REDACTED].

²⁰ [REDACTED].

²¹ [REDACTED]. See also [REDACTED].

²² [REDACTED]. See also [REDACTED].

²³ [REDACTED].

²⁴ [REDACTED].

²⁵ [REDACTED]. See also [REDACTED].

injuries;²⁶ (h) three photographs depicting injuries and scars sustained by P-0657;²⁷ and (i) an investigation note explaining why Mr Abd-Al-Rahman's photograph was shown to P-0657 during his interview and describes the photographs contained in a signed CD.²⁸

The Prosecution requests one hour for its limited supplementary examination of P-0657

11. Should P-0657's prior recorded testimony be introduced into evidence, the Prosecution requires approximately one hour to conduct a supplementary *viva voce* examination, in accordance with rule 68(3) of the Rules and the prior jurisprudence of the Court.²⁹

12. In its limited *viva voce* examination, the Prosecution would seek to clarify important aspects of P-0657's evidence, including in particular: (a) P-0657's knowledge related to the identification and physical description of Mr Abd-Al-Rahman; (b) [REDACTED]; (c) P-0657's elicited additional details regarding his description and recognition of the photograph of [REDACTED]; and (d) P-0657's knowledge of locations of the Sudanese Armed Forces ("SAF") buildings in Garsila as depicted in the sketches.

13. The Prosecution estimates that it would require three hours for direct examination of P-0657 if his prior recorded testimony is not introduced into evidence under rule 68(3). If the Chamber grants this Application, the one hour required for the limited supplementary *viva voce* examination of P-0657 would shorten the in-court testimony by two hours.

²⁶ [REDACTED].

²⁷ [REDACTED].

²⁸ [REDACTED].

²⁹ *Lubanga*, Prior Recorded Statements Decision, [ICC-01/04-01/06-1603](#), para. 25; *Lubanga*, Hearing Transcript, [ICC-01/04-01/06-T-205-Red3-ENG](#), p. 19, l. 11 *et seq*; *Katanga*, Prior Recorded Testimony Decision, [ICC-01/04-01/07-2233-Corr](#), paras. 16-17; *Ntaganda*, Hearing Transcript, [ICC-01/04-02/06-T-110-Red2-ENG](#), p. 34, l. 8-13; *Gbabgo & Blé Goude*, Annex A to Decision Adopting Amended and Supplemented Conduct of Proceedings Directions, [ICC-02/11-01/15-498-AnxA](#), para. 40.

(ii) *Prior Recorded Testimony of P-0673*

14. The Prosecution seeks to submit into evidence P-0673's prior recorded testimony consisting of one witness statement including the associated material listed in Annex A (A2) to this Application. P-0673's prior recorded testimony consists of one witness statement³⁰ and four associated items that relate to information and events discussed in the statement.³¹ P-0673's prior recorded testimony is relevant to, *inter alia*, the identity and physical description of Mr Abd-Al-Rahman,³² the contextual elements of crimes against humanity³³ and the charged crimes of persecution (Counts 11, 21 and 31)³⁴ and murder in Deleig in March 2004 (Counts 27-28).³⁵

15. P-0673, a Fur civilian, provides direct eyewitness testimony regarding a speech by Ahmad Harun ("Harun") in Mukjar market in August 2003 in which he called for the murder of the Fur because they were rebels.³⁶ P-0673 also provides information on Mr Abd-Al-Rahman ordering Government of Sudan ("GoS") Forces and the Militia/*Janjaweed* to arrest [REDACTED] in Garsila, and their possible murder in Deleig along with other people, in March 2004.³⁷

16. P-0673's associated material consists of: (a) a hand drawn sketch depicting a compound that P-0673 lived in;³⁸ (b) a hand drawn sketch depicting two pick-up trucks seen by P-0673;³⁹ (c) a hand drawn sketch depicting a stick that P-0673 states was carried by Mr Abd-Al-Rahman;⁴⁰ and (d) a signed acknowledgment by P-0673, [REDACTED].⁴¹

³⁰ [REDACTED].

³¹ [REDACTED].

³² [REDACTED].

³³ [REDACTED].

³⁴ [REDACTED]; [Confirmation Decision](#), p. 68-70.

³⁵ [Confirmation Decision](#), p. 70.

³⁶ [REDACTED].

³⁷ [REDACTED].

³⁸ [REDACTED]. *See also*: [REDACTED].

³⁹ [REDACTED]. *See also*: [REDACTED].

⁴⁰ [REDACTED]. *See also*: [REDACTED].

⁴¹ [REDACTED].

The Prosecution requests one hour for its limited supplementary examination of P-0673

17. Should P-0673's prior recorded testimony be introduced into evidence, the Prosecution requires approximately one hour to conduct a supplementary *viva voce* examination, in accordance with rule 68(3) of the Rules and the prior jurisprudence of this Court.⁴²

18. In its limited *viva voce* examination, the Prosecution would seek to clarify important aspects of P-0673's evidence, including in particular: (a) the time, location and the content of Harun's speech; (b) P-0673's knowledge related to the identification and physical description of Mr Abd-Al-Rahman during the arrest [REDACTED]; and (c) further details regarding the possible murder of people in Deleig, [REDACTED].

19. The Prosecution estimates that it would require three hours for direct examination of P-0673 if his prior recorded testimony is not introduced into evidence under rule 68(3). If the Chamber grants this Application, the one hour required for the limited supplementary *viva voce* examination of P-0673 would shorten the in-court testimony by two hours.

(iii) Prior Recorded Testimony of P-0843

20. The Prosecution seeks to submit into evidence P-0843's prior recorded testimony consisting of one witness statement including the associated material listed in Annex A (A3) to this Application. P-0843's prior recorded testimony consists of one witness statement⁴³ and twelve associated items that relate to information and events discussed in the statement.⁴⁴ P-0843's prior recorded testimony is relevant to, *inter alia*, the contextual elements of crimes against humanity,⁴⁵ the modes of individual criminal

⁴² See FN 29.

⁴³ [REDACTED].

⁴⁴ [REDACTED].

⁴⁵ [REDACTED].

responsibility for Mr Abd-Al-Rahman⁴⁶ and the charged crimes of persecution (Counts 11, 21 and 31).⁴⁷

21. P-0843, a [REDACTED], provides evidence in relation to the GoS Forces in Garsila during the period relevant to the charges.⁴⁸ P-0843 also provides direct eyewitness testimony regarding Mr Abd-Al-Rahman's identity and background,⁴⁹ as well as his position as a Militia/*Janjaweed* leader,⁵⁰ including his central role in the GoS use of public resources to arm and fund the Militia/*Janjaweed*.⁵¹ P-0843 also provides direct eyewitness testimony regarding Mr Abd-Al-Rahman's use of discriminatory language towards members of the Fur tribe during a public speech in Garsila in early 2003.⁵² In addition, P-0843 provides evidence in relation to the arrest of community leaders in Garsila who never returned⁵³ and evidence in relation to rape [REDACTED].⁵⁴ P-0843 further provides evidence in relation to [REDACTED].⁵⁵

22. P-0843's associated material consists of: (a) [REDACTED];⁵⁶ (b) a hand drawn sketch of a type of gun that P-0843 saw Mr Abd-Al-Rahman carrying;⁵⁷ (c) a hand written note of what P-0843 heard Abd-Al-Rahman say in a speech;⁵⁸ (d) [REDACTED];⁵⁹ (e) a hand drawn sketch depicting various locations in Garsila town;⁶⁰ and (f) two transcripts (and their English translations) of video interviews made by and featuring P-0843.⁶¹

⁴⁶ [REDACTED].

⁴⁷ [REDACTED].

⁴⁸ [REDACTED].

⁴⁹ [REDACTED].

⁵⁰ [REDACTED].

⁵¹ [REDACTED].

⁵² [REDACTED].

⁵³ [REDACTED].

⁵⁴ [REDACTED].

⁵⁵ [REDACTED].

⁵⁶ [REDACTED].

⁵⁷ [REDACTED]. *See also:* [REDACTED].

⁵⁸ [REDACTED]. *See also:* [REDACTED].

⁵⁹ [REDACTED]. *See also:* [REDACTED].

⁶⁰ [REDACTED]. *See also:* [REDACTED].

⁶¹ [REDACTED]. The Prosecution intends to only rely upon the transcripts of the video and their English translations. As such, the Prosecution will not seek to introduce into evidence the two corresponding videos ([REDACTED]).

The Prosecution requests one hour for its limited supplementary examination of P-0843

23. Should P-0843's prior recorded testimony be introduced into evidence, the Prosecution requires approximately one hour to conduct a supplementary *viva voce* examination, in accordance with rule 68(3) of the Rules and the prior jurisprudence of this Court.⁶²

24. In its limited *viva voce* examination, the Prosecution would seek to clarify important aspects of P-0843's evidence, including in particular: (a) P-0843's knowledge of Mr Abd-Al-Rahman's identity, background and his position as a leader of the Militia/*Janjaweed*; (b) P-0843's knowledge of Mr Abd-Al-Rahman's role in GoS funding and arming the Militia/*Janjaweed*; (c) further details regarding the arrest of community leaders in Garsila and their alleged execution; and (d) P-0843's knowledge about victims of rape; and (e) P-0843's direct interactions with Mr Abd-Al-Rahman.

25. The Prosecution estimates that it would require three hours for direct examination of P-0843 if her prior recorded testimony is not introduced into evidence under rule 68(3). If the Chamber grants this Application, the one hour required for the limited supplementary *viva voce* examination of P-0843 would shorten the in-court testimony by two hours.

(iv) Prior Recorded Testimony of P-0954

26. The Prosecution seeks to submit into evidence P-0954's prior recorded testimony, including the associated material listed in Annex A (A4) to this Application. P-0954's prior recorded testimony consists of one witness statement⁶³ and one associated item that relates to information and events discussed in the statement.⁶⁴

⁶² See FN 29.

⁶³ [REDACTED].

⁶⁴ [REDACTED].

27. P-0954's prior recorded testimony is relevant to, *inter alia*, establishing Mr Abd-Al-Rahman's identity,⁶⁵ the contextual elements of war crimes⁶⁶ and crimes against humanity⁶⁷ and modes of individual criminal responsibility for Mr Abd-Al-Rahman.⁶⁸

28. P-0954, [REDACTED], provides testimony regarding Mr Abd-Al-Rahman's background,⁶⁹ their direct interactions,⁷⁰ Mr Abd-Al-Rahman's position of authority in the Militia/*Janjaweed*⁷¹ and his areas of operation including Bindisi, Kodoom, Garsila, Mukjar and Deleig.⁷² P-0954 also provides testimony on the support of the GoS for the Militia/*Janjaweed* with weapons, ammunition and clothing,⁷³ including the PDF arming and funding Militia/*Janjaweed* under Mr Abd-Al-Rahman's command.⁷⁴

29. In addition, P-0954 provides information [REDACTED].⁷⁵ [REDACTED].⁷⁶ P-0954's associated material consists of a handwritten sketch of [REDACTED].⁷⁷

The Prosecution requests two hours for its limited supplementary examination of P-0954

30. Should P-0954's prior recorded testimony be introduced into evidence, the Prosecution requires approximately two hours⁷⁸ to conduct a supplementary *viva voce* examination, in accordance with rule 68(3) of the Rules and the prior jurisprudence of this Court.⁷⁹

⁶⁵ [REDACTED].

⁶⁶ [REDACTED].

⁶⁷ [REDACTED].

⁶⁸ [REDACTED].

⁶⁹ [REDACTED].

⁷⁰ [REDACTED].

⁷¹ [REDACTED].

⁷² [REDACTED].

⁷³ [REDACTED].

⁷⁴ [REDACTED].

⁷⁵ [REDACTED].

⁷⁶ [REDACTED].

⁷⁷ [REDACTED].

⁷⁸ As an exception, the Prosecutor has requested two hours rather than one for this proposed Rule 68(3) witness. The additional time requested is intended to provide sufficient time to fully explore important aspects of P-0954's evidence, in particular, P-0954's interactions with and knowledge about Mr Abd-Al-Rahman, which are succinctly detailed in P-0954's short 16 page statement.

⁷⁹ See FN 29.

31. In its limited *viva voce* examination, the Prosecution would seek to clarify important aspects of P-0954's evidence, including in particular: (a) [REDACTED]; (b) P-0954's basis of knowledge regarding Mr Abd-Al-Rahman's position of authority and area of operations; (c) [REDACTED]; and (d) P-0954's direct interactions with Mr Abd-Al-Rahman.

32. The Prosecution estimates that it would require five hours for direct examination of P-0954 if his prior recorded testimony is not introduced into evidence under rule 68(3). If the Chamber grants this Application, the two hours required for limited supplementary *viva voce* examination of P-0954 would shorten the in-court testimony by three hours.

B. *The Prior Recorded Testimonies of the Four Witnesses are cumulative and corroborative of evidence to be provided by viva voce witnesses*

33. The Prior Recorded Testimonies of the Four Witnesses on the identity of Mr Abd-Al-Rahman, the contextual elements of war crimes and crimes against humanity, the modes of individual criminal responsibility for Mr Abd-Al-Rahman and the charged crimes of persecution (Counts 11, 21 and 31) and murder in Deleig in March 2004 (Counts 27-28) are cumulative in nature and are corroborative of the evidence provided by *viva voce* witnesses,⁸⁰ as described in the paragraphs below.

34. The evidence provided by P-0657 regarding Mr Abd-Al-Rahman's [REDACTED], physical description, [REDACTED] is cumulative to, and corroborated by, in particular, P-0589, P-0643, P-0874, P-0879, P-0905, P-0907, P-0932, P-0955, P-0973, P-0986, P-0987, P-0990 and P-0994, who will provide *viva voce* testimony.

35. The evidence provided by P-0673 regarding the identity and physical description of Mr Abd-Al-Rahman, the contextual elements of crimes against humanity and the charged crimes of persecution and murder in Deleig in March 2004

⁸⁰ See Bemba, Rule 68 Appeals Decision, [ICC-01/05-01/08-1386](#), para. 78.

is cumulative to, and corroborated by, in particular, P-0012, P-0015 and P-0878, who will provide *viva voce* testimony.

36. The evidence provided by P-0843 regarding the contextual elements of crimes against humanity, the modes of individual criminal responsibility for Mr Abd-Al-Rahman and the charged crime of persecution is cumulative to, and corroborated by, in particular, P-0012, P-0041, P-0547, P-0589, P-0883, P-0984 and P-1021, who will provide *viva voce* testimony.

37. The evidence provided by P-0954 regarding Mr Abd-Al-Rahman's identity, the contextual elements of war crimes and crimes against humanity and the modes of individual criminal responsibility for Mr Abd-Al-Rahman is cumulative to, and corroborated by, in particular, P-0011, P-0103, P-0117, P-0131, P-0140, P-0547, P-0584, P-0591, P-0643, P-0671, P-0769, P-0874, P-0883, P-0885, P-0905, P-0921, P-0935, P-0973, P-0976, P-0984, P-0992, P-0994 and P-1021, who will provide *viva voce* testimony.

38. Moreover, the Defence and the Prosecution have agreed on at least 19 facts related to Mr Abd-Al-Rahman's background that corroborate the testimony of P-0657, P-0673 and P-0954,⁸¹ including his service in the SAF until around the early to middle 1990s, and ownership of a shop in Garsila from which he sold medication.⁸²

C. The introduction of the Prior Recorded Testimonies of the Four Witnesses is not prejudicial to or inconsistent with the rights of Mr Abd-Al-Rahman

39. The introduction into evidence of the Prior Recorded Testimonies of the Four Witnesses would not be prejudicial to or inconsistent with the rights of Mr Abd-Al-Rahman.

40. The Prosecution consulted the Defence regarding its application to submit the Prior Recorded Testimonies of the Four Witnesses into evidence pursuant to rule 68(3). However, the Defence do not agree to the use of rule 68(3) for these witnesses, and do

⁸¹ Agreed Facts 1-19, Annex A to Third Joint Submission on Agreed Facts, [ICC-02/05-01/20-504-AnxA](#).

⁸² Agreed Facts 10-11, [Annex A to Third Joint Submission on Agreed Facts](#).

not provide a reason for this opposition.⁸³ The mere lack of agreement from the Defence does not prevent the introduction of the Prior Recorded Testimonies, nor does it necessarily follow that their introduction would be prejudicial to or inconsistent with the rights of Mr Abd-Al-Rahman.⁸⁴

41. Rule 68(3) does not preclude the admission of evidence which goes to the acts and conduct of Mr Abd-Al-Rahman for charged crimes.⁸⁵ As required by rule 68(3), each witness will be present before the Chamber, their evidence will only be introduced if he or she does not object and the Defence will have the opportunity to examine each witness during the proceedings.⁸⁶

D. The Prior Recorded Testimonies of the Four Witnesses are relevant, reliable and probative to the case

42. The Prior Recorded Testimonies that the Prosecution seeks to introduce into evidence pursuant to rule 68(3) of the Rules are relevant, reliable and probative.⁸⁷

43. In addition to being mainly corroborative in nature and internally consistent, the Prior Recorded Testimonies of all Four Witnesses bear other formal *indicia* of reliability for introduction into evidence in accordance with prior jurisprudence of the Court.⁸⁸ All Four Witnesses have signed their witness statements attesting to the fact that they were given voluntarily and are true to their best knowledge and recollection.⁸⁹ The Prior Recorded Testimonies for P-0657, P-0843 and P-0954 also contain interpreters' signatures and certifications that the interviews were orally translated into a language that they speak and understand.⁹⁰

⁸³ Email from the Defence to the Prosecution, [REDACTED].

⁸⁴ *Ongwen*, Rule 68(2)(b) Decision on Defence Witnesses, [ICC-02/04-01/15-1322-Red](#), paras. 6-7, 9-10.

⁸⁵ *Gbagbo & Blé Goudé*, Rule 68 Appeals Decision, [ICC-02/11-01/15-744](#), para. 69.

⁸⁶ Rule 68(3) of the Rules.

⁸⁷ See paras. 3, 9-10, 14-16, 20-22, 26-29 above.

⁸⁸ *Ntaganda*, Rule 68(3) Preliminary Ruling, [ICC-01/04-02/06-1640-Red](#), para. 9.

⁸⁹ [REDACTED].

⁹⁰ [REDACTED]. The witness statement for P-0673 does not include an interpreter's signature and certification because he was interviewed in English, which P-0673 fully speaks and understands.

IV. CONCLUSION

44. For the foregoing reasons, the Prosecution requests that the Chamber grant the Application subject to the fulfilment of the further conditions of rule 68(3) of the Rules.



Karim A. A. Khan QC

Prosecutor

Dated this 24th day of January 2022

At The Hague, The Netherlands