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No.: **ICC-02/04-01/05**
Date: **26 January 2015**

PRE-TRIAL CHAMBER II

Before: **Judge Ekaterina Trendafilova, Presiding Judge**
Judge Cuno Tarfusser
Judge Christine Van de Wyngaert

SITUATION IN UGANDA
THE PROSECUTOR V. JOSEPH KONY, VINCENT OTTI, OKOT ODHIAMBO, DOMINIC ONGWEN

Public Redacted

Views and concerns of victims in relation to the proceedings against Mr. Dominic Ongwen

Source: **Office of Public Counsel for Victims**

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

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REGISTRY

Registrar Herman von Hebel	**Counsel Support Section**
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Victims Participation and Reparations Section	**Other**

I. INTRODUCTION

1. Victims have been waiting for the proceedings in this case to start for almost 10 years. As a result, an important number of victims communicated with the Court and requested to participate in the proceedings many years ago. They all expressed a lot of frustrations regarding the long-lasting non-execution of the warrants of arrest issued in 2005. Some victims also articulated a disbelief and loss of trust in the proceedings of the Court and may be willing to withdraw their applications for participation in the future. This includes individuals who have subsequently been victimised in neighbouring countries of Uganda. Nonetheless, in the past few days, many victims have expressed relief upon becoming privy to the transfer of Mr. Ongwen at the detention centre of the Court and hope to contribute to the search for the truth about the events at the origin of their victimisation and to have their voice heard in the proceedings.

2. However, this relief comes with concerns and queries in relation to the exact scope of the charges alleged to date against Mr. Ongwen. Victims are aware of the content of the warrant of arrest as publicly available[1], and they have indicated that they do not understand the reasons why the alleged charges against the suspect are limited to the seven mentioned in said warrant of arrest[2].

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[1] See the "Warrant of Arrest for Dominic Ongwen" (Pre-Trial Chamber II), No. ICC-02/04-01/05-57, 13 October 2005.

[2] In this regard, the Legal Representatives of victims refer in particular to article 54(1)(a) and (b) of the Rome Statute, which states as follows: "*The Prosecutor shall: (a) In order to establish the truth, extend the investigation to cover all facts and evidence relevant to an assessment of whether there is criminal responsibility under this Statute, an, in doing so, investigate incriminating and exonerating circumstances equally; (b) Take appropriate measures to ensure the effective investigations and prosecution of crimes within the jurisdiction of the Court, and in doing so, respect the interests and personal circumstances of victims and witnesses* (…)". The Legal Representatives refer as well to article 61(4) of the Rome Statute, according to which: "*Before the hearing* [*i.e.* the Confirmation of Charges Hearing], *the Prosecutor may continue the investigation and may amend or withdraw any charges. The person shall be given reasonable notice before the hearing of any amendment to or withdrawal of charges*". They also note that the suspect was made aware of said article as part of the provisions of the Court transmitted to him by the Registry and annexed to his warrant of arrest. See No. ICC-02/04-01/05-11-US-Exp, 8 July 2005, made public pursuant to Decision No. ICC-02/04-01/05-52. See also rule 117(1) of the Rules of Procedures and Evidence and Decision No. ICC-02/04-01/05-33, 27 September 2005.

3. The victims' account of events reveals that the crimes they suffered from did not originate from spontaneous or isolated acts of violence, but were rather part of a planned, directed and organised attacks against them perpetrated by the Lord's Resistance Army (the "LRA") armed group carrying out an insurgency against the Government of Uganda.

4. In particular, victims have indicated that, while in the warrant of arrest it is recognized that the LRA "*engaged in a cycle of violence and established a pattern of* "brutalization of civilians" *by acts including murder, abduction, sexual enslavement, mutilation, as well a mass burnings of houses and looting of camp settlements*", and that civilians, including children, were abducted and used as fighters, porters and sex slaves[3], only certain crimes have been retained by the Prosecution with regard to Mr. Ongwen.

5. Victims have also indicated that rape, sexual violence and sexual slavery, as well as the abduction of children to be trained and used in hostilities were – and sadly still are – crimes usually committed by LRA, including by senior leaders. Therefore, they have expressed concerns regarding the limited crimes currently included in the warrant of arrest which are not representative of the extent of the victimisation they have suffered from.

6. Following the Order of the Single Judge convening a Status Conference on the 28 January 2015[4] in the presence of the Prosecution only to discuss matters related to the proceedings, and being aware of the numerous questions raised by victims and their concerns regarding the scope of the proceedings to date, the Legal Representatives of victims consider that they have a professional obligation[5] to

[3] See *supra* note 1, para. 6.
[4] See the "Decision on Setting the Date for the Initial Appearance of Dominic Ongwen and the Date for a Status Conference" (Single Judge, Pre-Trial Chamber II), No. ICC-02/04-01/05-418, 21 January 2015, para. 8.
[5] See in particular articles 5, 14, and 24 of the Code of Professional Conduct for counsel, as well as regulation 81(4)(d) of the Regulations of the Court.

transmit the views of their clients to the Chamber as early as possible. The Legal Representatives all the more consider to be under such an obligation that they have been granted access to the under seal version of the warrants of arrest[6]. In this regard, the Legal Representatives had access to information that they could not share with their clients due to its level of confidentiality[7], but which appears to mirror, to an important extent, their concerns. Being privy to information that echoes the victims' preoccupations, the Legal Representatives consider that it is their duty to develop the concerns of their clients before the Chamber and by so doing, to abide by their professional obligation to represent their best interests.

II. PROCEDURAL HISTORY

7. On 8 July 2005, Pre-Trial Chamber II (the "Chamber") issued the "Decision on the Prosecutor's application for the warrants of arrest under Article 58"[8], along with a warrant of arrest against Mr. Dominic Ongwen for his alleged responsibility for (i) crimes against humanity of murder, enslavement and other inhumane acts under articles 7(1)(a), 7(1)(c) and 7(1)(k) of the Rome Statute and (ii) war crimes of murder, cruel treatment, attack against a civilian population and pillaging under articles 8(2)(c)(i), 8(2)(e)(i) and 8(2)(e)(v) of the Rome Statute[9].

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[6] See the "Decision on "Request to access documents and material", and to hold a hearing *in camera* and *ex parte*" (Pre-Trial Chamber II), No. ICC-02/04-01/05-152, 7 February 2007, p. 3: "*Considering that, for the purpose of the tasks entrusted to the OPCV in the Decision, it appears indeed necessary for the OPCV to have access to the unredacted version of the Warrants, in particular with a view to it being apprised of the specific scope and the factual features of the charges brought against the persons whose arrest is sought by the* Court".

[7] See, in particular, article 8 of the Code of Professional Conduct for counsel.

[8] See the "Decision on the Prosecutor's application for warrants of arrest under article 58" (Pre-Trial Chamber II), No. ICC-02/04-1, 8 July 2005. This Decision was unsealed pursuant to Decision No. 02/04-01/05-52, 13 October 2005.

[9] See *supra* note 1.

8. In accordance with the decisions on legal representation of victims issued by the then Single Judge of the Chamber[10], two counsel from the Office of Public Counsel for Victims (the "OPCV" or the "Office") were appointed as common legal representatives of participating victims and provide legal assistance and representation to applicants in the proceedings (the "Legal Representatives").

9. On 21 January 2015, Mr. Ongwen was transferred to the detention centre of the Court[11].

10. On 21 January 2015, the Chamber issued a decision appointing Judge Trendafilova as Single Judge responsible for carrying out the functions of the Chamber with respect to the case[12].

11. The same day, the Single Judge issued a decision setting the dates for the initial appearance of Mr. Ongwen and for a Status Conference to be held in closed session in the presence of the Prosecution only[13].

12. In accordance with regulation 23*bis* (2) of the Regulations of the Court, the present submission is filed confidential *ex parte* only available to the Prosecution and

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[10] See the "Decision on legal representation, appointment of counsel for the defence, protective measures and time-limit for submission of observations on applications for participation a/0010/06, a/0064/06 to a/0070/06, a/0081/06 to a/0104/06 and a/0111/06 to a/0127/06"(Pre-Trial Chamber II, Single Judge), No. ICC-02/04-01/05-134, 1 February 2007; "Decision on legal representation of Victims a/0090/06, a/0098/06, a/0101/06 a/0112/06, a/0118/06, a/0119/06 and a/0122/06"(Pre-Trial Chamber II, Single Judge), No ICC-02/04-01/05-267, 15 February 2008; "Decision on legal representation, appointment of counsel for the defence, criteria for redactions of applications for participation, and submission of observations on applications for participation a/0014/07 to a/0020/07 and a/0076/07 to a/0125/07"(Pre-Trial Chamber II, Single Judge), No ICC-02/04-01/05-312, 18 September 2008; "Decision on legal representation of Victims a/0065/06, a/0066/06, a/0068/06, a/0088/06, a/0090/06 to a/0096/06, a/0098/06, a/0102/06, a/0103/06, a/0112/06, a/0115/06, a/0117/06, a/0118/06, a/0120/06 to a/0126/06, a/0076/07 to a/0078/07, a/0081/07, a/0082/07, a/0084/07, a/0085/07, a/0090/07 to a/0103/07, a/105/07 to a/0108/07, a/0112/07, a/0115/07, a/0117/07, a/0118/07 and a/0123/07"(Pre-Trial Chamber II, Single Judge), No ICC-02/04-01/05-366, 9 February 2009.

[11] See *supra* note 4, para. 4.

[12] See the "Decision Designating a Single Judge" (Pre-Trial Chamber II), No. ICC-02/04-01/05-415, 21 January 2015.

[13] See *supra* note 4.

the OPCV because it refers to documents classified to date as under seal. A confidential redacted version of the submission to be notified to the Defence and a public redacted version are filed simultaneously.

III. VIEWS AND CONCERNS OF VICTIMS

1) Scope of the charges currently included in the warrant of arrest against Mr. Ongwen

13. The Legal Representatives note that the warrant of arrest issued against Mr. Ongwen in 2005 includes only one attack, which appears to have been part of the campaign of attacks against civilians launched by the LRA in or around the middle of the year 2002 in different areas in Uganda[14]. According to a Statement of the Prosecutor issued in 2005, "*the Lord's Resistance Army (LRA) was allegedly responsible for at least 2200 killings and 3200 abductions in over <u>850 attacks</u>*"[15].

14. Furthermore, in the warrant of arrest, Mr. Ongwen is described as amongst the "*persons who may bear the greatest responsibility for the crimes within the referred situation*"[16], and amongst the "*most responsible*" as referred to in the Government of Uganda's Letter of Jurisdiction dated 28 May 2004[17].

15. In this regard, the Chamber concluded that Mr. Ongwen "*together with other persons whose arrests are sought by the Prosecutor, ordered the commission of crimes within*

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[14] See *supra* note 1, paras. 12 and 13.
[15] See the Statement by Luis Moreno-Ocampo, at the time Prosecutor of the International Criminal Court, at the Fourth Session of the Assembly of States Parties, 28 November – 3 December 2005, included in the "Registration in a record of proceedings of Statement by Luis Moreno-Ocampo, Informal meeting of Legal Advisors of Ministries of Foreign Affairs, New York, 24 October 2005; Déclaration de M. Luis Moreno-Ocampo, Réunion informelle des Conseillers juridiques des Ministères des Affaires Etrangères, New York, 24 octobre 2005 and Statement by Luis Moreno-Ocampo, Fourth Session of the Assembly of States Parties, The Hague, 28 November 2005", No. ICC-02/04-01/05-67, 2 December 2005, p. 27 [we underline].
[16] See *supra* note 1, para. 25.
[17] *Idem*.

the jurisdiction of the Court, namely, crimes against humanity and war crimes"[18]. To reach this conclusion, the Chamber considered Mr. Ongwen's "*direct involvement with the objectives and strategies of the campaign as a whole*" [*i.e.* the campaign of attacks against civilians ordered by Mr. Kony to LRA forces as from or around the middle of the year 2002][19], in his capacity of "*key* [member] *of the* "Control Altar", *the section representing the core LRA leadership responsible for devising and implementing LRA strategy, including standing orders to attack and brutalise civilian populations*"[20]. In addition, the Chamber considered sources indicated by the Prosecution as confirming Mr. Ongwen's role within the LRA's leadership, namely, statements from former LRA commanders, victim or witness accounts, radio broadcast recordings, short-wave radio communications with other LRA commanders intercepted by Ugandan authorities[21].

16. In light of the above-mentioned information, the Legal Representatives echo the preoccupations of the victims with regard to the restrictive scope of the charges alleged in the warrant of arrest dated 2005. The information regarding the core position of Mr. Ongwen within the LRA, together with the finding about the high number of LRA attacks at the time, cannot but trigger questions about Mr. Ongwen's involvement in [REDACTED]. Moreover, said core position with regard to "*devising*

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[18] See *supra* note 1, para. 30.
[19] *Idem*, para. 12.
[20] *Ibid.*, para. 9. For the definition of the terms "Control Altar", see the definition provided by LRA Crisis Tracker, at http://www.lracrisistracker.com/command/evolution: "*Control Alter, often referred to as the Military Council or even the Joint Chiefs of Staff, was a gathering place for the LRA's top commanders. It was usually led by Kony's deputy who also held the position of Army Commander. Control Altar was also comprised of the leaders of various units in the LRA, including the Director of Operations, Director of Training, Chief Medical Officer, Director of External Relations, Director of Military Intelligence, Chief Signaler, Director of Finance, Political Commissar and the Divisional Commander. These experienced officers acted as advisors to Kony while being in charge of their particular field in the LRA. Kony also invited top commanders for strategy sessions during mealtimes, a tradition that became known as High Table*".
[21] See *supra* note 1, para. 11. See also other public recognition of the leadership role of Mr. Ongwen within the LRA HRW, US/Central Africa: Protect Civilians From LRA Abuses, 23 May 2011: http://www.hrw.org/news/2011/05/23/uscentral-africa-protect-civilians-lra-abuses; Uganda's Foreign, Defence Ministers Brief Security Council, Call for Strong Measures to Disarm Lord's Resistance Army, Security Council 5415th Meeting (AM), 19 April 2006: http://www.un.org/press/en/2006/sc8695.doc.htm.

and implementing LRA strategy" [22] and the suspect's *"direct involvement with the objectives and strategies of the campaign as a whole"*[23], also raises questions about the modes of liability Mr. Ongwen could be charged with in relation to other crimes mentioned in the warrants of arrest issued against the other LRA senior leaders.

17. The Legal Representatives note that, in the current formulation of the warrant of arrest, the responsibility of Mr. Ongwen is engaged under article 25(3)(b) of the Rome Statute, for having allegedly ordered the commission of the listed crimes. However, in light of his role as described above, the Legal Representatives mirror the preoccupations of the victims with regard to the possible responsibility of Mr. Ongwen for additional acts under other modes of liability as well[24]. In particular, the Legal Representatives submit the possible relevance and applicability of article 25(3)(a)[25] (co-perpetration), 25(3)(b)[26] (also solicits or induces) and/or 25(3)(c)[27], and/or

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[22] See *supra* note 1, para. 9.

[23] *Idem*, para. 12.

[24] See the "Decision on the confirmation of charges against Laurent Gbagbo" (Pre-Trial Chamber I), No. ICC-02/11-01/11-656-Red, 12 June 2014, para. 228: "*Taking stock of past experience of the Court, the Chamber is also of the view that confirming all applicable alternative legal characterisations on the basis of the same facts is a desirable approach as it may reduce future delays at trial, and provides early notice to the defence of the different legal characterisations that may be considered by the trial judges. This more flexible approach is, of course, without prejudice to the possibility that trial judges, following the applicable procedure, consider other alternatives as well.*" See also the "Decision on the confirmation of charges against Charles Blé Goudé" (Pre-Trial Chamber I), No. ICC-02/11-02/11-186, 11 December 2014, para. 133: "*The Prosecutor alleges that the suspect is criminally responsible for the crimes charged under the alternative modes of liability of article 25(3)(a), 25(3)(b), 25(3)(c) and 25(3)(d) of the Statute. As this Chamber has stated previously, when alternative legal characterisations of the same facts proposed by the Prosecutor are satisfactorily established by the evidence, it is appropriate that the charges be confirmed with the various available alternatives, in order for the Trial Chamber to determine whether any of those legal characterisations is established to the applicable standard of proof at trial.*" See also the "Decision on the Prosecutor's Application for Summons to Appear for William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang" (Pre-Trial Chamber II), No. ICC-01/09-01/11-1, 8 March 2011, para. 36: "*Although the Prosecutor may generally charge in the alternative, he should be consistent throughout his Application about the actual mode(s) of liability that he intends to present to the Chamber.* […] *A person cannot be deemed concurrently as a principal and an accessory to the same crime.*"

[25] See Article 25(3)(a) of the Rome Statute: "*In accordance with this Statute, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person: Commits such a crime, whether as an individual, jointly with another or through another person, regardless of whether that other person is criminally responsible*". See also the "Decision pursuant to Article 61(7)(a) and (b) of the Rome Statute" (Pre-Trial Chamber II), No. ICC-01/05-01/13-749, 11 November 2014, para. 33: "*Co-perpetration within the meaning of article 25(3)(a) of the Statute requires two or more persons to agree to contribute to the commission of the offence and to act accordingly. Perpetration is subsumed under the mode of liability of co-perpetration.*" See also the "Decision on the confirmation of charges" (Pre-Trial Chamber

25(3)(d)[28], and/or article 28(a)(i) and/or (ii) of the Rome Statute[29], "*considering that* […] *the LRA is organised in a military-type hierarchy and operates as an army*"[30].

I), No. ICC-01/04-01/06-803-tEN, 29 January 2007, para. 342: "*The concept of co-perpetration based on joint control over the crimes is rooted in the principle of the division of essential tasks for the purpose of committing a crime between two or more persons acting in a concerted manner. Hence, although one of the participants has overall control over the offence because they all depend on one another for its commission, they all share control because each of them could frustrate the commission of the crimes by not carrying out his or her task*."

[26] See Article 25(3)(b) of the Rome Statute: "*In accordance with this Statute, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person: Orders, solicits or induces the commission of such a crime which in fact occurs or is attempted*." See also the "Decision pursuant to Article 61(7)(a) and (b) of the Rome Statute" (Pre-Trial Chamber II), No. ICC-01/05-01/13-749, 11 November 2014, para. 34: "*With regard to the terms 'soliciting' and 'inducing' within the meaning of article 25(3)(b) of the Statute, the Chamber is of the view that they both characterize the situation whereby the perpetrator is prompted by another to commit the offence. In this respect, the Chamber finds it sufficient to recall its previous jurisprudence on 'inducing' and clarifies that the legal requirements are the same*."

[27] See Article 25(3)(c) of the Rome Statute: "*In accordance with this Statute, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person: For the purpose of facilitating the commission of such a crime, aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission.*" See also the "Decision pursuant to Article 61(7)(a) and (b) of the Rome Statute" (Pre-Trial Chamber II), No. ICC-01/05-01/13-749, 11 November 2014, para. 35: "*In relation to the different forms of responsibility employed in article 25(3)(c) of the Statute, the Chamber considers that the elements of this mode of liability are met insofar as the accessory's contribution has an effect on the commission of the offence and is made with the purpose of facilitating such commission*."

[28] See Article 25(3)(d) of the Rome Statute: "*In accordance with this Statute, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person: In any other way contributes to the commission or attempted commission of such a crime by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either: (i) Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of a crime within the jurisdiction of the Court; or (ii) Be made in the knowledge of the intention of the group to commit the crime.*" See also the "Decision on the Prosecutor's Application for Summons to Appear for William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang" (Pre-Trial Chamber II), No. ICC-01/09-01/11-1, 8 March 2011, para. 51: "*Thus, the Chamber must ascertain in view of the required evidentiary threshold that: (i) a crime within the jurisdiction of the Court is attempted or committed; (ii) a group of persons acting with a common purpose attempted to commit or committed this crime; (iii) the individual contributed to the crime, in any way other than those set out in article 25(3)(a) to (c) of the Statute (objective elements); (iv) the said contribution is intentional; and (v) has been made either (a) with the aim of furthering the criminal activity or criminal purpose of the group; or (b) in the knowledge of the intention of the group to commit the crime (subjective elements)*."

[29] See Article 28(a)(i) and (ii) of the Rome Statute: "*In addition to other grounds of criminal responsibility under this Statute for crimes within the jurisdiction of the Court: (a) A military commander or person effectively acting as a military commander shall be criminally responsible for crimes within the jurisdiction of the Court committed by forces under his or her effective command and control, or effective authority and control as the case may be, as a result of his or her failure to exercise control properly over such forces, where: (i) That military commander or person either knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes; and (ii) That military commander or person failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution*."

[30] See *supra* note 1, para. 7.

18. In this regard, the Legal Representatives consider relevant the finding of the Chamber in the warrant of arrest against Mr. Kony, in accordance to which the latter "*committed and, together with other persons whose arrests are sought by the Prosecutor, ordered or induced the commission of crimes*"[31]. In light of these findings, the Legal Representatives question the involvement of Mr. Ongwen, under the alternate modes of liability mentioned above, regarding other crimes already included in the warrants of arrest issued against the other senior LRA leaders. In particular, the Legal Representatives refer *inter alia* to the findings about [REDACTED][32]; [REDACTED][33]; [REDACTED][34]; and [REDACTED][35].

19. Moreover, the Legal Representatives note that the legal texts of the Court do not limit the Prosecution in choosing a single mode of liability where the evidence suggests that the suspect may be responsible for alleged acts under more than one mode of liability. This approach has already been taken by the Prosecution in several cases to date, and considered appropriate by Chambers.[36]

20. Furthermore, the Legal Representatives note that the warrant of arrest against Mr. Ongwen does not incorporate the burning of [REDACTED] civilian houses during the attack on the [REDACTED] IDP Camp quoted by the Chamber in the same document[37].

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[31] See the "Warrant of Arrest for Joseph Kony issued on 8th July 2005 as amended on 27th September 2005" (Pre-Trial Chamber II), No. ICC-02/04-01/05-53, 13 October 2005, para. 42.
[32] [REDACTED].
[33] [REDACTED].
[34] [REDACTED].
[35] [REDACTED].
[36] See *supra* note 24.
[37] See *supra* note 1, paras. 15 and 27.

2) Need for further investigation on events occurred in Uganda

21. The Prosecutor already publicly stated its intention to investigate others LRA crimes[38]. In this regard, the Legal Representatives wish to share the views of their clients with regard to the need for further investigations regarding events that occurred in Uganda but also events that occurred and continue to occur outside of Uganda, in neighbouring countries. The Legal Representatives refer in particular to the numerous allegations of gender crimes and crimes of forcible recruitment, conscription and enlistment of children under the age of 15 and their active participation in the hostilities.

22. The Chamber already noted the Prosecution's conclusion that "*the scope of the referral* [by the Attorney General of the Republic of Uganda, dated 16 December 2003] *encompassed all crimes committed in Northern Uganda in the context of the ongoing conflict involving the LRA*" and from the entry into force of the Rome Statute on 1 July 2002[39].

23. Nevertheless, it appears that, to date, the Prosecution only presented against Mr. Ongwen allegations of crimes the latter would have ordered the commission of in his capacity as Brigade Commander of the Sinia Brigade of the LRA, [REDACTED] 2004, corresponding to the attack on the [REDACTED] IDP Camp[40].

24. The Legal Representatives relay the views of the victims that in his capacity of commander of the Sinia Brigade and core member of the LRA leadership, Mr. Ongwen most probably carried out more than the one attack mentioned in the warrant of arrest against him dated 2005. Indeed, Mr. Ongwen is notably reputed

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[38] See the "Decision on the Prosecutor's application for unsealing of the warrants of arrest" (Pre-Trial Chamber II), No. ICC-02/04-01/05-52, 13 October 2005, para. 24.

[39] See *supra* note 1, paras. 18 to 20 and 22.

[40] *Idem*, paras. 10, 13, 14 and 15. .

having executed the LRA's military offensives in 2002 and 2003 in several districts in Northern Uganda[41], *e.g.* the attack on the village of Pajong on 24 July 2002[42].

25. Furthermore, the Legal Representatives submit that events which occurred after the issuance of the warrant of arrest should also be investigated by the Prosecution with the aim of including in the charges against Mr. Ongwen other alleged crimes, evidence permitting[43].

3) Need for further investigation in other countries

26. Finally, the Legal Representatives wish to note that the LRA allegedly committed crimes outside the Ugandan territory, falling consequently outside of the scope of the situation in Uganda as previously determined, but which however presumably would have engaged the participation of Mr. Ongwen, in his capacity of LRA commander and member of the LRA core leadership[44]. For this reason, since many years, some NGOs have been calling for the broadening of the Prosecution's investigations of the LRA's crimes beyond Ugandan borders[45].

27. Indeed, the presence of the LRA in neighbouring countries of Uganda is publicly known and much relayed in the media, as well as the crimes allegedly

[41] See for instance the following various public sources: http://www.enoughproject.com/blogs/moment-momentum-surrender-dominic-ongwen; http://www.bbc.com/news/world-africa-30709581 and http://www.irinnews.org/report/95645/uganda-florence-ayot-my-children-are-always-reminded-that-their-father-is-a-notorious-rebel.

[42] See for instance the following public source: http://tve.org/films/the-dilemma-of-the-white-ant/index.html.

[43] See *supra* note 2.

[44] See the following public source notably mentioning Mr. Ongwen amongst others: Human Rights Watch Report, Trail of Death. LRA Atrocities in Northeastern Congo: http://www.hrw.org/sites/default/files/reports/drc0310webwcover_0.pdf.

[45] See for instance Women's Initiatives for Gender Justice, First Ugandan suspect, LRA Commander Dominic Ongwen, transferred to the ICC in The Hague, 21 January 2015: http://www.iccwomen.org/documents/Dominic-Ongwen-transferred-to-The-Hague.docx.pdf.

committed by LRA troops[46] especially in various locations in the Democratic Republic of the Congo, the Central African Republic and in South Sudan.

Respectfully submitted.

Paolina Massidda **Sarah Pellet**

Dated this 26th day of January 2015

At The Hague, The Netherlands

[46] See the following various public sources: ENOUGH, The LRA in Congo, CAR, and South Sudan: http://www.enoughproject.org/conflicts/lra/congo-car-south-sudan; UN News Centre, Security Council condemns 'war crimes' committed by Lord's Resistance Army, 25 November 2013: http://www.un.org/apps/news/story.asp?NewsID=46586#.VLad1rd0zcs; HRW, Unfinished Business, Closing Gaps in the Selection of ICC Cases, 2011, pp. 29-30: http://www.hrw.org/sites/default/files/reports/icc0911webwcover.pdf; BBC News, "DR Congo rebel massacre of hundreds is uncovered", Retrieved 13 March 2013 : http://news.bbc.co.uk/2/hi/africa/8587305.stm; HRW, DR Congo: Lord's Resistance Army Rampage Kills 321, 28 March 2010: http://www.hrw.org/news/2010/03/28/dr-congo-lord-s-resistance-army-rampage-kills-321; Amnesty International, Annual Report, Uganda 2003: http://www.amnestyusa.org/node/6806?page=show.