



**Original: English**

**No. ICC-02/05-01/20**

**Date: 29 March 2022**

**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 redacted version of the  
Seventh Decision on Prosecution's applications to introduce prior recorded  
testimonies under Rule 68(3)**

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

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**States Representatives**

*Amicus Curiae*

**REGISTRY**

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**Registrar**

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**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

## **I. Procedural history**

1. On 20 January 2022, Trial Chamber I ('the Chamber') issued its first decision on the Prosecution's application to introduce prior recorded testimonies under Rule 68(3) of the Rules of Procedure and Evidence (the 'Rules'), setting out the general framework for the introduction of prior testimonies pursuant to this provision.<sup>1</sup> Since then, the Chamber has issued a series of decisions dealing with subsequent Rule 68(3) applications.<sup>2</sup>
2. On 15 March 2022, the Prosecution filed an application seeking authorisation to introduce into evidence the prior recorded testimonies of P-0041, P-0675, P-0720, P-0892 and P-0916 pursuant to Rule 68(3) of the Rules (the 'Ninth Application').<sup>3</sup>
3. On 23 March 2022, the Defence responded orally to the Ninth Application.<sup>4</sup>
4. On 24 March 2022, the Prosecution and the Defence filed a joint application to introduce the expert report and related material of P-1042 pursuant to Rule 68(3) of the Rules.<sup>5</sup>

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<sup>1</sup> First Decision on the Prosecution's request to introduce prior recorded testimonies under Rule 68(3), ICC-02/05-01/20-559-Conf. A public redacted version was notified on the same day, ICC-02/05-01/20-559-Red.

<sup>2</sup> Decision on the Prosecution's second and third requests to introduce prior recorded testimonies under Rule 68(3), ICC-02/05-01/20-588-Conf. A public redacted version was notified on the same day, ICC-02/05-01/20-588-Red; Decision on the Prosecution's fourth and fifth request to introduce prior recorded testimonies under Rule 68(3), ICC-02/05-01/20-602-Conf, A public redacted version was notified on that same date, 21 February 2022, ICC-02/05-01/20-602-Red; Decision on the Prosecution's sixth request to introduce prior recorded testimonies under Rule 68(3), 16 March 2022, ICC-02/05-01/20-630-Conf. A public redacted version was notified the same day, ICC-02/05-01/20-630-Red; Decision on the Prosecution's seventh application to introduce prior recorded testimonies under Rule 68(3), ICC-02/05-01/20-635-Conf. A public redacted version was notified the same day, ICC-02/05-01/20-635-Red; Decision on the Prosecution's eighth application to introduce prior recorded testimonies under Rule 68(3), 29 March 2022, ICC-02/05-01/20-649-Conf. A public redacted version was notified the same day, ICC-02/05-01/20-649-Red.

<sup>3</sup> Prosecution's ninth application under rule 68(3) to introduce into evidence prior recorded testimony of witnesses P-0041, P-0675, P-0720, P-0892 and P-0916, ICC-02/05-01/20-629-Conf with Confidential Annex A. A public redacted version was notified on 17 March 2022, ICC-02/05-01/20-629-Red.

<sup>4</sup> Transcript of hearing, 23 March 2022, ICC-02/05-01/20-T-025-CONF-ENG.

<sup>5</sup> Joint Prosecution and Defence application under rule 68(3) to introduce into evidence the expert report provided by P-1042 and associated material, ICC-02/05-01/20-644 + Conf-AnxA.

## II. Analysis

5. The Chamber incorporates by reference the general framework applicable to the assessment of applications for introduction of prior recorded statements pursuant to Rule 68(3) of the Rules.<sup>6</sup>

### A. The prior recorded testimonies

#### *P-0041*

6. P-0041, a [REDACTED], provides evidence on the alleged presence and attacks carried out by the Sudanese government forces (the ‘GoS Forces’) and the Militia/*Janjaweed* in Darfur, and particularly Mukjar, at the time of the charges. He also refers to alleged attack on Mukjar police station by rebel armed groups.<sup>7</sup>

7. As regards the accused, P-0041 refers to an alleged meeting he attended in preparation for the Sindu operation.<sup>8</sup>

8. In addition to the two witness statements, the Prosecution seeks to introduce related material, namely photographs, maps, a registration card, and a list of alleged victims used during the interview. The Prosecution also seeks to introduce an investigation report that clarifies the information contained in the aforesaid list of alleged victims.<sup>9</sup>

9. The Prosecution requests one hour to conduct a supplementary examination of the witness (instead of the estimated 4.5 hours).<sup>10</sup>

10. The Chamber notes the Prosecution’s submission that the testimony of P-0041 on the contextual elements of the crimes against humanity,<sup>11</sup> the alleged position and participation of the accused,<sup>12</sup> including his alleged leadership in the

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<sup>6</sup> First Rule 68(3) Decision, ICC-02/05-01/20-559-Conf, paras 7-17.

<sup>7</sup> Ninth Application, ICC-02/05-01/20-629-Conf, paras 10-11.

<sup>8</sup> Ninth Application, ICC-02/05-01/20-629-Conf, paras 10-11.

<sup>9</sup> Ninth Application, ICC-02/05-01/20-629-Conf, para. 12 and Annex A.

<sup>10</sup> Ninth Application, ICC-02/05-01/20-629-Conf, para. 14.

<sup>11</sup> Ninth Application, ICC-02/05-01/20-629-Conf, para. 40, *referring to* P-0129, P-0547, P-0769, P-0878, P-0884, P-0903, P-0905, P-0921, P-0976, P-0984 and P-1021

<sup>12</sup> Ninth Application, ICC-02/05-01/20-629-Conf, paras 41-42, *referring to* P-0012, P-0188, P-0874, P-0877, P-0883, P-0921, P-0931 and P-0990.

Militia/*Janjaweed*,<sup>13</sup> as well as the charges of persecution,<sup>14</sup> is corroborative of, and cumulative to, the expected evidence of other witnesses due to testify *viva voce*. The Chamber also notes the Prosecution's submission that information provided by the witness on the accused's identity corroborates agreed facts.<sup>15</sup>

11. In its oral submissions, the Defence referred to parts of P-0041's testimony that in its view warrant that his testimony be heard entirely *viva voce*. However, the Defence noted that its position as regards this witness was more 'relaxed' than for other witnesses in the Application. In particular, the Chamber notes that in the paragraphs referred to by the Defence,<sup>16</sup> P-0041 refers very succinctly and generally to the accused. Although the witness attended [REDACTED] allegedly attended by the accused, his evidence is not unique or significant. In fact, the witness states that he [REDACTED] of the accused and that he never saw Ali Kushayb before or after [REDACTED].<sup>17</sup>

12. The Chamber considers that the introduction of P-0041's prior recorded testimony will not occasion any prejudice to the accused since Rule 68(3) of the Rules allows for cross-examination. The Defence will still have ample opportunity to question the witness on issues identified as core for its case, particularly the identity of the accused, and in relation to P-0041, the accused's alleged attendance of the aforesaid [REDACTED].

### ***P-0675***

13. P-0675, [REDACTED], provides evidence on the local community leaders in Darfur. He was allegedly displaced to Mukjar as a result of an attack on Tendency at the time of the charges. He thus refers to the alleged presence and attacks of the GoS Forces and the Militia/*Janjaweed* at the time, the targeting of Fur men, [REDACTED] detention, interrogation and torture. He also refers to the speech allegedly made by

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<sup>13</sup> Ninth Application ICC-02/05-01/20-629-Conf, para. 49, *referring to* P-0012, P-0129, P-0643, P-0878, P-0903, P-0907 and P-0987.

<sup>14</sup> Ninth Application, ICC-02/05-01/20-629-Conf, para. 46, *referring to* P-0843.

<sup>15</sup> Ninth Application, ICC-02/05-01/20-629-Conf, para. 48, *referring to* Annex A to the Third Joint Prosecution and Defence Submission on Agreed facts, 9 November 2021, ICC-02/05-01/20-504-AnxA, facts 4, 10-11, and 15.

<sup>16</sup> ICC-02/05-01/20-T-025, p. 44, line 20 to p. 45, line 16. The Defence referred to DAR-OTP-0096-0002, para. 13 and to DAR-OTP-0206-0033, paras 23-26, 52.

<sup>17</sup> DAR-OTP-0096-0002, para. 13 and DAR-OTP-0206-0033, para. 23.

Ahmad Harun in Mukjar in 2004. P-0675 also refers to alleged executions of detainees and the existence of mass graves.<sup>18</sup>

14. As regards the accused, P-0675 describes how he allegedly heard that Mr Abd-Al-Rahman would hit detainees.<sup>19</sup>

15. In addition to the witness statement, the Prosecution seeks to introduce related material, namely satellite images used during the interview to locate places referred to in P-0675's evidence as well as a signed consent form.<sup>20</sup>

16. The Prosecution requests one hour to conduct a supplementary examination of the witness (instead of the estimated 4.5 hours).<sup>21</sup>

17. The Chamber notes the Prosecution's submission that the testimony of P-0675 on the contextual elements of the crimes against humanity,<sup>22</sup> the alleged leadership of the accused in the Militia/*Janjaweed*,<sup>23</sup> the alleged charges of torture, other inhumane acts, cruel treatment and outrages upon personal dignity,<sup>24</sup> the charges of murder and attempted murder,<sup>25</sup> as well as persecution,<sup>26</sup> is corroborative of, and cumulative to, the expected evidence of other witnesses due to testify *viva voce*. The Chamber also notes the Prosecution's submission that information provided by the witness on the accused's identity corroborates agreed facts.<sup>27</sup>

18. In its oral submissions, the Defence referred to parts of P-0675's testimony that in its view warrant that his testimony be heard entirely *viva voce*. In particular, the

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<sup>18</sup> Ninth Application, ICC-02/05-01/20-629-Conf, paras 16-17.

<sup>19</sup> Ninth Application, ICC-02/05-01/20-629-Conf, para. 16.

<sup>20</sup> Ninth Application, ICC-02/05-01/20-629-Conf, para. 18 and Annex A.

<sup>21</sup> Ninth Application, ICC-02/05-01/20-629-Conf, paras 19-20.

<sup>22</sup> Ninth Application, ICC-02/05-01/20-629-Conf, para. 40, *referring to* P-0129, P-0547, P-0769, P-0878, P-0884, P-0903, P-0905, P-0921, P-0976, P-0984 and P-1021

<sup>23</sup> Ninth Application, ICC-02/05-01/20-629-Conf, para. 49, *referring to* P-0012, P-0129, P-0643, P-0878, P-0903, P-0907 and P-0987.

<sup>24</sup> Ninth Application, ICC-02/05-01/20-629-Conf, para. 43, *referring to* P-0012, P-0028, P-0029, P-0129, P-0188, P-0877, P-0903, P-0905, P-0913, P-0919, P-0932, P-0976, P-0984, P-0990 and P-0992.

<sup>25</sup> Ninth Application, ICC-02/05-01/20-629-Conf, para. 44, *referring to* P-0012, P-0028, P-0029, P-0129, P-0188, P-0877, P-0885, P-0903, P-0905, P-0913, P-0919, P-0931, P-0932, P-0976, P-0984, P-0992.

<sup>26</sup> Ninth Application, ICC-02/05-01/20-629-Conf, para. 45, *referring to* P-0029, P-0129, P-0188, P-0877, P-0885, P-0903, P-0913, P-0919, P-0976, P-0984 and P-0990.

<sup>27</sup> Ninth Application, ICC-02/05-01/20-629-Conf, para. 48, *referring to* Annex A to the Third Joint Prosecution and Defence Submission on Agreed facts, 9 November 2021, ICC-02/05-01/20-504-AnxA, facts 4, 10-11, and 15.

Chamber notes that in the paragraphs referred to by the Defence,<sup>28</sup> although P-0675 refers to Ali Kushayb, there was no direct interaction and contact. Moreover, the evidence on Ali Kushayb's alleged leadership is mostly hearsay.<sup>29</sup> The witness's testimony on the alleged speech of Ahmad Harun is equally neither unique nor significant.<sup>30</sup> The evidentiary weight of these assertions will be considered by the Chamber in its assessment in the context of the judgment under Article 74 of the Rome Statute (the 'Statute').

19. The Chamber considers that the introduction of P-0675's prior recorded testimony will not occasion any prejudice to the accused since Rule 68(3) of the Rules allows for cross-examination. The Defence will still have ample opportunity to question the witness on issues identified as core for its case.

***P-0720***

20. P-0720, a civilian, provides evidence on the context of Mukjar at the time of the charges (administration and structure), as well as the alleged attack by rebel armed groups on Mukjar police station in 2003. He also refers to the alleged attack in Sindu and resulting influx of persons to Mukjar.<sup>31</sup>

21. As regards the accused, P-0720 refers to his alleged participation in the Sindu operations, including in the execution of Fur men in Mukjar in February/March 2004. P-0720 also refers to the accused allegedly arresting [REDACTED], who was later executed.<sup>32</sup>

22. In addition to the witness statement, the Prosecution seeks to introduce related material, namely sketch maps used during the interview, as well two school certificates of the witness.<sup>33</sup>

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<sup>28</sup> Transcript of hearing, 23 March 2022, ICC-02/05-01/20-T-025-ENG, p. 45, line 19 to p. 46 line 1. The Defence referred to DAR-OTP-0206-0173, paras 46-47, 100-105, 121, 124, 136.

<sup>29</sup> For example, at DAR-OTP-0206-0173, para. 100 referred to by the Defence, P-0675 states: 'I had never seen Kushayb before this date, however, had heard of him [...].'

<sup>30</sup> At DAR-OTP-0206-0173, para. 104 referred to by the Defence, P-0675 states: 'Prior to this date I had heard of the name Ahmed HARUN as a government minister but I had never seen him before.'

<sup>31</sup> Ninth Application, ICC-02/05-01/20-629-Conf, paras 22-23.

<sup>32</sup> Ninth Application, ICC-02/05-01/20-629-Conf, paras 22-23.

<sup>33</sup> Ninth Application, ICC-02/05-01/20-629-Conf, para. 24 and Annex A.

23. The Prosecution requests one hour to conduct a supplementary examination of the witness (instead of the estimated 4.5 hours).<sup>34</sup>

24. The Chamber notes the Prosecution's submission that P-0720's evidence on the alleged charges of torture, other inhumane acts, cruel treatment and outrages upon personal dignity,<sup>35</sup> as well as the accused's alleged leadership in the Militia/*Janjaweed*,<sup>36</sup> is corroborative of, and cumulative to, the expected evidence of other witnesses due to testify *viva voce*.

25. In its oral submissions, the Defence referred to parts of P-0720's testimony that in its view warrant that his testimony be heard entirely *viva voce*. In particular, the Chamber notes that in the paragraphs referred to by the Defence,<sup>37</sup> P-0720 refers to the accused's alleged participation in the Sindu operation and execution of Fur men in Mukjar [REDACTED]. However, when the witness allegedly saw the accused, there was no direct interaction. Although P-0720 refers to 'Ali Kushayb's forces', his evidence as regards the context, including the accused's alleged leadership role and his nickname, is mostly hearsay. The evidentiary weight of these assertions will be considered by the Chamber in its assessment in the context of the judgment under Article 74 of the Statute.

26. The Chamber considers that the introduction of P-0720's prior recorded testimony will not occasion any prejudice to the accused since Rule 68(3) of the Rules allows for cross-examination. The Defence will still have ample opportunity to question the witness on issues identified as core for its case.

### ***P-0892***

27. P-0892, a civilian from Arada, provides evidence on the alleged attack by GoS forces and Militia/*Janjaweed* on that location and resulting displacement to Mukjar at the time of the charges. P-0892 also refers to his own alleged detention and that of

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<sup>34</sup> Ninth Application, ICC-02/05-01/20-629-Conf, paras 25-26.

<sup>35</sup> Ninth Application, ICC-02/05-01/20-629-Conf, para. 43, *referring to* P-0012, P-0028, P-0029, P-0129, P-0188, P-0877, P-0903, P-0905, P-0913, P-0919, P-0932, P-0976, P-0984, P-0990 and P-0992.

<sup>36</sup> Ninth Application, ICC-02/05-01/20-629-Conf, para. 49, *referring to* P-0012, P-0129, P-0643, P-0878, P-0903, P-0907 and P-0987.

<sup>37</sup> Transcript of hearing, 23 March 2022, ICC-02/05-01/20-T-025-ENG, p. 46, lines 2 to 6. The Defence referred to DAR-OTP-0210-0291, paras 60-61, 82-85, 97-98, 103-110.



relatives, as well as the execution of detainees. He also provides evidence on the alleged visit of Ahmad Harun to Mukjar.<sup>38</sup>

28. As regards the accused, P-0892 provides evidence of his alleged orders at the place of detention, his identity and nickname.<sup>39</sup>

29. In addition to the witness statement, the Prosecution seeks to introduce related material, namely a headdress board and a colour chart used during the interview.<sup>40</sup>

30. The Prosecution requests one hour to conduct a supplementary examination of the witness (instead of the estimated 4.5 hours).<sup>41</sup>

31. The Chamber notes the Prosecution's submission that P-0892's evidence on the accused's alleged leadership in the Militia/*Janjaweed*,<sup>42</sup> the alleged charges of torture, other inhumane acts, cruel treatment and outrages upon personal dignity,<sup>43</sup> charges of murder and attempted murder,<sup>44</sup> as well as persecution,<sup>45</sup> is corroborative of, and cumulative to, the expected evidence of other witnesses due to testify *viva voce*. The Chamber also notes the Prosecution's submission that information provided by the witness on the accused's identity corroborates agreed facts.<sup>46</sup>

32. In its oral submissions, the Defence referred to parts of P-0892's testimony that in its view warrant that his testimony be heard entirely *viva voce*. In particular, the Chamber notes that in the paragraphs referred to by the Defence,<sup>47</sup> P-0892 refers to [REDACTED] alleged detention and the accused's alleged orders at the place of

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<sup>38</sup> Ninth Application, ICC-02/05-01/20-629-Conf, para. 28.

<sup>39</sup> Ninth Application, ICC-02/05-01/20-629-Conf, paras 28-29.

<sup>40</sup> Ninth Application, ICC-02/05-01/20-629-Conf, para. 30 and Annex A.

<sup>41</sup> Ninth Application, ICC-02/05-01/20-629-Conf, paras 31-32.

<sup>42</sup> Ninth Application, ICC-02/05-01/20-629-Conf, para. 49, *referring to* P-0012, P-0129, P-0643, P-0878, P-0903, P-0907 and P-0987.

<sup>43</sup> Ninth Application, ICC-02/05-01/20-629-Conf, para. 43, *referring to* P-0012, P-0028, P-0029, P-0129, P-0188, P-0877, P-0903, P-0905, P-0913, P-0919, P-0932, P-0976, P-0984, P-0990 and P-0992.

<sup>44</sup> Ninth Application, ICC-02/05-01/20-629-Conf, para. 44, *referring to* P-0012, P-0028, P-0029, P-0129, P-0188, P-0877, P-0885, P-0903, P-0905, P-0913, P-0919, P-0931, P-0932, P-0976, P-0984, P-0992.

<sup>45</sup> Ninth Application, ICC-02/05-01/20-629-Conf, para. 45, *referring to* P-0029, P-0129, P-0188, P-0877, P-0885, P-0903, P-0913, P-0919, P-0976, P-0984 and P-0990.

<sup>46</sup> Ninth Application, ICC-02/05-01/20-629-Conf, para. 48, *referring to* Annex A to the Third Joint Prosecution and Defence Submission on Agreed facts, 9 November 2021, ICC-02/05-01/20-504-AnxA, facts 4, 10-11, and 15.

<sup>47</sup> Transcript of hearing, 23 March 2022, ICC-02/05-01/20-T-025-ENG, p. 46, line 7 to p. 47, line 10. The Defence referred to DAR-OTP-0217-0384, paras 22-23, 34-36, 53-60, 70, 80, 85-88.

detention. However, P-0892's knowledge about the accused's name and nickname, and the broader context of his alleged leadership is mostly hearsay. The Chamber rejects the Defence's submission that P-0892's evidence (that he did not know another name for Ali Kushayb before 2004) requires *viva voce* testimony in its entirety. This aspect of P-0892's testimony, together with paragraph 80 also referred to by the Defence as 'almost unique',<sup>48</sup> can be addressed during cross-examination, which is left unaffected by the use of Rule 68(3) of the Rules. Moreover, the evidentiary weight of these assertions will be considered by the Chamber in its assessment in the context of the judgment under Article 74 of the Statute.

33. The Chamber therefore considers that the introduction of P-0892's prior recorded testimony will not occasion any prejudice to the accused.

#### ***P-0916***

34. As regards P-0916, the Chamber notes that there is a pending application pursuant to Regulation 35 of the Regulations of the Court, to introduce the witness statement and related material to the List of Witnesses and List of Evidence.<sup>49</sup> Moreover, submissions are pending on the general objection raised by the Defence on the admissibility of evidence obtained after the confirmation of charges hearing.<sup>50</sup>

35. Accordingly, the Chamber defers its decision on the introduction of this prior recorded testimony pursuant to Rule 68(3) of the Rules until the aforesaid matters are resolved.

#### ***P-1042***

36. P-1042, an expert witness jointly instructed by the parties, drafted an expert report on the background to the armed conflict.<sup>51</sup> Relying on previous practice at the Court which has allowed the introduction of expert reports pursuant to Rule 68(3) of the

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<sup>48</sup> The Defence acknowledged in its oral submissions that P-0932, a witness due to testify entirely *viva voce*, also provides similar evidence. See Transcript of hearing, 23 March 2022, ICC-02/05-01/20-T-025-ENG, p. 46, lines 20 to 23.

<sup>49</sup> Prosecution's application under regulation 35 to extend the lapsed disclosure deadline and witness list deadline, 10 March 2022, ICC-02/05-01/20-624-Conf. A public redacted version was notified on 15 March 2022, ICC-02/05-01/20-624-Red.

<sup>50</sup> See e-mail from the Chamber, 25 March 2022 at 8:37.

<sup>51</sup> DAR-OTP-0220-1623.

Rules,<sup>52</sup> the parties seek the introduction of the expert report and associated material, namely maps appended to the report, as well as the instruction letter, the expert's resume and a personal statement in which the expert refers to his qualifications to provide expert testimony on the conflict in Darfur, Sudan.<sup>53</sup>

37. The parties request three hours each to conduct a supplementary examination of the witness (instead of the estimated 4.5 hours).

38. Considering the agreement among the parties, the introduction of P-1042's expert report and associated material will cause no prejudice to the accused.

#### **B. Timing and scope of supplementary examination and cross-examination**

39. The Chamber notes that for P-1042 both parties are requesting a significant amount of time for supplementary questioning, despite the use of Rule 68(3) of the Rules. Nonetheless, the Chamber has also expressed interest in the topics to be addressed in the supplementary examinations. Accordingly, the Chamber exceptionally grants the parties the requested three hours each for examination and cross-examination.

40. As regards the timing of supplementary examination of all other witnesses and bearing in mind the object and purpose of Rule 68(3) of the Rules, the Prosecution must streamline its examination in order to complete the formalities under this provision and conduct any supplementary questioning within the estimated hour requested.

41. As anticipated in the Directions on the conduct of proceedings,<sup>54</sup> the Chamber will issue, in due course, a decision on the overall length and timing of the presentation of evidence by the Prosecution, and consequently the overall length and timing for the Defence's cross-examination of witnesses to be called by the Prosecution.

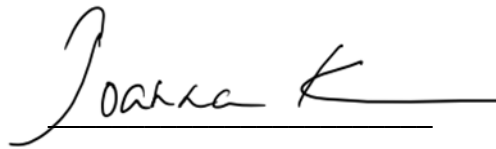
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<sup>52</sup> P-1042 Request, ICC-02/05-01/20-644, para. 7, referring to Trial Chamber VI, *The Prosecutor v. Bosco Ntaganda*, Preliminary ruling on Prosecution application under Rule 68 (3) of the Rules for admission of prior recorded testimony of Witness P-0931, 21 September 2015, ICC-01/04-02/06-845, para 8; Trial Chamber IX, *The Prosecutor v. Dominic Ongwen*, Decision on Prosecution Requests Related to Mental Health Expert Evidence, 16 November 2017, ICC-02/04-01/15-1073, para 14; and Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Decision on Proposed Expert Witnesses, 21 October 2020, ICC-01/12-01/18-989-Red.

<sup>53</sup> P-1042 Request, ICC-02/05-01/20-644, paras 8, 11 and Annex A.

<sup>54</sup> Directions on the conduct of proceedings, 4 October 2021, ICC-02/05-01/20-478, para. 22.

42. For the reasons above, and given the nature and content of the witness statements and associated material, the Chamber authorises the introduction of the prior recorded testimonies of witnesses P-0041, P-0675, P-0720, P-0892 and P-1042 pursuant to Rule 68(3) of the Rules. The Chamber's preliminary ruling is subject to witnesses' appearance before the Chamber and their consent to the introduction of their testimony pursuant to this provision.



**Judge Joanna Korner**

**Presiding Judge**



**Judge Reine Alapini-Gansou**



**Judge Althea Violet Alexis-Windsor**

Dated this 29 March 2022

At The Hague, The Netherlands