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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 sixth application under rule 68(3) to introduce into evidence prior recorded testimony of 21 witnesses”, 3 February 2022, ICC-02/05-01/20-580-Conf

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I. INTRODUCTION

1. Pursuant to articles 64(2), 67(1)(c), 69(2) and (4) of the Rome Statute, and rule 68(1) and (3) of the Rules of Procedure and Evidence, the Prosecution requests Trial Chamber I (“Chamber”) to (i) introduce into evidence the statements and associated material (“Prior Recorded Testimonies”)¹ of witnesses P-0027, P-0059, P-0060, P-0091, P-0106, P-0119, P-0585, P-0592, P-0607, P-0617, P-0651, P-0697, P-0712, P-0725, P-0726, P-0736, P-0850, P-0894, P-0895, P-0926 and P-0980 (“Twenty-One Witnesses”), and (ii) grant one hour for the supplementary examination of each of the Twenty-One Witnesses (“Application”).²

2. The Prior Recorded Testimonies of the Twenty-One Witnesses relate primarily to the charged crimes in Deleig and surrounding areas (Counts 22 to 31),³ and are relevant, reliable and probative.

3. Granting the Application will enhance the expeditiousness of the proceedings by reducing the length of the in-court testimony of the Twenty-One Witnesses from 70.5 hours to 21 hours, thus saving approximately 49.5 hours of court time.

4. Furthermore, the introduction into evidence of the Prior Recorded Testimonies would not be prejudicial to or inconsistent with the rights of the Accused since the Twenty-One Witnesses will be available for examination by the Defence and the Chamber.

II. CLASSIFICATION

5. Pursuant to regulation 23*bis*(1) of the Regulations of the Court, this Application and Annex A are classified as confidential, since they contain information that may

¹ Annex A (A1 to A21) lists the Prior Recorded Testimonies of the Twenty-One Witnesses, which comprise their witness statements (at I) and associated material (at II). The material related to the witness’s prior recorded testimony, without which the testimony would not be understandable, but which the Prosecution does not seek to introduce into evidence, is also 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. See also Transcript of hearing on 12 November 2021, [ICC-02/05-01/20-T-017-CONF-ENG](#), p. 28, l. 21-p. 29, l. 14.

³ See Confirmation Decision, [ICC-02/05-01/20-433-Corr](#), paras. 106-114 and p. 63-67, 69-70.

identify the Twenty-One Witnesses. A public redacted version of the Application will be filed as soon as practicable.

III. SUBMISSIONS

6. The Prosecution relies on its previous submissions in relation to 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 rule 68(3) application.⁴

7. The Prosecution seeks one hour to conduct a focussed supplementary examination in relation to each of the Twenty-One Witnesses. This time estimate is consistent with the prior jurisprudence of the Court.⁵

8. Should the request to conduct a supplementary examination be granted, the Prosecution would elicit further focussed *viva voce* evidence on certain issues that require clarification or elaboration, as indicated below. The Prosecution will ensure that the Twenty-One Witnesses are not asked to merely repeat information already provided in their Prior Recorded Testimonies.

A. Overview of the Prior Recorded Testimonies of the Twenty-One Witnesses

9. As noted above, the Prior Recorded Testimonies of the Twenty-One Witnesses relate primarily to the charged crimes in Deleig and surrounding areas, between about 5 and about 7 March 2004 (Counts 22 to 31).⁶ The Twenty-One Witnesses are direct eye-witnesses to the Deleig incident and/or related events, with the exception of P-0059, P-0091, P-0119, P-0894 and P-0895, who provide more limited evidence with respect to the Deleig incident, as well as other aspects of the case. The specific relevance

⁴ First Rule 68(3) Application, [ICC-02/05-01/20-547-Conf](#), paras. 7-10. *See also* First Rule 68(3) Decision, [ICC-02/05-01/20-559-Red](#), paras. 7-17.

⁵ *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.

⁶ Given the interconnected nature of the facts and circumstances relevant to establishing the Deleig incident, the Prosecution has not indicated the relevance of the Twenty-One Witnesses by reference to specific counts.

of the evidence provided by the Twenty-One Witnesses to the case is summarised in this section.

(i) *Prior recorded testimony of P-0027*

10. P-0027, a Fur civilian, provides evidence on the rebel attack on Arawala police station in July 2003,⁷ and the refusal of the Government of Sudan (“GoS”) to provide weapons to Fur *umdahs* and *sheikhs* for self-defence.⁸ P-0027 describes the attacks by GoS Forces⁹ and the Militia/*Janjaweed* on Baya and Arawala,¹⁰ [REDACTED].¹¹ P-0027 states that the GoS Forces and Militia/*Janjaweed* surrounded Deleig on 5 March 2004, and searched for and arrested males displaced to Deleig,¹² who were then detained, mistreated and verbally abused outside Deleig police station.¹³ P-0027 states that Mr Abd-Al-Rahman was present outside the Deleig police station, where he physically and verbally mistreated the detainees, and was also present during the loading of detainees onto vehicles that transported them outside of Deleig.¹⁴ P-0027 gives evidence about the presence in Deleig of co-perpetrators, Mussadig Hassan Mansur and Abd-Al-Mun’im.¹⁵ P-0027 also saw the convoy carrying detainees, including several community leaders, with Mr Abd-Al-Rahman in Deleig on 7 March 2004.¹⁶ Finally, P-0027 describes [REDACTED].¹⁷

11. P-0027’s prior recorded testimony¹⁸ includes three witness statements, which were taken by the Prosecution in February 2006, November 2020 and December 2021, respectively.¹⁹ The second interview with P-0027 was conducted to allow him to clarify

⁷ P-0027, DAR-OTP-0094-0091 at 0095-0096, paras. 15-18.

⁸ P-0027, DAR-OTP-0094-0091 at 0097, paras. 21-23, 25.

⁹ The term GoS Forces includes the Sudanese Armed Forces (“SAF”), Popular Defence Forces (“PDF”), Central Reserve Forces (“CRF”), Popular Police Forces (“PPF”) and the Sudanese Police (“Police”).

¹⁰ P-0027, DAR-OTP-0094-0091 at 0099-0101, paras. 33-39.

¹¹ P-0027, DAR-OTP-0094-0091 at 0102, para. 44.

¹² P-0027, DAR-OTP-0094-0091 at 0103, paras. 48-49.

¹³ P-0027, DAR-OTP-0094-0091 at 0103, para. 50 and 0105, para. 58; P-0027, DAR-OTP-0216-0738 at 0741, paras. 14-15.

¹⁴ P-0027, DAR-OTP-0094-0091 at 0107, para. 65; P-0027, DAR-OTP-0216-0738 at 0741-0742, paras. 14-17.

¹⁵ P-0027, DAR-OTP-0094-0091 at 0105, para. 56 (P-0027’s reference to “Musadig” is understood to be a reference to Mussadiq Hassan Mansur).

¹⁶ P-0027, DAR-OTP-0094-0091 at 0107, para. 64; P-0027, DAR-OTP-0216-0738 at 0742-0743, paras. 21-24.

¹⁷ P-0027, DAR-OTP-0094-0091 at 0104-0107, paras. 55-58, 62-63 and 0111-0113, paras. 82-88.

¹⁸ Annex A1, p. 1-4.

¹⁹ DAR-OTP-0094-0091; DAR-OTP-0216-0738; DAR-OTP-0223-0105.

and expand on several topics covered in his first statement.²⁰ The third interview was conducted to allow P-0027 to comment on information recorded in notes of a meeting between P-0027 and Prosecution investigators in 2005,²¹ and to supplement if necessary the evidence provided in his first and second statements.²²

12. P-0027's associated material consists of: (i) 8 photographs and 2 short videos (2 to 3 seconds) taken during P-0027's first interview, showing scarring to his body resulting from injuries described in his statement;²³ (ii) an investigator's report explaining the process by which P-0027's second statement was taken by video conference;²⁴ (iii) photographs of P-0027's identification documents;²⁵ (iv) 15 photographs taken during P-0027's third interview, showing in better quality and more comprehensively the scarring to his body resulting from the injuries described in his statements;²⁶ and (v) a medical certificate outlining P-0027's medical history.²⁷

The Prosecution requests one hour for its limited supplementary examination of P-0027

13. The Prosecution seeks one hour to ask further questions of P-0027 on topics including: (i) the further information and clarifications provided by P-0027 to the Prosecution on 13 January 2022;²⁸ (ii) the presence and role of Mr Abd-Al-Rahman during the Deleig incident; (iii) his sighting of the convoy containing detainees, including several community leaders, in Deleig on 7 March 2004; (iv) [REDACTED]; and (v) any lasting medical issues experienced by P-0027 as a result of the events described in his statements.

²⁰ DAR-OTP-0216-0738.

²¹ DAR-OTP-0194-1718.

²² DAR-OTP-0223-0105.

²³ Photographs: DAR-OTP-0194-2431; DAR-OTP-0194-2432; DAR-OTP-0194-2433; DAR-OTP-0194-2434; DAR-OTP-0194-2435; DAR-OTP-0194-2436; DAR-OTP-0194-2437; DAR-OTP-0194-2438. Videos: DAR-OTP-0194-2503; DAR-OTP-0194-2504.

²⁴ DAR-OTP-0216-0749.

²⁵ DAR-OTP-0223-0122.

²⁶ DAR-OTP-0219-8535; DAR-OTP-0219-8536; DAR-OTP-0219-8537; DAR-OTP-0219-8538; DAR-OTP-0219-8539; DAR-OTP-0223-0134; DAR-OTP-0223-0135; DAR-OTP-0223-0136; DAR-OTP-0223-0137; DAR-OTP-0223-0138; DAR-OTP-0223-0139; DAR-OTP-0223-0140; DAR-OTP-0223-0141; DAR-OTP-0223-0142; DAR-OTP-0223-0143.

²⁷ DAR-OTP-0223-0127.

²⁸ See Investigation report, DAR-OTP-0220-1524 (Annex A1, p. 4).

14. If his prior recorded testimony is not introduced under rule 68(3), the Prosecution estimates that it would require 4.5 hours for the direct examination of P-0027. The introduction of P-0027's prior recorded testimony under rule 68(3) would therefore shorten his in-court testimony by approximately 3.5 hours.

(ii) *Prior recorded testimony of P-0059*

15. P-0059, a Fur [REDACTED], provides evidence about members of the Fur and Masalit tribes being denied access to GoS resources that were being allocated to members of Arab tribes.²⁹ P-0059 refers to Mr Abd-Al-Rahman's role as the Militia/*Janjaweed* commander in Wadi Salih.³⁰ P-0059 [REDACTED].³¹ P-0059 [REDACTED].³²

16. P-0059's prior recorded testimony³³ comprises one statement,³⁴ and associated material consisting of: (i) a sketch drawn by P-0059 of [REDACTED] showing some of the locations mentioned in his statement;³⁵ (ii) a sketch drawn by P-0059 of [REDACTED] showing some of the locations mentioned in his statement;³⁶ (iii) a sketch drawn by P-0059 during the interview;³⁷ (iv) a sketch drawn by P-0059 of an axe with which he was beaten;³⁸ and (v) 18 photographs taken of P-0059 during his interview showing his height and scarring to his body.³⁹

²⁹ P-0059, DAR-OTP-0095-0095 at 0099, para. 17.

³⁰ P-0059, DAR-OTP-0095-0095 at 0113, para. 120.

³¹ P-0059, DAR-OTP-0095-0095 at 0115, para. 129.

³² P-0059, DAR-OTP-0095-0095 at 0115-0117, paras. 131-144.

³³ Annex A2, p. 5-7.

³⁴ DAR-OTP-0095-0095.

³⁵ DAR-OTP-0095-0120.

³⁶ DAR-OTP-0095-0122.

³⁷ DAR-OTP-0095-0124.

³⁸ DAR-OTP-0095-0126.

³⁹ DAR-OTP-0095-0131; DAR-OTP-0095-0133; DAR-OTP-0095-0134; DAR-OTP-0095-0135; DAR-OTP-0095-0136; DAR-OTP-0095-0137; DAR-OTP-0095-0138; DAR-OTP-0095-0139; DAR-OTP-0095-0140; DAR-OTP-0095-0141; DAR-OTP-0095-0142; DAR-OTP-0095-0143; DAR-OTP-0095-0144; DAR-OTP-0095-0145; DAR-OTP-0095-0146; DAR-OTP-0095-0147; DAR-OTP-0095-0148; DAR-OTP-0095-0149.

The Prosecution requests one hour for its limited supplementary examination of P-0059

17. The Prosecution seeks one hour to ask further questions of P-0059 on topics including: (i) [REDACTED]; (ii) [REDACTED]; and (iii) his knowledge of and interactions with Mr Abd-Al-Rahman.

18. If his prior recorded testimony is not introduced under rule 68(3), the Prosecution estimates that it would require three hours for the direct examination of P-0059. The introduction of P-0059's prior recorded testimony under rule 68(3) would therefore shorten his in-court testimony by approximately two hours.

(iii) Prior recorded testimony of P-0060

19. P-0060, a Fur civilian [REDACTED], provides evidence on the background of the armed conflict in Darfur⁴⁰ and the role of GoS Forces in training members of the Militia/*Janjaweed*.⁴¹ P-0060 refers to the structure and presence of GoS Forces in Garsila and neighbouring villages,⁴² and the cooperation of Mr Abd-Al-Rahman with GoS Officials⁴³ to distribute weapons to the Militia/*Janjaweed* in Garsila.⁴⁴ P-0060 provides information on attacks on villages around Garsila by GoS Forces and Militia/*Janjaweed*.⁴⁵ P-0060 [REDACTED].⁴⁶ P-0060 also provides evidence about Mr Abd-Al-Rahman's presence and participation in the Deleig operation.⁴⁷ Finally, P-0060 provides evidence relating to the identity and background of Mr Abd-Al-Rahman, and his position as a senior leader of the Militia/*Janjaweed*.⁴⁸

20. P-0060's prior recorded testimony⁴⁹ comprises one statement,⁵⁰ and associated material consisting of: (i) four maps drawn by P-0060 of locations mentioned in his

⁴⁰ P-0060, DAR-OTP-0097-0328 at 0332-0333, paras. 15-17.

⁴¹ P-0060, DAR-OTP-0097-0328 at 0335-0336, paras. 26-27.

⁴² P-0060, DAR-OTP-0097-0328 at 0331-0332, paras. 12-14.

⁴³ The term GoS Officials refers to civilian officials of the GoS.

⁴⁴ P-0060, DAR-OTP-0097-0328 at 0333-0334, paras. 19-20.

⁴⁵ P-0060, DAR-OTP-0097-0328 at 0337-0338, paras. 32-34.

⁴⁶ P-0060, DAR-OTP-0097-0328 at 0341-0342, paras. 51-56.

⁴⁷ P-0060, DAR-OTP-0097-0328 at 0342, paras. 53-56.

⁴⁸ P-0060, DAR-OTP-0097-0328 at 0333-0334, paras. 19, 22.

⁴⁹ Annex A3, p. 8-9.

⁵⁰ DAR-OTP-0097-0328.

statement;⁵¹ (ii) two sketches drawn by P-0060 of weapons and vehicles used by Militia/*Janjaweed* and/or GoS Forces;⁵² (iii) an index of the annexes to P-0060's statement;⁵³ (iv) four photographs taken during P-0060's interview, showing scarring to his body resulting from injuries described in his statement;⁵⁴ and (v) an investigator's note explaining that reference to the witness's previous meeting with an investigator was subsequently added to the statement.⁵⁵

The Prosecution requests one hour for its limited supplementary examination of P-0060

21. The Prosecution seeks one hour to ask further questions of P-0060 on topics including: (i) the identity and background of Mr Abd-Al-Rahman, his appointment as *agid al-ogada* and his links with GoS Officials; (ii) the role of GoS Forces in providing support, including weapons and training, to members of Militia/*Janjaweed*; (iii) [REDACTED]; and (iv) the killing of males outside of Deleig, [REDACTED].

22. If his prior recorded testimony is not introduced under rule 68(3), the Prosecution estimates that it would require 4.5 hours for the direct examination of P-0060. The introduction of P-0060's prior recorded testimony under rule 68(3) would therefore shorten his in-court testimony by approximately 3.5 hours.

(iv) Prior recorded testimony of P-0091

23. P-0091, a male [REDACTED], provides evidence on the location of rebel military bases in Darfur and rebel attacks on GoS military bases.⁵⁶ P-0091 also provides information on the PDF⁵⁷ and GoS recruitment, training, arming and funding of the Militia/*Janjaweed*.⁵⁸ P-0091 refers to Mr Abd-Al-Rahman's position of authority in the Militia/*Janjaweed*,⁵⁹ and his collaboration with GoS Officials including, in particular,

⁵¹ DAR-OTP-0097-0350; DAR-OTP-0097-0351; DAR-OTP-0097-0354; DAR-OTP-0097-0355 (Translations at DAR-OTP-0153-1589).

⁵² DAR-OTP-0097-0352; DAR-OTP-0097-0353 (Translations at DAR-OTP-0153-1589).

⁵³ DAR-OTP-0097-0348.

⁵⁴ DAR-OTP-0097-0358; DAR-OTP-0097-0359; DAR-OTP-0097-0360; DAR-OTP-0097-0361.

⁵⁵ DAR-OTP-0097-0362.

⁵⁶ P-0091, DAR-OTP-0112-0142 at 0162, para. 99.

⁵⁷ P-0091, DAR-OTP-0112-0142 at 0146-0147, paras. 17-20.

⁵⁸ P-0091, DAR-OTP-0112-0142 at 0152-0156, paras. 49-66.

⁵⁹ P-0091, DAR-OTP-0112-0142 at 0150-0151, paras. 41, 43 and 0159, para. 80 and 0161, para. 91.

Ja'afar Abd-Al-Hakam ("Abd-Al-Hakam") in relation to the distribution of weapons.⁶⁰ Finally, P-0091 provides information he received [REDACTED] in relation Mr Abd-Al-Rahman's involvement in the arrest, detention and killing of 123 males in Deleig in March 2004.⁶¹

24. P-0091's prior recorded testimony⁶² comprises one statement,⁶³ and associated material consisting of: (i) a sketch drawn by P-0091 of [REDACTED] showing some of the locations mentioned in his statement.⁶⁴

The Prosecution requests one hour for its limited supplementary examination of P-0091

25. The Prosecution seeks one hour to ask further questions of P-0091 on topics including: (i) information regarding the PDF; (ii) the distribution of weapons, the financing and military training of the Militia/*Janjaweed*; (iii) the identity and background of Mr Abd-Al-Rahman, his role within the Militia/*Janjaweed* and his collaboration with GoS Officials and (iv) the information he received about the detention and execution of males in Deleig in March 2004.

26. If his prior recorded testimony is not introduced under rule 68(3), the Prosecution estimates that it would require 4.5 hours for the direct examination of P-0091. The introduction of P-0091's prior recorded testimony under rule 68(3) would therefore shorten his in-court testimony by approximately 3.5 hours.

(v) *Prior recorded testimony of P-0106*

27. P-0106, a Fur cattle herder and farmer, provides evidence in relation to Mr Abd-Al-Rahman's identity and background, and position of authority as a leader of the Militia/*Janjaweed*.⁶⁵ P-0106 provides evidence about Mr Abd-Al-Rahman's participation in the mistreatment of detained Fur males by the Militia/*Janjaweed* in

⁶⁰ P-0091, DAR-OTP-0112-0142 at 0155, para. 61 and 0159-0160, para. 81.

⁶¹ P-0091, DAR-OTP-0112-0142 at 0163, para. 102.

⁶² Annex A4, p. 10.

⁶³ DAR-OTP-0112-0142.

⁶⁴ DAR-OTP-0112-0168 (Translation at DAR-OTP-0153-0327).

⁶⁵ P-0106, DAR-OTP-0116-1005 at 1011, paras. 24-27 and 1014, para. 45.

Deleig⁶⁶ and his presence and supervision during the loading of detainees onto vehicles that drove out of Deleig in different directions.⁶⁷ P-0106 also describes the presence and activities of the Police, PDF and Popular Police Forces (“PPF”) around Garsila and Amar.⁶⁸ P-0106 provides information in relation to the attacks on Bindisi, Mara, Arawala and Sindu.⁶⁹ P-0106 also describes the use of public resources to arm Militia/*Janjaweed* while denying such access to members of the Fur tribe.⁷⁰ P-0106 recounts Mr Abd-Al-Rahman’s direct involvement in coordinating and participating in the distribution of weapons and other military equipment to Militia/*Janjaweed*, in particular, around the same time of armed operations in August 2003.⁷¹

28. P-0106’s prior recorded testimony⁷² comprises one statement.⁷³

The Prosecution requests one hour for its limited supplementary examination of P-0106

29. The Prosecution seeks one hour to ask further questions of P-0106 on topics including: (i) the identity and background of Mr Abd-Al-Rahman, his position of authority, and his cooperation with GoS Officials; (ii) the attack on Bindisi in August 2003; (iii) the arrest, detention and killing of males in Deleig.

30. If his prior recorded testimony is not introduced under rule 68(3), the Prosecution estimates that it would require three hours for the direct examination of P-0106. The introduction of P-0106’s prior recorded testimony under rule 68(3) would therefore shorten his in-court testimony by approximately two hours.

(vi) *Prior recorded testimony of P-0119*

31. P-0119, a Fur [REDACTED], provides evidence on the background of the armed conflict in Darfur⁷⁴ and information about the Militia/*Janjaweed*, PDF, PPF and Central

⁶⁶ P-0106, DAR-OTP-0116-1005 at 1019, para. 70.

⁶⁷ P-0106, DAR-OTP-0116-1005 at 1019-1020, paras. 72-74.

⁶⁸ P-0106, DAR-OTP-0116-1005 at 1009-1011, paras. 16-23.

⁶⁹ P-0106, DAR-OTP-0116-1005 at 1013, paras. 34-39 and 1015-1018, paras. 51-67.

⁷⁰ P-0106, DAR-OTP-0116-1005 at 1012, paras. 31-33.

⁷¹ P-0106, DAR-OTP-0116-1005 at 1012, paras. 31-33.

⁷² Annex A5, p. 11.

⁷³ DAR-OTP-0116-1005.

⁷⁴ P-0119, DAR-OTP-0124-0196 at 0205-0208, paras. 44-63.

Reserve Forces (“CRF”).⁷⁵ P-0119 refers to the GoS equipping and funding the Militia/*Janjaweed* [REDACTED].⁷⁶ P-0119 provides information about the arrest, detention and killing of men in Deleig,⁷⁷ which he received from, among others, [REDACTED].⁷⁸ The information he received implicates Mr Abd-Al-Rahman and Lieutenant Hamdi Sharaf-Al-Din Sid Ahmad (“Hamdi”) in the Deleig executions.⁷⁹ Finally the witness provides evidence about the identity and background of Mr Abd-Al-Rahman.⁸⁰

32. P-0119’s prior recorded testimony⁸¹ comprises one statement,⁸² and associated material consisting of: (i) a military identification card found after the attacks on Shattaya and Kailek, [REDACTED];⁸³ (ii) [REDACTED];⁸⁴ and (iii) a copy of a letter from [REDACTED].⁸⁵

The Prosecution requests one hour for its limited supplementary examination of P-0119

33. The Prosecution seeks one hour to ask further questions of P-0119 on topics including: (i) the identity and position of Mr Abd-Al-Rahman; (ii) the equipping and funding of the Militia/*Janjaweed* by the GoS (iii) the roles of Hamdi and Abd-Al-Hakam and their involvement in the Deleig incident; and (iv) information he received about the arrests, detention and killing of men in Deleig.

34. If his prior recorded testimony is not introduced under rule 68(3), the Prosecution estimates that it would require three hours for the direct examination of

⁷⁵ P-0119, DAR-OTP-0124-0196 at 0208-0210, paras. 64-79.

⁷⁶ P-0119, DAR-OTP-0124-0196 at 0212, paras. 94-95, 97, 99.

⁷⁷ P-0119, DAR-OTP-0124-0196 at 0213-0214, paras. 108-109.

⁷⁸ P-0119, DAR-OTP-0124-0196 at 0214-0215, paras. 116-119.

⁷⁹ P-0119, DAR-OTP-0124-0196 at 0214, paras. 109-111.

⁸⁰ P-0119, DAR-OTP-0124-0196 at 0215, para. 121.

⁸¹ Annex A6, p. 12-14.

⁸² DAR-OTP-0124-0196.

⁸³ DAR-OTP-0124-0221 (Translation at DAR-OTP-0219-8126) (front side of card); DAR-OTP-0124-0358 (Translation at DAR-OTP-0219-9128) (back side of card).

⁸⁴ DAR-OTP-0124-0222 (Translation at DAR-OTP-0219-8128); DAR-OTP-0124-0359 (Translation at DAR-OTP-0129-9313); DAR-OTP-0124-0360 (Translation at DAR-OTP-0219-9315); DAR-OTP-0124-0361 (DAR-OTP-0219-9317); DAR-OTP-0124-0362 (Translation at DAR-OTP-0219-9319).

⁸⁵ DAR-OTP-0124-0223 (Translation at DAR-OTP-0219-8130). See P-0114, DAR-OTP-0124-0196 at 0218-0219, paras. 143-144. The Prosecution has not been able to independently authenticate this letter and therefore does not rely on this item in this case.

P-0119. The introduction of P-0119's prior recorded testimony under rule 68(3) would therefore shorten his in-court testimony by approximately two hours.

(vii) *Prior recorded testimony of P-0585*

35. P-0585, a Fur cattle trader and farmer [REDACTED], provides evidence on the identity of Mr Abd-Al-Rahman, and his position of authority as a senior Militia/*Janjaweed* leader.⁸⁶ P-0585 provides evidence about the GoS Forces and the Militia/*Janjaweed* arresting males and detaining them outside the Deleig police station,⁸⁷ and his observations that Mr Abd-Al-Rahman was present and giving orders during the operation.⁸⁸ Two days later, P-0585 saw detainees, including *Umdah* Adam Kindiri, *Umdah* Jiddo Khamis, *Umdah* Mohamed Suleiman and *Sheikh* Ismail Abdulaziz, in a convoy of vehicles with Mr Abd-Al-Rahman, and was told they were taken to be killed.⁸⁹

36. P-0585's prior recorded testimony⁹⁰ comprises one statement,⁹¹ and associated material consisting of: (i) a map drawn by P-0585 of the area of his village [REDACTED], including several other locations relevant to his account;⁹² (ii) a detailed sketch drawn by P-0585 of [REDACTED];⁹³ (iii) a sketch drawn by P-0585 depicting the attack on [REDACTED] in around October 2003;⁹⁴ (iv) a sketch drawn by P-0585 of Deleig showing several locations relevant to his account;⁹⁵ (v) a detailed sketch drawn by P-0585 of Deleig showing several key locations;⁹⁶ and (vi) a sketch drawn by P-0585 of a location [REDACTED].⁹⁷

⁸⁶ P-0585, DAR-OTP-0201-0037 at 0044, para. 26 and 0049-0050, paras. 46-47, 51 and 0065-0066, paras. 118-120.

⁸⁷ P-0585, DAR-OTP-0201-0037 at 0058, para. 86.

⁸⁸ P-0585, DAR-OTP-0201-0037 at 0058, paras. 87-88.

⁸⁹ P-0585, DAR-OTP-0201-0037 at 0059, paras. 90-92.

⁹⁰ Annex A7, p. 15-16.

⁹¹ DAR-OTP-0201-0037.

⁹² DAR-OTP-0201-0069 (Translation at DAR-OTP-0219-8558).

⁹³ DAR-OTP-0201-0070 (Translation at DAR-OTP-0219-8560).

⁹⁴ DAR-OTP-0201-0071 (Translation at DAR-OTP-0219-8562).

⁹⁵ DAR-OTP-0201-0072 (Translation at DAR-OTP-0219-1674).

⁹⁶ DAR-OTP-0201-0073 (Translation at DAR-OTP-0219-1676).

⁹⁷ DAR-OTP-0201-0074 (Translation at DAR-OTP-0219-8564).

The Prosecution requests one hour for its limited supplementary examination of P-0585

37. The Prosecution seeks one hour to ask further questions of P-0585 on topics including: (i) the identity of Mr Abd-Al-Rahman; (ii) Mr Abd-Al-Rahman's position of authority as a senior Militia/*Janjaweed* leader, and his cooperation with GoS Officials; (iii) the arrest and detention of males in Deleig, and his sighting of a convoy containing several detained community leaders.

38. If his prior recorded testimony is not introduced under rule 68(3), the Prosecution estimates that it would require three hours for the direct examination of P-0585. The introduction of P-0585's prior recorded testimony under rule 68(3) would therefore shorten his in-court testimony by approximately two hours.

(viii) Prior recorded testimony of P-0592

39. P-0592, a Fur civilian [REDACTED], provides evidence on the background of the Militia/*Janjaweed* and distribution of weapons to the Militia/*Janjaweed* by the GoS.⁹⁸ P-0592 provides a physical description of Mr Abd-Al-Rahman,⁹⁹ and refers to his senior leadership position in the Militia/*Janjaweed*.¹⁰⁰ P-0592 describes how the Militia/*Janjaweed* and GoS Forces surrounded Deleig, searched for Fur males displaced to Deleig,¹⁰¹ and used derogatory terms towards the Fur.¹⁰² P-0592 provides evidence on the arrest of [REDACTED], *Umdah* Adam Kindiri and *Umdah* Jiddo Khamis, who were detained and later killed outside of Deleig.¹⁰³ P-0592 also provides information about execution survivor, Abdallah Mussa, who later died of his injuries.¹⁰⁴

40. P-0592's prior recorded testimony¹⁰⁵ comprises one statement,¹⁰⁶ and associated material consisting of: (i) a map of [REDACTED] drawn by P-0592 showing some

⁹⁸ P-0592, DAR-OTP-0209-0825 at 0842-0829, para. 24.

⁹⁹ P-0592, DAR-OTP-0209-0825 at 0844, para. 108.

¹⁰⁰ P-0592, DAR-OTP-0209-0825 at 0844, para. 106.

¹⁰¹ P-0592, DAR-OTP-0209-0825 at 0839, paras. 82-83 and 0841, paras. 92-93.

¹⁰² P-0592, DAR-OTP-0209-0825 at 0840-0841, paras. 89-92.

¹⁰³ P-0592, DAR-OTP-0209-0825 at 0840-0842, paras. 85-91, 96-97.

¹⁰⁴ P-0592, DAR-OTP-0209-0825 at 0842, para. 95.

¹⁰⁵ Annex A8, p. 17.

¹⁰⁶ DAR-OTP-0209-0825.

locations mentioned in her statement;¹⁰⁷ and (ii) an outline drawn by P-0592 of the compound in Deleig [REDACTED].¹⁰⁸

The Prosecution requests one hour for its limited supplementary examination of P-0592

41. The Prosecution seeks one hour to ask further questions of P-0592 on topics including: (i) the attacks on Arawala; (ii) the arrest, detention and killing of males in Deleig, [REDACTED]; (iii) a survivor of the executions, Abdallah Mussa, who later died; and (iv) the identity and physical description of Mr Abd-Al-Rahman.

42. If her prior recorded testimony is not introduced under rule 68(3), the Prosecution estimates that it would require 4.5 hours for the direct examination of P-0592. The introduction of P-0592's prior recorded testimony under rule 68(3) would therefore shorten her in-court testimony by approximately 3.5 hours.

(ix) Prior recorded testimony of P-0607

43. P-0607, a Fur civilian [REDACTED], provides evidence on attacks on Arawala by GoS Forces and Militia/*Janjaweed* in around November 2003,¹⁰⁹ [REDACTED].¹¹⁰ P-0607 describes GoS Forces and Militia/*Janjaweed* surrounding and entering Deleig in March 2004, searching from house to house and arresting displaced males, [REDACTED].¹¹¹ P-0607 recounts how Mr Abd-Al-Rahman inspected new batches of detainees arriving at the open area near the police station¹¹² and walked on the backs of detainees who were made to lie face down on the ground.¹¹³ P-0607 provides evidence about the questioning of detainees,¹¹⁴ and their loading onto vehicles, which then drove away, on three occasions.¹¹⁵ Finally, P-0607 was told that Mr Abd-Al-

¹⁰⁷ DAR-OTP-0209-0849.

¹⁰⁸ DAR-OTP-0209-0850.

¹⁰⁹ P-0607, DAR-OTP-0203-0164 at 0168-0174, paras. 16-35.

¹¹⁰ P-0607, DAR-OTP-0203-0164 at 0175-0176, paras. 39-41.

¹¹¹ P-0607, DAR-OTP-0203-0164 at 0176-0177, paras. 42-46.

¹¹² P-0607, DAR-OTP-0203-0164 at 0178, para. 50.

¹¹³ P-0607, DAR-OTP-0203-0164 at 0178-0179, paras. 48, 51.

¹¹⁴ P-0607, DAR-OTP-0203-0164 at 0179, para. 52.

¹¹⁵ P-0607, DAR-OTP-0203-0164 at 0179-0180, paras. 53-55.

Rahman was the head of the Militia/*Janjaweed*¹¹⁶ and observed that he appeared to be in charge during the Deleig operation.¹¹⁷

44. P-0607's prior recorded testimony¹¹⁸ comprises one statement,¹¹⁹ and associated material consisting of: (i) a sketch drawn by P-0607 of areas around [REDACTED] showing locations mentioned in his statement;¹²⁰ (ii) a map drawn by P-0607 of the village of [REDACTED] showing locations mentioned in his statement;¹²¹ and (iii) a sketch drawn by P-0607 of Deleig showing location relevant to the incident.¹²²

The Prosecution requests one hour for its limited supplementary examination of P-0607

45. The Prosecution seeks one hour to ask further questions of P-0607 on topics including: (i) the attacks on Arawala; (ii) the search of Deleig and arrests of males, [REDACTED]; (iii) the loading of the detainees onto vehicles [REDACTED]; and (iii) Mr Abd-Al-Rahman's presence and participation in the Deleig incident.

46. If his prior recorded testimony is not introduced under rule 68(3), the Prosecution estimates that it would require three hours for the direct examination of P-0607. The introduction of P-0607's prior recorded testimony under rule 68(3) would therefore shorten his in-court testimony by approximately two hours.

(x) Prior recorded testimony of P-0617

47. P-0617, a Fur civilian, provides evidence about the tribal administration structure of his area,¹²³ and attacks by GoS Forces and Militia/*Janjaweed* on Arawala, Gaba and surrounding areas from July 2003 to February 2004,¹²⁴ which displaced civilians, [REDACTED].¹²⁵ P-0617 also provides information on the arrest, detention

¹¹⁶ P-0607, DAR-OTP-0203-0164 at 0181, para. 60.

¹¹⁷ P-0607, DAR-OTP-0203-0164 at 0178, para. 49.

¹¹⁸ Annex A9, p. 18.

¹¹⁹ DAR-OTP-0203-0164.

¹²⁰ DAR-OTP-0203-0187 (Translation at DAR-OTP-0219-2333).

¹²¹ DAR-OTP-0203-0188 (Translation at DAR-OTP-0219-2335).

¹²² DAR-OTP-0203-0189 (Translation at DAR-OTP-0219-1682).

¹²³ P-0617, DAR-OTP-0202-1496 at 1502, paras. 21-23.

¹²⁴ P-0617, DAR-OTP-0202-1496 at 1505-1509, paras. 28, 30-40 and 1512-1516, paras. 50-60 and 1520-1523, paras. 71-78.

¹²⁵ P-0617, DAR-OTP-0202-1496 at 1512-1513, paras. 50-51 and 1518-1519, para. 66 and 1522, para. 76.

and mistreatment of males in Deleig in March 2004, and their loading onto vehicles, which drove out of Deleig and returned empty.¹²⁶ P-0617 also refers to the identity of Mr Abd-Al-Rahman and his position as a senior Militia/*Janjaweed* leader,¹²⁷ in addition to his presence and role during the Deleig incident.¹²⁸

48. P-0617's prior recorded testimony¹²⁹ comprises one statement,¹³⁰ and associated material consisting of: (i) five maps drawn by the witness during the interview to illustrate some of the locations mentioned in the statement.¹³¹

The Prosecution requests one hour for its limited supplementary examination of P-0617

49. The Prosecution seeks one hour to ask further questions of P-0617 on topics including: (i) the tribal administration structure and community leaders in his area; (ii) the identity and position of Mr Abd-Al-Rahman; (iii) the search, arrests and detention of males, and their transport on vehicles out of Deleig; and (iv) the identities of survivors and victims of the Deleig executions, including several community leaders.

50. If his prior recorded testimony is not introduced under rule 68(3), the Prosecution estimates that it would require three hours for the direct examination of P-0617. The introduction of P-0617's prior recorded testimony under rule 68(3) would therefore shorten his in-court testimony by approximately two hours.

(xi) *Prior recorded testimony of P-0651*

51. P-0651, a Fur civilian [REDACTED], provides evidence about the attacks carried out by the Militia/*Janjaweed* on several villages in the areas surrounding Deleig, including Fere¹³² and Taringa,¹³³ between August 2003 and March 2004, which forced

¹²⁶ P-0617, DAR-OTP-0202-1496 at 1523-1526, paras. 79-85.

¹²⁷ P-0617, DAR-OTP-0202-1496 at 1524, para. 81 and 1531-1532, paras. 96-98.

¹²⁸ P-0617, DAR-OTP-0202-1496 at 1524-1526, paras. 82-85.

¹²⁹ Annex A10, p. 19-20.

¹³⁰ DAR-OTP-0202-1496.

¹³¹ DAR-OTP-0202-1537 (Translation at DAR-OTP-0219-8142); DAR-OTP-0202-1538 (Translation at DAR-OTP-0219-8144); DAR-OTP-0202-1539 (Translation at DAR-OTP-0219-8146); DAR-OTP-0202-1540 (Translation at DAR-OTP-0219-8148); DAR-OTP-0202-1541 (Translation at DAR-OTP-0219-1680).

¹³² P-0651, DAR-OTP-0205-0015 at 0020-0022, paras. 18-23.

¹³³ P-0651, DAR-OTP-0205-0015 at 0023-0024, paras. 28-30.

civilians to flee to Deleig.¹³⁴ P-0651 also provides evidence about the search and arrest of males in Deleig and their loading onto vehicles, which drove out of Deleig and returned empty.¹³⁵ Finally, P-0651 recounts his discovery of a large number of dead bodies in an area near Deleig following the executions.¹³⁶

52. P-0651's prior recorded testimony¹³⁷ comprises one statement,¹³⁸ and associated material consisting of: (i) three sketches drawn by the witness during the interview to illustrate some of the locations mentioned in his statement.¹³⁹

The Prosecution requests one hour for its limited supplementary examination of P-0651

53. The Prosecution seeks one hour to ask further questions of P-0651 on topics including: (i) the attacks carried out by the Militia/*Janjaweed* on several villages in the areas surrounding Deleig between August 2003 and March 2004; and (ii) the role and presence of Mr Abd-Al-Rahman in the detention and execution of males in Deleig in around March 2004.

54. If his prior recorded testimony is not introduced under rule 68(3), the Prosecution estimates that it would require three hours for the direct examination of P-0651. The introduction of P-0651's prior recorded testimony under rule 68(3) would therefore shorten his in-court testimony by approximately two hours.

(xii) Prior recorded testimony of P-0697

55. P-0697, a Fur civilian, provides evidence about Mr Abd-Al-Rahman's identity, physical description, and ownership of a pharmacy in Garsila.¹⁴⁰ P-0697 also describes the role of GoS Forces in providing weapons to members of Militia/*Janjaweed*,¹⁴¹ and attacks carried out by GoS Forces and the Militia/*Janjaweed* on several villages in the

¹³⁴ P-0651, DAR-OTP-0205-0015 at 0025, para. 34.

¹³⁵ P-0651, DAR-OTP-0205-0015 at 0028-0030, paras. 47-53.

¹³⁶ P-0651, DAR-OTP-0205-0015 at 0031-0032, paras. 56-61.

¹³⁷ Annex A11, p. 21-22.

¹³⁸ DAR-OTP-0205-0015.

¹³⁹ DAR-OTP-0205-0040 (Translation at DAR-OTP-0219-1684); DAR-OTP-0205-0042 (Translation at DAR-OTP-0219-1687); DAR-OTP-0205-0044 (Translation at DAR-OTP-0219-1690).

¹⁴⁰ P-0697, DAR-OTP-0209-0155 at 0158-0159, paras. 15-18.

¹⁴¹ P-0697, DAR-OTP-0209-0155 at 0160-0161, paras. 24-25.

areas surrounding Deleig, including Taringa and Fere,¹⁴² which resulted in a large number of civilians, [REDACTED].¹⁴³ P-0697 also provides information on the search and arrest of males in Deleig in March 2004, in the presence of Mr Abd-Al-Rahman,¹⁴⁴ and P-0697's [REDACTED].¹⁴⁵

56. P-0697's prior recorded testimony¹⁴⁶ comprises one statement,¹⁴⁷ and associated material consisting of: (i) a witness colour chart used by P-0697 to identify the colour of the vehicle in which he saw Mr Abd-Al-Rahman in Deleig.¹⁴⁸

The Prosecution requests one hour for its limited supplementary examination of P-0697

57. The Prosecution seeks one hour to ask further questions of P-0697 on topics including: (i) the identity and background of Mr Abd-Al-Rahman; (ii) the attack on Taringa; (iii) the presence and role of Mr Abd-Al-Rahman in the arrest and detention of males in Deleig; and (iv) [REDACTED].

58. If his prior recorded testimony is not introduced under rule 68(3), the Prosecution estimates that it would require three hours for the direct examination of P-0697. The introduction of P-0697's prior recorded testimony under rule 68(3) would therefore shorten his in-court testimony by approximately two hours.

(xiii) Prior recorded testimony of P-0712

59. P-0712, a Fur civilian [REDACTED], provides evidence about the displacement of civilians to Deleig from surrounding villages in early 2004.¹⁴⁹ P-0712 describes the search and arrest operation by GoS Forces and Militia/*Janjaweed* in Deleig in March 2004.¹⁵⁰ He recounts that people from Deleig were released,¹⁵¹ and that detainees were

¹⁴² P-0697, DAR-OTP-0209-0155 at 0164-0165, paras. 39,42-45.

¹⁴³ P-0697, DAR-OTP-0209-0155 at 0165-0167, paras. 44-47, 50.

¹⁴⁴ P-0697, DAR-OTP-0209-0155 at 0167-0168, paras. 51-58.

¹⁴⁵ P-0697, DAR-OTP-0209-0155 at 0169-0170, paras. 59-61.

¹⁴⁶ Annex A12, p. 23.

¹⁴⁷ DAR-OTP-0209-0155.

¹⁴⁸ DAR-OTP-0209-0174.

¹⁴⁹ P-0712, DAR-OTP-0209-1884 at 1890-1891, paras. 25-26.

¹⁵⁰ P-0712, DAR-OTP-0209-1884 at 1893-1895, paras. 32-38.

¹⁵¹ P-0712, DAR-OTP-0209-1884 at 1895-1896, paras. 40-41.

divided into groups and loaded onto vehicles that drove out of Deleig in different directions.¹⁵² P-0712 provides information about efforts to exhume bodies, destroy evidence and prevent humanitarian or international organisations from locating execution sites outside of Deleig.¹⁵³ P-0712 also refers to the physical characteristics of Mr Abd-Al-Rahman and his senior leadership position in the Militia/*Janjaweed*.¹⁵⁴

60. P-0712's prior recorded testimony¹⁵⁵ comprises one statement,¹⁵⁶ and associated material consisting of: (i) a witness colour chart used by P-0712 to specify the colour of vehicles and the Labsa worn by Mr Abd-Al-Rahman in Deleig.¹⁵⁷

The Prosecution requests one hour for its limited supplementary examination of P-0712

61. The Prosecution seeks one hour to ask further questions of P-0712 on topics including: (i) the search and arrests of males in Deleig, and transport of detainees to execution sites outside of Deleig; (ii) the destruction/concealment of execution sites and mass graves outside of Deleig; and (iii) the identity and physical description of Mr Abd-Al-Rahman.

62. If his prior recorded testimony is not introduced under rule 68(3), the Prosecution estimates that it would require three hours for the direct examination of P-0712. The introduction of P-0712's prior recorded testimony under rule 68(3) would therefore shorten his in-court testimony by approximately two hours.

(xiv) Prior recorded testimony of P-0725

63. P-0725, a Fur civilian, provides evidence about the attacks on Forgo by GoS Forces and the Militia/*Janjaweed* in September 2003 and around January 2004,¹⁵⁸ [REDACTED].¹⁵⁹ P-0725 provides evidence about the arrest and detention of males in

¹⁵² P-0712, DAR-OTP-0209-1884 at 1896, paras. 43-44.

¹⁵³ P-0712, DAR-OTP-0209-1884 at 1897-1898, paras. 49-54.

¹⁵⁴ P-0712, DAR-OTP-0209-1884 at 1899-1900, paras. 58-63.

¹⁵⁵ Annex A13, p. 24.

¹⁵⁶ DAR-OTP-0209-1884.

¹⁵⁷ DAR-OTP-0209-1908.

¹⁵⁸ P-0725, DAR-OTP-0210-0122 at 0124-0130, paras. 15-29, 32-38, 48-59.

¹⁵⁹ P-0725, DAR-OTP-0210-0122 at 0130, para. 63.

Deleig, and their loading onto vehicles which drove out of Deleig, returned empty and were reloaded.¹⁶⁰ P-0725 [REDACTED] Abdallah Mussa, who returned to Deleig injured and died later that night, and gives information about a number of survivors of the executions.¹⁶¹ P-0725 also describes seeing a convoy of vehicles containing detained community leaders in Deleig two days later.¹⁶² Finally, he refers to Mr Abd-Al-Rahman's position of authority as a leader of the Militia/*Janjaweed*.¹⁶³

64. P-0725's prior recorded testimony¹⁶⁴ comprises one statement,¹⁶⁵ and associated material consisting of: (i) a headaddress board used by P-0725 to indicate the headgear worn by the Arab tribes and Militia/*Janjaweed*;¹⁶⁶ (ii) a witness colour chart used by P-0725 to identify the colour of headgear worn by the Arab tribes, and vehicles used in the second attack on Forgo and transport of *umdahs* in Deleig;¹⁶⁷ and (iii) two sketches drawn by the witness during his interview to illustrate some of the locations mentioned in the statement.¹⁶⁸

The Prosecution requests one hour for its limited supplementary examination of P-0725

65. The Prosecution seeks one hour to ask further questions of P-0725 on topics including: (i) the attacks on Forgo; (ii) the arrests and detention of males in Deleig, including community leaders detained at the police station, and their transport out of Deleig; and (iii) survivors of the Deleig executions, including Abdallah Mussa, who later died.

66. If his prior recorded testimony is not introduced under rule 68(3), the Prosecution estimates that it would require three hours for the direct examination of

¹⁶⁰ P-0725, DAR-OTP-0210-0122 at 0131-0134, paras. 71-76, 78-80, 86-91.

¹⁶¹ P-0725, DAR-OTP-0210-0122 at 0132-0134, paras. 78-91.

¹⁶² P-0725, DAR-OTP-0210-0122 at 0134, paras. 94-96.

¹⁶³ P-0725, DAR-OTP-0210-0122 at 0134, para. 97.

¹⁶⁴ Annex A14, p. 25-26.

¹⁶⁵ DAR-OTP-0210-0122.

¹⁶⁶ DAR-OTP-0210-0138.

¹⁶⁷ DAR-OTP-0210-0139.

¹⁶⁸ DAR-OTP-0210-0140 (Translation at DAR-OTP-0219-8162); DAR-OTP-0210-0141 (Translation at DAR-OTP-0219-1701).

P-0725. The introduction of P-0725's prior recorded testimony under rule 68(3) would therefore shorten his in-court testimony by approximately two hours.

(xv) *Prior recorded testimony of P-0726*

67. P-0726, a Fur male [REDACTED], provides evidence about the attacks on Forgo by the Militia/*Janjaweed* in 2003,¹⁶⁹ [REDACTED].¹⁷⁰ P-0726 recounts that Militia/*Janjaweed* and GoS Forces surrounded and searched Deleig, and Fur males hid to avoid arrest.¹⁷¹ P-0726 [REDACTED].¹⁷² P-0726 provides information in relation to a number of people from his village who were killed and people who survived the Deleig executions.¹⁷³ P-0726 saw Mr Abd-Al-Rahman several times in Deleig at or around the time of the incident, and describes his physical appearance, vehicle used and indicia of his authority.¹⁷⁴

68. P-0726's prior recorded testimony¹⁷⁵ comprises one statement,¹⁷⁶ and associated material consisting of: (i) a sketch drawn by P-0726 of [REDACTED] village showing his movements during the attack and relevant locations;¹⁷⁷ (ii) a headdress board used by P-0726 to indicate the type of headdresses worn by some of the Militia/*Janjaweed* [REDACTED];¹⁷⁸ and (iii) a sketch drawn by P-0726 of the surrounding villages around Forgo that were attacked by the Militia/*Janjaweed*.¹⁷⁹

The Prosecution requests one hour for its limited supplementary examination of P-0726

69. The Prosecution seeks one hour to ask further questions of P-0726 on topics including: (i) the attacks on Forgo; (ii) the search and arrest of men in Deleig; (iii) the

¹⁶⁹ P-0726, DAR-OTP-0210-0346 at 0352-0359, paras. 22-25, 29-38, 43-48 and 0361, para. 54.

¹⁷⁰ P-0726, DAR-OTP-0210-0346 at 0363-0364, paras. 58-60.

¹⁷¹ P-0726, DAR-OTP-0210-0346 at 0364, paras. 62-64.

¹⁷² P-0726, DAR-OTP-0210-0346 at 0364-0365, para. 64.

¹⁷³ P-0726, DAR-OTP-0210-0346 at 0365-0367, paras. 68-75.

¹⁷⁴ P-0726, DAR-OTP-0210-0346 at 0366-0368, paras. 71, 76-79.

¹⁷⁵ Annex A15, p. 27.

¹⁷⁶ DAR-OTP-0210-0346.

¹⁷⁷ DAR-OTP-0210-0373 (Translation at DAR-OTP-0219-8164).

¹⁷⁸ DAR-OTP-0210-0374.

¹⁷⁹ DAR-OTP-0210-0375.

identities of victims and survivors of the Deleig executions; and (iii) Mr Abd-Al-Rahman's presence in Deleig, his physical appearance and indicia of authority.

70. If his prior recorded testimony is not introduced under rule 68(3), the Prosecution estimates that it would require three hours for the direct examination of P-0725. The introduction of P-0726's prior recorded testimony under rule 68(3) would therefore shorten his in-court testimony by approximately two hours.

(xvi) Prior recorded testimony of P-0736

71. P-0736, a Fur male [REDACTED], provides evidence about Mr Abd-Al-Rahman's physical description and ownership of a pharmacy in Garsila.¹⁸⁰ P-0736 also provides information about Mr Abd-Al-Rahman's position as a leader of the Militia/*Janjaweed* and the Militia/*Janjaweed* collecting their salaries at Mr Abd-Al-Rahman's pharmacy.¹⁸¹ P-0736 also provides evidence about attacks on Ordo and surrounding villages in October/November 2003.¹⁸² P-0736 describes how Deleig was surrounded¹⁸³ and searched in early 2004,¹⁸⁴ and males were arrested, detained and mistreated outside the Deleig police station.¹⁸⁵ P-0736 also recounts how vehicles loaded with detainees drove out of Deleig and returned empty.¹⁸⁶

72. P-0736's prior recorded testimony¹⁸⁷ comprises one statement,¹⁸⁸ and associated material consisting of: (i) a witness colour chart used by P-0736 to indicate the colour of military clothing and vehicles he saw in Deleig;¹⁸⁹ (ii) a headdress board used by P-0736 to indicate the type of headdresses worn by some of the Militia/*Janjaweed* he saw in Deleig;¹⁹⁰ (iii) a map drawn by P-0736 of Deleig showing several locations relevant

¹⁸⁰ P-0736, DAR-OTP-0210-0248 at 0254, para. 27.

¹⁸¹ P-0736, DAR-OTP-0210-0248 at 0255, paras. 29-30.

¹⁸² P-0736, DAR-OTP-0210-0248 at 0256-0259, paras. 32-42.

¹⁸³ P-0736, DAR-OTP-0210-0248 at 0261-0262, paras. 53-54.

¹⁸⁴ P-0736, DAR-OTP-0210-0248 at 0264-0266, paras. 62-70 and 0267-0268, para. 74.

¹⁸⁵ P-0736, DAR-OTP-0210-0248 at 0266-0267, para. 71-72.

¹⁸⁶ P-0736, DAR-OTP-0210-0248 at 0268-0269, para. 76.

¹⁸⁷ Annex A16, p. 28.

¹⁸⁸ DAR-OTP-0210-0248.

¹⁸⁹ DAR-OTP-0210-0277.

¹⁹⁰ DAR-OTP-0210-0279.

to his account;¹⁹¹ and (iv) a map drawn by P-0736 of Garsila showing several locations relevant to his account.¹⁹²

The Prosecution requests one hour for its limited supplementary examination of P-0736

73. The Prosecution seeks one hour to ask further questions of P-0736 on topics including: (i) Mr Abd-Al-Rahman's background and his role in financing the Militia/*Janjaweed*; (ii) the Deleig operation in March 2004 and the role of Mr Abd-Al-Rahman; (iii) the GoS Forces that participated in the Deleig operation; and (iv) the loading of detainees onto vehicles by the GoS Forces and the Militia/*Janjaweed*.

74. If his prior recorded testimony is not introduced under rule 68(3), the Prosecution estimates that it would require three hours for the direct examination of P-0736. The introduction of P-0736's prior recorded testimony under rule 68(3) would therefore shorten his in-court testimony by approximately two hours.

(xvii) Prior recorded testimony of P-0850

75. P-0850, a Fur male [REDACTED], provides evidence on the attack on Kaskeidi in late 2003/early 2004 by GoS Forces and the Militia/*Janjaweed*,¹⁹³ [REDACTED].¹⁹⁴ P-0850, [REDACTED], describes how the GoS Forces and Militia/*Janjaweed* searched for and arrested males in Deleig, and used derogatory language towards the Fur.¹⁹⁵ P-0850 [REDACTED].¹⁹⁶ P-0850 also provides information about Mr Abd-Al-Rahman's identity, physical description and his sale of medicine for animals.¹⁹⁷

¹⁹¹ DAR-OTP-0210-0281 (Translation at DAR-OTP-0219-7097).

¹⁹² DAR-OTP-0210-0283 (Translation at DAR-OTP-0219-7100).

¹⁹³ P-0850, DAR-OTP-0216-0002 at 0009-0012, paras. 27-32, 37-41.

¹⁹⁴ P-0850, DAR-OTP-0216-0002 at 0014-0016, paras. 52-58.

¹⁹⁵ P-0850, DAR-OTP-0216-0002 at 0018-0019, paras. 64-69.

¹⁹⁶ P-0850, DAR-OTP-0216-0002 at 0019-0020, paras. 70-72.

¹⁹⁷ P-0850, DAR-OTP-0216-0002 at 0006-0007, paras. 18-20 and 0021-0022, paras. 77-78.

76. P-0850's prior recorded testimony¹⁹⁸ comprises one statement,¹⁹⁹ and associated material consisting of: (i) a headdress board used by P-0850 to indicate the type of headdresses worn by the Militia/*Janjaweed* and Mr Abd-Al-Rahman in Deleig.²⁰⁰

The Prosecution requests one hour for its limited supplementary examination of P-0850

77. The Prosecution seeks one hour to ask further questions of P-0850 on topics including: (i) the attack on Kaskeidi; (ii) [REDACTED]; and (iii) Mr Abd-Al-Rahman's identity, background and physical description.

78. If his prior recorded testimony is not introduced under rule 68(3), the Prosecution estimates that it would require three hours for the direct examination of P-0850. The introduction of P-0850's prior recorded testimony under rule 68(3) would therefore shorten his in-court testimony by approximately two hours.

(xviii) Prior recorded testimony of P-0894

79. P-0894, a Fur male [REDACTED], provides evidence about Mr Abd-Al-Rahman's physical description and ownership of a pharmacy in Garsila.²⁰¹ P-0894 describes Mr Abd-Al-Rahman's position of authority as a Militia/*Janjaweed* leader,²⁰² and his responsibility for supplying weapons to the Militia/*Janjaweed*.²⁰³ P-0894 recounts attacks on Tanako by GoS Forces and the Militia/*Janjaweed* in October/November 2003, commanded by Mr Abd-Al-Rahman.²⁰⁴ P-0894 was later told by an eye-witness that Mr Abd-Al-Rahman ordered his men to search for and arrest community leaders, including *Umdah* Mohamed Suleiman, during the first attack in Tanako, but they escaped.²⁰⁵

¹⁹⁸ Annex A17, p. 29-30.

¹⁹⁹ DAR-OTP-0216-0002.

²⁰⁰ DAR-OTP-0216-0027.

²⁰¹ P-0894, DAR-OTP-0217-0103 at 0117-0118, paras. 88-93.

²⁰² P-0894, DAR-OTP-0217-0103 at 0112-0113, paras. 56-62.

²⁰³ P-0894, DAR-OTP-0217-0103 at 0107, para. 21.

²⁰⁴ P-0894, DAR-OTP-0217-0103 at 0107-0113, paras. 23-34, 37-47, 56-62.

²⁰⁵ P-0894, DAR-OTP-0217-0103 at 0109, para. 34. *Umdah* Mohamed Suleiman was later arrested in Garsila, transported to Deleig by Mr Abd-Al-Rahman, and then killed in an area outside of Deleig. See Trial Brief, [ICC-02/05-01/20-550-Conf-Red-Corr](#), paras. 411, 421-425, 439, 473-489.

80. P-0894's prior recorded testimony²⁰⁶ comprises one statement,²⁰⁷ and associated material consisting of: (i) [REDACTED].²⁰⁸

The Prosecution requests one hour for its limited supplementary examination of P-0894

81. The Prosecution seeks one hour to ask further questions of P-0894 on topics including: (i) Mr Abd-Al-Rahman's identity, physical description and background; (ii) the displacement and subsequent death of *Umdah* Mohamed Suleiman of Tanako; and (iii) Mr Abd-Al-Rahman's position of authority as a Militia/*Janjaweed* leader.

82. If his prior recorded testimony is not introduced under rule 68(3), the Prosecution estimates that it would require three hours for the direct examination of P-0894. The introduction of P-0894's prior recorded testimony under rule 68(3) would therefore shorten his in-court testimony by approximately two hours.

(xix) Prior recorded testimony of P-0895

83. P-0895, a Fur student [REDACTED], provides evidence about Mr Abd-Al-Rahman's background, including his place of residence and pharmacy in Garsila,²⁰⁹ and his position of authority in the Militia/*Janjaweed* and role in the CRF.²¹⁰ P-0895 describes the structure and functions of the PDF, the PPF²¹¹ and the roles of co-perpetrators Hamdi²¹² and Abd-Al-Rahman Dawud Hammudah (also known as Hassaballah).²¹³ P-0895 provides information about the distribution of weapons by the GoS to Arab tribes, and the refusal to arm members of non-Arab tribes.²¹⁴ P-0895 also describes the attack on Arawala by GoS Forces and Militia/*Janjaweed* in December 2003,²¹⁵ which caused the displacement of many people to Garsila.²¹⁶ P-0895 provides

²⁰⁶ Annex A18, p. 31.

²⁰⁷ DAR-OTP-0217-0103.

²⁰⁸ DAR-OTP-0217-0132.

²⁰⁹ P-0895, DAR-OTP-0215-7164 at 7177-7180, paras. 49-62.

²¹⁰ P-0895, DAR-OTP-0215-7164 at 7174-7177, paras. 36-48.

²¹¹ P-0895, DAR-OTP-0215-7164 at 7171, paras. 26-28.

²¹² P-0895, DAR-OTP-0215-7164 at 7175, paras. 41-42.

²¹³ P-0895, DAR-OTP-0215-7164 at 7171, para. 27 and 7174, para. 36 and 7176, para. 45.

²¹⁴ P-0895, DAR-OTP-0215-7164 at 7175, para. 41.

²¹⁵ P-0895, DAR-OTP-0215-7164 at 0781-0782, paras. 65-69.

²¹⁶ P-0895, DAR-OTP-0215-7164 at 7168, para. 16 and 7181-7182, paras. 66, 70-71.

information about Mr Abd-Al-Rahman and his men arresting people in Garsila and detaining them at the SAF base, some of whom they later took to Deleig to be killed, including *Sheikh* Ismail Abdulaziz.²¹⁷ P-0895 also received information about the killing of Jenif, the PDF coordinator in Garsila, by Mr Abd-Al-Rahman in Deleig.²¹⁸

84. P-0895's prior recorded testimony²¹⁹ comprises one statement,²²⁰ and associated material consisting of: (i) a document explaining how the integrity of the electronic witness statement was ensured following the remote interview.²²¹

The Prosecution requests one hour for its limited supplementary examination of P-0895

85. The Prosecution seeks one hour to ask further questions of P-0895 on topics including: (i) Mr Abd-Al-Rahman's background and position of authority; (ii) the presence of GoS Forces and Militia/*Janjaweed* in Garsila; (iii) the arrest of persons in Garsila, and their detention and killing, including *Sheikh* Ismail Abdulaziz; (iv) the killing of the PDF coordinator Jenif; and (v) the attack on Arawala.

86. If his prior recorded testimony is not introduced under rule 68(3), the Prosecution estimates that it would require 4.5 hours for the direct examination of P-0895. The introduction of P-0895's prior recorded testimony under rule 68(3) would therefore shorten his in-court testimony by approximately 3.5 hours.

(xx) Prior recorded testimony of P-0926

87. P-0926, a Fur civilian [REDACTED], provides evidence about Mr Abd-Al-Rahman's identity and background,²²² including his names, and his position as a senior Militia/*Janjaweed* leader.²²³ P-0926 also refers to the GoS distribution of weapons to the Militia/*Janjaweed*²²⁴ and Mr Abd-Al-Rahman's cooperation with GoS Officials to arm

²¹⁷ P-0895, DAR-OTP-0215-7164 at 7172-7173, paras. 31-32 and 7180, para. 63.

²¹⁸ P-0895, DAR-OTP-0215-7164 at 7180, para. 63 (referred to as "JINAID").

²¹⁹ Annex A19, p. 32.

²²⁰ DAR-OTP-0215-7164.

²²¹ DAR-OTP-0215-7186.

²²² P-0926, DAR-OTP-0218-0738 at 0742-0744 paras. 16-25.

²²³ P-0926, DAR-OTP-0218-0738 at 0744-0745, paras. 26-31.

²²⁴ P-0926, DAR-OTP-0218-0738 at 0753-0754, paras. 58-62.

the Militia/*Janjaweed* in Garsila.²²⁵ P-0926 also provides evidence about Mr Abd-Al-Rahman's involvement in the arrest and detention of *Sheikh* Ismail Abdulaziz and Hassan Adam Musa at the SAF base in Garsila,²²⁶ and their killing in an area near Deleig along with other detainees.²²⁷ P-0926 also received information about the killing of Jenif, the PDF coordinator in Garsila, by Mr Abd-Al-Rahman in Deleig.²²⁸ P-0926 also gives evidence about the visit of a high-level GoS delegation to the SAF base in Garsila around the time of the Deleig operation.²²⁹

88. [REDACTED].²³⁰ These acts are uncharged in this case. Among other reasons, the Prosecution seeks to introduce the evidence of P-0926 under rule 68(3) to prevent the potential re-traumatisation of the witness through having to repeat her full account in the courtroom.²³¹

89. P-0926's prior recorded testimony²³² comprises one statement,²³³ and associated material consisting of: (i) a sketch drawn by P-0926 of the SAF military base in Garsila, annotated with several locations relevant to her account.²³⁴

The Prosecution requests one hour for its limited supplementary examination of P-0926

90. The Prosecution seeks one hour to ask further questions of P-0926 on topics including: (i) Mr Abd-Al-Rahman's identity and background; (ii) Mr Abd-Al-Rahman's position as a senior Militia/*Janjaweed* leader; (iii) the visit of a high-level delegation to the SAF base around the time of the Deleig operation; and (iv) Mr Abd-Al-Rahman's involvement in the arrest and detention of *Sheikh* Ismail Abdulaziz and Hassan Adam Musa, and their killings outside of Deleig.

²²⁵ P-0926, DAR-OTP-0218-0738 at 0746-0747, paras. 36-37.

²²⁶ P-0926, DAR-OTP-0218-0738 at 0754-0755, paras. 65-67.

²²⁷ P-0926, DAR-OTP-0218-0738 at 0755-0756, paras. 69-70.

²²⁸ P-0926, DAR-OTP-0218-0738 at 0758, para. 78.

²²⁹ P-0926, DAR-OTP-0218-0738 at 0753-0754, paras. 59-62.

²³⁰ P-0926, DAR-OTP-0218-0738 at 0758-0760, paras. 79-86.

²³¹ See [First Rule 68\(3\) Decision](#), para. 15(v).

²³² Annex A20, p. 33.

²³³ DAR-OTP-0218-0738.

²³⁴ DAR-OTP-0218-0766 (Translation at DAR-OTP-0219-7093).

91. If her prior recorded testimony is not introduced under rule 68(3), the Prosecution estimates that it would require three hours for the direct examination of P-0026. The introduction of P-0926's prior recorded testimony under rule 68(3) would therefore shorten her in-court testimony by approximately two hours.

(xxi) *Prior recorded testimony of P-0980*

92. P-0980 a Fur civilian [REDACTED], provides evidence on the attacks on Arawala and Gaba by GoS Forces and the Militia/*Janjaweed*,²³⁵ [REDACTED].²³⁶ P-0980 describes the arrests of displaced males, [REDACTED], in Deleig in March 2004, and their detention near the police station.²³⁷ P-0980 states that the GoS Forces and Militia/*Janjaweed*, including Mr Abd-Al-Rahman, beat the detainees while they were lying face down in front of the police station, killing two of them directly.²³⁸ P-0980 also describes how the GoS Forces and Militia/*Janjaweed* loaded the detainees onto vehicles,²³⁹ which then vehicles drove out of Deleig.²⁴⁰ P-0980 recalls seeing a vehicle in Deleig carrying detainees, including *Umdah* Adam Kindiri and *Umdah* Jiddo Khamis, on or about 6 March 2004.²⁴¹ P-0980 also provides information about a survivor of the executions, Abdallah Mussa, who later died of his injuries.²⁴²

93. P-0980's prior recorded testimony²⁴³ comprises one statement,²⁴⁴ and associated material consisting of: (i) a document showing illustrations of different types of aircraft, which was used by P-0980 to identify the shape of the aircraft he saw in Deleig;²⁴⁵ (ii) a document showing Sudanese military ranks and insignia, which was shown to P-0980 to identify the ranks of certain persons referenced in his statement;²⁴⁶

²³⁵ P-0980, DAR-OTP-0221-0553 at 0555-0556, paras. 13-15.

²³⁶ P-0980, DAR-OTP-0221-0553 at 0556, para. 16.

²³⁷ P-0980, DAR-OTP-0221-0553 at 0556-0561, paras. 18-24, 27-36.

²³⁸ P-0980, DAR-OTP-0221-0553 at 0557-0558, paras. 22-24.

²³⁹ P-0980, DAR-OTP-0221-0553 at 0559, para. 27.

²⁴⁰ P-0980, DAR-OTP-0221-0553 at 0559, para. 27.

²⁴¹ P-0980, DAR-OTP-0221-0553 at 0556, para. 15 and 0560-0561, paras. 32, 35.

²⁴² P-0980, DAR-OTP-0221-0553 at 0558, para. 23 (referred to as "Abdallah MOLO from Gorola").

²⁴³ Annex A21, p. 34.

²⁴⁴ DAR-OTP-0221-0553.

²⁴⁵ DAR-OTP-0221-0565.

²⁴⁶ DAR-OTP-0221-0568.

and (iii) a sketch drawn by P-0980 of Deleig police station and the square of Deleig, annotated with several locations relevant to his account.²⁴⁷

The Prosecution requests one hour for its limited supplementary examination of P-0980

94. The Prosecution seeks one hour to ask further questions of P-0980 on topics including: (i) the search and arrests of males in Deleig; (ii) the killing of two detainees by Mr Abd-Al-Rahman outside the Deleig police station; (iii) his sightings of detained community leaders in Deleig; and (iv) the identities of victims of the Deleig executions.

95. If his prior recorded testimony is not introduced under rule 68(3), the Prosecution estimates that it would require three hours for the direct examination of P-0980. The introduction of P-0980's prior recorded testimony under rule 68(3) would therefore shorten his in-court testimony by approximately two hours.

B. The Prior Recorded Testimonies of the Twenty-One Witnesses are corroborative of, and cumulative to, evidence to be provided by viva voce witnesses

96. The Twenty-One Witnesses provide evidence with respect to several central aspects relevant to the Deleig incident, which are corroborative of, and cumulative to, evidence to be provided by *viva voce* witnesses:

- a. the arrest of civilians in Garsila, including *Sheikh* Ismail Abdulaziz, by Mr Abd-Al-Rahman and his men in 2004;²⁴⁸
- b. the search of Deleig and arrest of Fur males displaced to Deleig from the surrounding areas, between about 5 and about 7 March 2004;²⁴⁹

²⁴⁷ DAR-OTP-0221-0569 (Translation at DAR-OTP-0219-9290).

²⁴⁸ The evidence of P-0895 and P-0926 is corroborative of, and cumulative to, the evidence of *viva voce* witnesses, including P-0643, P-0955, P-0973, P-0987, P-0994 and P-0883.

²⁴⁹ The evidence of P-0027, P-0060, P-0106, P-0592, P-0607, P-0651, P-0697, P-0712, P-0725, P-0726, P-0850 and P-0980 is corroborative of, and cumulative to, the evidence of *viva voce* witnesses, including P-0584, P-0591, P-0671, P-0714, P-0718, P-0907, P-0924, P-0955, P-0973, P-0987 and P-0994.

- c. the use of derogatory language towards the Fur during the Deleig operation;²⁵⁰
- d. the detention and mistreatment of male Fur civilians in the open area near the Deleig police station on or about 5 March 2004;²⁵¹
- e. the mistreatment of detainees by Mr Abd-Al-Rahman in the open area near Deleig police station on or about 5 March 2004;²⁵²
- f. the loading of detainees onto vehicles, which drove out of Deleig and returned empty, and the repeating of this process multiple times on or about 5 March 2004;²⁵³
- g. Mr Abd-Al-Rahman's presence during and supervision of the process of loading detainees onto vehicles;²⁵⁴
- h. the survival of several persons who were taken to execution sites, including Abdallah Mussa (who returned to Deleig but later died), [REDACTED];²⁵⁵
- i. the detention of a group of community leaders in Deleig between about 5 and about 7 March 2004,²⁵⁶ and their sighting in a convoy with Mr Abd-Al-Rahman in Deleig on or about 7 March 2004;²⁵⁷ and

²⁵⁰ The evidence of P-0106, P-0585, P-0592 and P-0850 is corroborative of, and cumulative to, the evidence of *viva voce* witnesses, including P-0584, P-0718, P-0905, P-0924, P-0973 and P-0987.

²⁵¹ The evidence of P-0027, P-0060, P-0091, P-0106, P-0585, P-0607, P-0617, P-0651, P-0736, P-0725 and P-0980 is corroborative of, and cumulative to, the evidence of *viva voce* witnesses, including P-0092, P-0584, P-0591, P-0671, P-0714, P-0718, P-0879, P-0905, P-0907, P-0924, P-0931, P-0955, P-0973, P-0987 and P-0994.

²⁵² The evidence of P-0027, P-0607, P-0617 and P-0980 is corroborative of, and cumulative to, the evidence of *viva voce* witnesses, including P-0584, P-0591, P-0671, P-0714, P-0879, P-0907, P-0924, P-0973 and P-0994.

²⁵³ The evidence of P-0027, P-0060, P-0106, P-0607, P-0617, P-0651, P-0725, P-0736 and P-0980 is corroborative of, and cumulative to, the evidence of *viva voce* witnesses, including P-0092, P-0584, P-0591, P-0714, P-0879, P-0905, P-0907, P-0924, P-0955, P-0973, P-0987 and P-0994.

²⁵⁴ The evidence of P-0027, P-0060 and P-0106 is corroborative of, and cumulative to, the evidence of *viva voce* witnesses, including P-0584, P-0591, P-0714, P-0879, P-0905, P-0907, P-0924, P-0973, P-0987 and P-0994.

²⁵⁵ The evidence of P-0592, P-0725, P-0726, P-0850 and P-0980 is corroborative of, and cumulative to, the evidence of *viva voce* witnesses, including P-0584, P-0714, P-0907, P-0924, P-0955 and P-0987.

²⁵⁶ The evidence of P-0592 and P-0725 is corroborative of, and cumulative to, the evidence of *viva voce* witnesses, including P-0714, P-0955, P-0973, P-0987 and P-0994.

²⁵⁷ The evidence of P-0027, P-0060, P-0585, P-0725 and P-0980 is corroborative of, and cumulative to, the evidence of *viva voce* witnesses, including P-0907, P-0973, P-0987 and P-0994.

- j. the killing of a group of detainees, including several community leaders, in an area outside of Deleig near Fere on or about 7 March 2004.²⁵⁸

97. The Twenty-One Witnesses also provide evidence with respect to the identity and position of Mr Abd-Al-Rahman, which is corroborative of, and cumulative to, evidence to be provided by *viva voce* witnesses:

- a. aspects relating to the identity and background of Mr Abd-Al-Rahman, including, in particular, his names, place of residence in Garsila, and ownership of a shop selling medication in Garsila;²⁵⁹ and
- b. the senior leadership position of Mr Abd-Al-Rahman in the Militia/*Janjaweed*.²⁶⁰

98. In relation to the identity and background of Mr Abd-Al-Rahman, the parties have so far agreed on several biographical facts, including that Mr Abd-Al-Rahman belongs to the Ta'aisha tribe, that he was formerly in the Medical Corps of the SAF, that upon retiring from the SAF he opened a shop in Garsila near the Agricultural Bank from which he sold medication, and that he lived in Garsila at that time.²⁶¹ These agreed facts are supported by P-0060,²⁶² P-0106,²⁶³ P-0585,²⁶⁴ P-0850,²⁶⁵ P-0894,²⁶⁶ P-0895²⁶⁷ and P-0926.²⁶⁸

²⁵⁸ The evidence of P-0617, P-0651, P-0712, P-0725, P-0726, P-0850, P-0895 and P-0926 is corroborative of, and cumulative to, the evidence of *viva voce* witnesses, including P-0643, P-0671, P-0714, P-0879, P-0883, P-0907, P-0935, P-0955, P-0973, P-0987, P-0994 and P-1018.

²⁵⁹ The evidence of P-0060, P-0106, P-0585, P-0850, P-0894, P-0895 and P-0926 is corroborative of, and cumulative to, the evidence of *viva voce* witnesses, including P-0012, P-0117, P-0589, P-0643, P-0769, P-0874, P-0878, P-0879, P-0883, P-0903, P-0905, P-0907, P-0921, P-0932, P-0935, P-0955, P-0973, P-0986, P-0987, P-0990 and P-0994.

²⁶⁰ The evidence of P-0059, P-0060, P-0091, P-0106, P-0585, P-0592, P-0607, P-0617, P-0712, P-0725, P-0894, P-0895 and P-0926 is corroborative of, and cumulative to, the evidence of *viva voce* witnesses, including P-0012, P-0015, P-0029, P-0092, P-0129, P-0131, P-0589, P-0643, P-0714, P-0718, P-0874, P-0878, P-0883, P-0885, P-0903, P-0905, P-0907, P-0921, P-0935, P-0987, P-0994 and P-1021.

²⁶¹ Annex A to the Third Joint Prosecution and Defence Submission on Agreed facts, [ICC-02/05-01/20-504-AnxA](#), no. 4, 10, 11, 14, 15.

²⁶² P-0060, DAR-OTP-0097-0328 at 0334, para. 22.

²⁶³ P-0106, DAR-OTP-0116-1005 at 1011, paras. 24-25.

²⁶⁴ P-0585, DAR-OTP-0201-0037 at 0065, paras. 114-115.

²⁶⁵ P-0850, DAR-OTP-0216-0002 at 0006, paras. 18-19.

²⁶⁶ P-0894, DAR-OTP-0217-0103 at 0117-0118, paras. 88-91.

²⁶⁷ P-0895, DAR-OTP-0215-7164 at 7177-7180, paras. 49-62.

²⁶⁸ P-0926, DAR-OTP-0218-0738 at 0742-0744 paras. 16-25.

99. In relation to witnesses who provide more extensive evidence regarding the acts and conduct of Mr Abd-Al-Rahman, and his criminal responsibility for the crimes committed in Deleig and surrounding areas, the Prosecution intends to adduce their full testimony *viva voce*.²⁶⁹

100. Several of the Twenty-One Witnesses also provide evidence in relation to the recruitment, training, arming, funding and distribution of other resources to the Militia/*Janjaweed* by the GoS, with the involvement of Mr Abd-Al-Rahman.²⁷⁰ This evidence is corroborative of, and cumulative to, evidence to be provided by *viva voce* witnesses.²⁷¹

101. Furthermore, the evidence provided by P-0712 regarding the destruction of mass graves and execution sites in the areas around Deleig is corroborative of, and cumulative to, evidence to be provided by *viva voce* witnesses P-0671, P-0883, P-0885, P-0955 and P-1018. Finally, the evidence provided by P-0725 and P-0726 regarding the attacks on Forgo is corroborative of, and cumulative to, evidence to be provided by *viva voce* witness, P-0907, and the evidence provided by P-0651 and P-0697 regarding the attack on Taringa is corroborative of, and cumulative to, evidence to be provided by *viva voce* witness P-0718.

C. The Prior Recorded Testimonies of the Twenty-One Witnesses are relevant, reliable and probative

102. As detailed above, the Prior Recorded Testimonies of the Twenty-One Witnesses are relevant to the case,²⁷² and their evidence is corroborative of, and cumulative to, evidence to be provided by *viva voce* witnesses.²⁷³

²⁶⁹ These witnesses include, in particular, P-0643, P-0883, P-0885, P-0905, P-0935, P-0987 and P-0994.

²⁷⁰ P-0059, P-0091, P-0106, P-0119, P-0585, P-0895 and P-0926.

²⁷¹ These witnesses include P-0011, P-0012, P-0029, P-0092, P-0131, P-0547, P-0643, P-0878, P-0883, P-0885, P-0905, P-0921, P-0935, P-0992, P-0984, P-0994 and P-1021.

²⁷² See above, paras. 9-92 (Section A, Overview of the Prior Recorded Testimonies of the Twenty-One Witnesses).

²⁷³ See above, paras. 96-101. See also Bemba Rule 68 Appeals Judgment, [ICC-01/05-01/08-1386](#), para. 78.

103. In addition, the Prior Recorded Testimonies of the Twenty-One Witnesses contain sufficient indicia of reliability.²⁷⁴ Each witness statement includes an acknowledgment signed by the witness indicating that the statement (i) was read back to the witness in their language, (ii) is true to the best of their knowledge and recollection, and (iii) was given voluntarily with the awareness that it may be used in legal proceedings before the Court.²⁷⁵ The statements also contains a certification signed by the interpreter who participated in the interview indicating that (i) the interpreter orally translated the statement to the witness into a language the witness speaks and understands, (ii) the witness appeared to have heard and understood the translation, and (iii) the witness signed the statement attesting to the truth of its contents.²⁷⁶

D. The introduction of the Prior Recorded Testimonies of the Twenty-One Witnesses would not be prejudicial to or inconsistent with the rights of the Accused

104. The introduction of the Prior Recorded Testimonies of the Twenty-One Witnesses into evidence would not be prejudicial to or inconsistent with the rights of the Accused since, as required by rule 68(3), the witness will be present before the Trial

²⁷⁴ Ntaganda Rule 68(3) Preliminary Ruling, [ICC-01/04-02/06-1640-Red](#), para. 9.

²⁷⁵ P-0027, DAR-OTP-0094-0091 at 0115; DAR-OTP-0216-0738 at 0746; DAR-OTP-0223-0105 at 0120; P-0059, DAR-OTP-0095-0095 at 0118; P-0060, DAR-OTP-0097-0328 at 0346; P-0091, DAR-OTP-0112-0142 at 0165; P-0106, DAR-OTP-0116-1005 at 1024; P-0119, DAR-OTP-0124-0196 at 0220; P-0585, DAR-OTP-0201-0037 at 0068; P-0592, DAR-OTP-0209-0825 at 0847; P-0607, DAR-OTP-0203-0164 at 0185; P-0617, DAR-OTP-0202-1496 at 1535; P-0651, DAR-OTP-0205-0015 at 0038; P-0697, DAR-OTP-0209-0155 at 0172; P-0712, DAR-OTP-0209-1884 at 1906; P-0725, DAR-OTP-0210-0122 at 0135-0136; P-0726, DAR-OTP-0210-0346 at 0370; P-0736, DAR-OTP-0210-0248 at 0275; P-0850, DAR-OTP-0216-0002 at 0025; P-0894, DAR-OTP-0217-0103 at 0120; P-0895, DAR-OTP-0215-7164 at 7184; P-0926, DAR-OTP-0218-0738 at 0764; P-0980, DAR-OTP-0221-0553 at 0563.

²⁷⁶ P-0027, DAR-OTP-0094-0091 at 0116; DAR-OTP-0216-0738 at 0748; DAR-OTP-0223-0105 at 0121; P-0059, DAR-OTP-0095-0095 at 0119; P-0060, DAR-OTP-0097-0328 at 0347; P-0091, DAR-OTP-0112-0142 at 0166; P-0106, DAR-OTP-0116-1005 at 1025; P-0119, DAR-OTP-0124-0196 at 0220; P-0592, DAR-OTP-0209-0825 at 0848; P-0607, DAR-OTP-0203-0164 at 0185-0186; P-0617, DAR-OTP-0202-1496 at 1536; P-0651, DAR-OTP-0205-0015 at 0039; P-0697, DAR-OTP-0209-0155 at 0173; P-0712, DAR-OTP-0209-1884 at 1907; P-0725, DAR-OTP-0210-0122 at 0137; P-0726, DAR-OTP-0210-0346 at 0371; P-0736, DAR-OTP-0210-0248 at 0276; P-0850, DAR-OTP-0216-0002 at 0026; P-0894, DAR-OTP-0217-0103 at 0121; P-0895, DAR-OTP-0215-7164 at 7185; P-0926, DAR-OTP-0218-0738 at 0765; P-0980, DAR-OTP-0221-0553 at 0564. Although the interpreter's certification is not included in the statement of P-0585, the interpreter signed his initials on each page. See P-0585, DAR-OTP-0201-0037.

Chamber, their evidence will only be introduced if he or she does not object, and the Defence will have an opportunity to examine the witness during the proceedings.²⁷⁷

105. The Defence has been consulted and has indicated that it does not agree to the introduction of the Prior Recorded Testimonies of the Twenty-One Witnesses, but without providing specific reasons.²⁷⁸ The mere lack of agreement from the Defence does not prevent the introduction of the Prior Recorded Testimonies, nor does it necessarily follow that this would be prejudicial to or inconsistent with the rights of the Accused.²⁷⁹

IV. CONCLUSION

106. For the above 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 8th day of February 2022

At The Hague, The Netherlands

²⁷⁷ Rule 68(3) of the Rules. *See also* [First Rule 68\(3\) Decision](#), paras. 11-12.

²⁷⁸ *See* Email from the Defence to the Prosecution, 8 January 2022 at 09:16 (in relation to P-0027, P-0059, P-0060, P-0091, P-0585, P-0697, P-0712, P-0725, P-0726, P-0736, P-0850, P-0894, P-0895, P-0926 and P-0980); Email from Defence to the Prosecution, 19 January 2022 at 13:35 (in relation to P-0106, P-0119, P-0592, P-0607, P-0617 and P-0651).

²⁷⁹ *See e.g.* *Ongwen* Rule 68(2)(b) Decision on Defence Witnesses, [ICC-02/04-01/15-1322-Red](#), paras. 6-7, 9-10.