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Pénale
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**International
Criminal
Court**

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No.: **ICC-02/04-01/15**
Date: **5 December 2016**

TRIAL CHAMBER IX

Before: Judge Bertram Schmitt, Presiding Judge
Judge Péter Kovács
Judge Raul C. Pangalangan

SITUATION IN UGANDA

IN THE CASE OF

THE PROSECUTOR v. DOMINIC ONGWEN

Public

With Confidential Annexes A and B

Public Lesser Redacted Version of “Corrected version of “Prosecution’s request for introduction of previously recorded testimony pursuant to rule 68(2)(b) of the Rules”, 16 June 2016, ICC-02/04-01/15-465-Conf-Corr

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INTRODUCTION

1. The Office of the Prosecutor (“Prosecution”) requests, pursuant to rule 68(2)(b) of the Rules of Procedure and Evidence (“Rules”), conditional admission into evidence of the prior recorded statements, including related documents (collectively, “rule 68(2)(b) documents”) of 38 witnesses: P-0007, P-0008, P-0015, P-0047, P-0061, P-0084, P-0130, P-0270, P-0274, P-0268, P-0325, P-0185, P-0195, P-0196, P-0026, P-0035, P-0036, P-0017, P-0060, P-0279, P-0282, P-0284, P-0287, P-0027, P-0032, P-0126, P-0291, P-0301, P-0303, P-0370, P-0384, P-0385, P-0386, P-0400, P-0242, P-0038, P-0028, and P-0040 (“rule 68(2)(b) witnesses”).¹ The related documents are those referred to by the witnesses in their statements or transcripts or otherwise annexed thereto.²

2. The rule 68(2)(b) documents are admissible because they are *prima facie* relevant and probative of the charges. They go to proof of matters other than the acts and conduct of the accused. The rule 68(2)(b) witnesses corroborate and provide context for the evidence that will be given in person by other witnesses during the trial. The nature and content of the rule 68(2)(b) documents is such that the respective witness’ appearance for cross-examination is unnecessary.

3. Admitting the rule 68(2)(b) documents will enable the Prosecution to present its evidence in a more concise and streamlined manner and save approximately 144 hours or 32 days of court time for direct examination alone. This aligns with the purpose of the rule, which is to “reduce the length of ICC proceedings and

¹ The Prosecution notified the Chamber in written (ICC-02/04-01/15-438, para. 11) and oral (ICC-02/04-01/15-T-25-ENG ET WT, page 26) submissions of its intention to submit an application pursuant to rule 68(2)(b). The Chamber authorized an extension of the relevant page limit to 60 pages. (ICC-02/04-01/15-T-25-ENG ET WT, page 36, confirmed by an email from the Chamber sent on 23 May 2016 at 13:17).

² Case law has established that, in the case of introduction of written statements under Rule 68, “any documentary evidence annexed is also to be considered submitted”, ICC-02/11-01/15-573-Red, para 9.

streamline evidence presentation.”³ It will further the accused’s right to an expeditious trial. Moreover, it will spare vulnerable witnesses from the trauma of testifying, minimize the impact on their personal and professional lives and reduce financial cost to the Court. Since the rule 68(2)(b) witnesses provide corroborative information, any challenges that the Defence may wish to make can be raised during the examination of witnesses who will give live testimony.

4. Rule 68(2)(b) requires that prior recorded testimony only be introduced if it is accompanied by declarations by the testifying persons that the respective prior recorded statements are true and correct.⁴ Should this application be granted, the Prosecution will obtain the requisite accompanying declarations (“rule 68(2)(b) declarations”). To this end, the Prosecution requests that the Trial Chamber designate the Registry Legal Counsel, or any appropriate person delegated by him, to be the person authorised to witness declarations made pursuant to rule 68(2)(b) of the Rules for the purposes of this case.
5. “Annex A” contains a list of the evidence registration numbers of the rule 68(2)(b) documents. “Annex B” contains a proposed template for the rule 68(2)(b) declarations, which is based on those used in the *Gbagbo et al.* case.⁵

CONFIDENTIALITY

6. This filing is classified as “Confidential” as it refers to the identity of Prosecution witnesses. The Prosecution will file a public redacted version of this motion.

³ Assembly of State Parties, Study Group on Governance, Working Group on Lessons Learnt: Recommendation on a proposal to amend rule 68 of the Rules of Procedure and Evidence (Prior Recorded Testimony), 31 October 2013, para. 11.

⁴ See rules 68(2)(b)(ii), (iii) of the Rules.

⁵ ICC-02/11-01/15-573-Red.

SUBMISSIONS

A. Legal framework

7. Rule 68(2)(b)⁶ allows the introduction of prior recorded testimony where it goes to proof of a matter other than the acts and conduct of the accused.

Prior recorded testimony

8. Rule 68 addresses the introduction of “prior recorded testimony”. Prior recorded testimony includes written statements and transcripts of interviews taken pursuant to rules 111 and 112 of the Rules, and associated exhibits.⁷ It includes the admission of prior recorded testimony *in whole* or *in part*.⁸

Acts and conduct of the accused

9. Rule 68(2)(b) requires that the evidence relates to “a matter other than the acts and conduct of the accused”. The expression “acts and conduct of the accused” has been construed in the jurisprudence of the *ad hoc* international criminal tribunals to refer to the “deeds and behaviour of the accused”, such that they seek to establish the accused’s responsibility under any applicable mode of liability.⁹ The acts and conduct of the accused must be distinguished from the

⁶ The rule as amended by resolution ICC-ASP/12/Res.7 applies in this case, because the amendment was adopted prior to commencement of trial. ICC-01/09-01/11-2024, para. 81.

⁷ ICC-02/11-01/15-573-Red, para. 9, ICC-01/09-01/11-1938-Corr-Red2, paras. 31-33; ICC-01/04-01/06-1603, para. 18; ICC-01/04-01/07-2289-Corr-Red, para.11; ICC-01/04-01/07-2362, para. 13; ICC-01/05-01/08-2012-Red, paras. 134-136 and ICC-01/05-01/08 1386, paras. 79-81.

⁸ ICTY, *Prosecutor v. Karadzic*, Case No.IT-95-5/18-T, T.Ch., Decision on Prosecution’s Second Motion for Admission of Statements and Transcripts of Evidence in Lieu of *Viva Voce* Testimony Pursuant to rule 92bis (Witnesses ARK Municipalities), 18 March 2010, paras. 32, 38, 40, 63(c) (admitting in part the evidence of two witnesses pursuant to a similar procedural rule — ICTY rule 92bis — upon the condition that the Prosecution redact the portion of their testimony that pertained to the acts and conduct of the accused). Similarly, Chambers at the ICC have countenanced applications where admission of testimony was requested “in whole or in part”. (ICC-01/04-02/06-729. See esp. para. 1).

⁹ See *Prosecutor v. Milošević*, IT-02-54-T, Decision on Prosecution’s Request to have Written Statements Admitted under rule 92bis, 21 March 2002, para. 22 (“Milošević Decision”): “The phrase ‘acts and conduct of

acts and conduct of others who commit crimes for which the accused is alleged to be responsible.¹⁰ Proof of the latter is admissible under rule 68(2)(b).

Factors guiding the exercise of the Chamber's discretion

10. Rule 68(2)(b)(i) provides a list of factors to guide a Chamber's exercise of its discretion. This includes whether the prior recorded testimony in question: (i) relates to issues that are not materially in dispute; (ii) is of a cumulative or corroborative nature, in that other witnesses will give or have given oral testimony of similar facts; (iii) relates to background information; (iv) is such that the interests of justice are best served by its introduction; and (v) has sufficient indicia of reliability.¹¹ These factors are not mandatory pre-requisites for the admission of evidence under the rule. As noted recently by the Trial Chamber in *Gbagbo et al.*, Rule 68(2)(b)(i) merely "[...] provides *examples* of factors that the Chamber *may* take into account for its determination."¹² (emphasis added).

Availability of the witness

11. The Rules do not require the applicant to show that the witness is unavailable. As emphasised by the Trial Chamber in *Gbagbo et al.*, the "essence of rule

the accused' in rule 92bis is a plain expression and should be given its ordinary meaning: deeds and behaviour of the accused. It should not be extended by fanciful interpretation. No mention is made of acts and conduct by alleged co-perpetrators, subordinates or, indeed, of anybody else. Had the rule been intended to extend to acts and conduct of alleged co-perpetrators or subordinates it would have said so"; *Prosecutor v. Karadžić*, IT-955/18-PT, Decision on the Prosecution's Third Motion for Admission of Statements and Transcripts of Evidence in Lieu of Viva Voce Testimony Pursuant to rule 92bis (Witnesses for Sarajevo Municipality), 15 October 2009, para. 5 ("Karadžić Decision"); *Prosecutor v. Hadžić*, IT-04-75-T, Decision on Prosecution Omnibus Motion for Admission of Evidence Pursuant to rule 92bis and Prosecution Motion to Admit GH-139's Evidence Pursuant to rule 92bis, 24 January 2013, para. 15 ("Hadžić Decision").

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

¹¹ Rule 68(2)(b)(i).

¹² ICC-02/11-01/15-573-Red, para. 10.

68(2)(b) [...] is to allow for streamlining of the evidentiary proceedings by not calling some witnesses in person, *even if they are available*.”¹³ (emphasis added).

B. Request for admission of Rule 68(2)(b) Documents

12. The Prosecution requests the conditional admission of the rule 68(2)(b) documents pending the filing of accompanying declarations pursuant to Rules 68(2)(b)(ii) and (iii). If the Chamber determines that the rule 68(2)(b) documents should, in principle, be admitted, the Prosecution will obtain the requisite rule 68(2)(b) declarations. Such conditional admission would prevent the potentially unnecessary expenditure of financial and other resources. The practice of conditional admission under rule 68(2)(b) has been accepted in the jurisprudence of other Trial Chambers.¹⁴

13. The rule 68(2)(b) documents go to the proof of matters other than the acts and conduct of the accused. The accounts of the witnesses in question relate to diverse aspects of the case: some provide evidence regarding the attacks on IDP camps that underpin the charges; others, background information regarding the interception of LRA communications. Other witnesses provide general background information regarding the persecutory policies and the regime of sexual and gender-based crimes that existed within the LRA. The Prosecution does not seek to rely on the rule 68(2)(b) documents to prove any fact relating to the acts and conduct of the accused. Nor does the Prosecution seek to rely on the rule 68(2)(b) documents to prove a “core, and disputed”¹⁵ or “critical and live” issue,¹⁶ or a matter that is “proximate to the accused”¹⁷ in the case. The

¹³ ICC-02/11-01/15-573-Red, para.11.

¹⁴ See, for example, ICC-02/11-01/15-303.

¹⁵ See reference to such issues at ICC-02/11-01/15-573-Red, para. 15.

¹⁶ *Prosecutor v. Popovic et al.*, no. IT-05-88-T, Decision on Prosecution’s Confidential Motion for Admission of Written Evidence in Lieu of *Viva Voce* Testimony Pursuant to rule 92bis (12 September 2006), para. 15

evidence sought to be admitted through this motion is cumulative or corroborative nature, in that other witnesses will provide live testimony regarding the same, often in greater detail.

(i) 68(2) (b) factors applicable to all witnesses

a) *Interests of justice*

14. The admission of the rule 68(2)(b) documents is in the interests of justice for several reasons. *First*, admitting the rule 68(2)(b) documents into evidence through will save court time: approximately 144 hours or 32 court days for direct examination alone. This contributes to good trial management¹⁷ and conforms with the accused's right to be tried without undue delay. *Second*, many of the rule 68(2)(b) witnesses underwent traumatic experiences. Recalling violent events forces them to bring back painful memories and may cause them significant distress. Introducing the statements of these witnesses by means of rule 68(2)(b) would spare them this experience. *Third*, introducing these witnesses' prior recorded testimony into evidence pursuant to rule 68(2)(b) obviates the need for them to testify *viva voce*, thereby minimising the impact of their cooperating with the Court on their professional and personal life in Uganda. *Fourth*, rule 68(2)(b) has the effect of reducing the financial cost to the Court pertaining to these witnesses' involvement.

15. Since the rule 68(2)(b) witnesses are corroborative or cumulative witnesses, any challenges that the Defence may wish to raise regarding the issues raised in their statements – including the context of the attacks on IDP camps, sexual and

¹⁷ *Prosecutor v. Zdra Vko Tollmir*, Decision on Prosecution's Motion for Admission of Written Evidence Pursuant to rules 92bis and 94bis, para. 67.

¹⁸ ICC-02/11-01/15-573-Red, para 25.

gender-based crimes or persecutory policies within the LRA, or the intercepted LRA radio communications – can be raised during the cross examination of witnesses who will give detailed live testimony pertaining to the same matters.

b) Sufficient indicia of reliability

16. The prior recorded testimony of the rule 68(2)(b) witnesses has sufficient indicia of reliability. During their interviews, the Prosecution explained the procedure and significance of providing a statement to the witnesses. The interviews were conducted in accordance with the appropriate procedures under the Rome Statute and Rules and in the language that the witnesses speak and fully understand. The witnesses provided their testimony voluntarily. Prior to signing their statements, their statements were read back to them and they were given an opportunity to clarify, correct or add anything to the content. The rule 68(2)(b) Witnesses acknowledged the truthfulness and accuracy of their statements.¹⁹ The statements also include information as to how the witness came to know of particular facts.

(ii) Individual analysis of the witnesses

a) Witnesses principally related to Pajule

17. The accounts of the witnesses in this section relate to the background of the charged attack on Pajule. Their statements do not include any information about the acts and conduct of the accused. Nor do they link him in any manner to the attack. Their accounts relate to matters that are not materially in dispute. This includes the layout of the camp; the time, nature and duration of the attack;

¹⁹ These same factors have been found to provide “sufficient indicia of reliability”. See ICC-02/11-01/15-573-Red at para. 22.

the scene after the attack occurred; the abduction of civilians; and how the attack was documented. They also provide background information about the armed conflict in Uganda. The Defence did not contest these issues in their written or oral submissions during the confirmation hearing.²⁰

UGA-OTP-P-0007 [REDACTED]

18. P-0007 is a former resident at Pajule IDP camp and was present when the camp was attacked.²¹

Proof of a matter other than the acts and conduct of the accused

19. P-0007's prior recorded testimony relates to the time of the attack;²² the nature of the attack;²³ the duration of the attack;²⁴ the scene after the attack occurred;²⁵ and how the attack was documented by the camp commandant and others.²⁶ P-0007's expressly states that he has "no knowledge of the LRA commanders or groups taking part in the attack."²⁷

Issues that are not materially in dispute

20. See paragraph 17.

Cumulative or corroborative nature

21. P-0007's prior recorded testimony corroborates evidence of witnesses who have first-hand knowledge of the same facts and who will provide evidence live

²⁰ ICC-02/04-01/15-404-Conf at para. 135; See further ICC-02/04-01/15-T-22-ENG from page 52 line 8 to page 53 line 20, where Defence Counsel summarizes the positions taken by the Defence.

²¹ P-0007, [UGA-OTP-0147-0214-R01](#) at 0216.

²² P-0007, [UGA-OTP-0147-0214-R01](#) at 0217.

²³ P-0007, [UGA-OTP-0147-0214-R01](#) at 0217-218.

²⁴ P-0007, [UGA-OTP-0147-0214-R01](#) at 0216-0218.

²⁵ P-0007, [UGA-OTP-0147-0214-R01](#) at 0218.

²⁶ P-0007, [UGA-OTP-0147-0214-R01](#) at 0219-0220.

²⁷ P-0007, [UGA-OTP-0147-0214-R01](#) at 0219.

before the Chamber. In particular, P-0007's prior recorded testimony is corroborative of witnesses P-0009, P-0249 and P-0067.²⁸

Relates to background information

22. P-0007's prior recorded testimony provides information on how the attack was documented.²⁹

UGA-OTP-P-0008

[REDACTED]

23. P-0008 was a camp commandant at Pajule and was present when the camp was attacked.³⁰

Proof of a matter other than the acts and conduct of the accused

24. P-0008's prior recorded testimony relates to the time of the attack,³¹ the nature of the attack,³² the duration of the attack,³³ the scene after the attack occurred and some of the crimes,³⁴ how the attack was documented by the camp commandant and others,³⁵ and what happened to civilians after the LRA had abducted them.³⁶

Issues that are not materially in dispute

25. See paragraph 17.

²⁸ P-0009, [UGA-OTP-0151-0167-R01](#); P-0009, [UGA-OTP-0241-0546-R01](#); P-0249, [UGA-OTP-0238-0771-R01](#); P-0067, [UGA-OTP-0139-0193-R01](#).

²⁹ P-0007, [UGA-OTP-0147-0214-R01](#) at 0219-223.

³⁰ P-0008, [UGA-OTP-0137-0002-R01](#) at 0004-0005.

³¹ P-0008, [UGA-OTP-0137-0002-R01](#) at 0005.

³² P-0008, [UGA-OTP-0137-0002-R01](#) at 0005.

³³ P-0008, [UGA-OTP-0137-0002-R01](#) at 0005-0006.

³⁴ P-0008, [UGA-OTP-0137-0002-R01](#) at 0006, 0008-0009.

³⁵ P-0008, [UGA-OTP-0137-0002-R01](#) at 0004-0005, 0009-0014.

³⁶ P-0008, [UGA-OTP-0137-0002-R01](#) at 0006 –0008.

Cumulative or corroborative nature

26. P-0008's prior recorded testimony is corroborative of the same facts that will be presented by witnesses who will provide oral testimony at trial. In particular, P-0008 bases his knowledge partly on information received from other witnesses³⁷ who will testify *viva voce*, namely P-0009, who was abducted during the Pajule attack³⁸ and P-0067. P-0008 corroborates the evidence of P-0067 in relation to the charges of murder.³⁹ P-0008's prior recorded testimony states that after the attack he saw dead bodies of two individuals known to him.⁴⁰ His evidence is relied on to support P-0067's detailed version of events: P-0067 saw LRA fighters kill two civilians.

Relates to background information

27. P-0008's prior recorded testimony provides information on how the attack was documented.⁴¹

UGA-OTP-P-0015 **[REDACTED]**

28. P-0015 was abducted by the LRA in June 2003.⁴² She did not participate in the attack on Pajule camp but was present when the order to attack Pajule was given.⁴³

³⁷ P-0008, [UGA-OTP-0137-0002-R01](#) at 0005-0009.

³⁸ P-0008, [UGA-OTP-0137-0002-R01](#) at 0006-0007.

³⁹ P-0008, [UGA-OTP-0137-0002-R01](#) at 0007-0008; P-0067, [UGA-OTP-0139-0193-R01](#).

⁴⁰ P-0008, [UGA-OTP-0137-0002-R01](#) at 0008.

⁴¹ P-0008, [UGA-OTP-0137-0002-R01](#) at 0004-0005, 0009-0014.

⁴² P-0015, [UGA-OTP-0043-0131-R01](#) at 0135.

⁴³ P-0015, [UGA-OTP-0043-0131-R01](#) at 0146.

Proof of a matter other than the acts and conduct of the accused

29. P-0015's prior recorded testimony relates to the time of the attack,⁴⁴ the orders given in advance of the attack,⁴⁵ the purpose of the attack,⁴⁶ the return of LRA fighters and abducted civilians from the attack,⁴⁷ and what happened to civilians after the LRA abducted them.⁴⁸ P-0015's prior recorded testimony is also relied on to establish the context of how females were treated in the LRA. Specifically, she provides details of how the LRA distributed females to become "sisters" and "Ting Tings" and what these terms meant.⁴⁹ P-0015's prior recorded testimony is silent as to the role played by Dominic Ongwen during the attack on Pajule and states that she had "never heard of Dominic Ongwen".⁵⁰

Issues that are not materially in dispute

30. See paragraph 17.

Cumulative or corroborative nature

31. P-0015's prior recorded testimony corroborates evidence of witnesses who will provide evidence live before the Chamber. In particular, P-0015 corroborates P-0006, P-0009, P-0045, P-0070, P-0081, P-0101, P-0144, and P-0309 who will testify in person and provide details as to the orders, timing, strategy and purpose of the LRA attack on Pajule and.⁵¹ P-0015 also corroborates witnesses who shall testify orally that the LRA had a policy to abduct young children to be child

⁴⁴ P-0015, [UGA-OTP-0043-0131-R01](#) at 0146.

⁴⁵ P-0015, [UGA-OTP-0043-0131-R01](#) at 0146.

⁴⁶ P-0015, [UGA-OTP-0043-0131-R01](#) at 0144.

⁴⁷ P-0015, [UGA-OTP-0043-0131-R01](#) at 0146.

⁴⁸ P-0015, [UGA-OTP-0043-0131-R01](#) at 0146.

⁴⁹ P-0015, [UGA-OTP-0043-0131-R01](#) at 0146.

⁵⁰ P-0015, [UGA-OTP-0043-0131-R01](#) at 0148.

⁵¹ P-0006, [UGA-OTP-0144-0072-R01](#); P-0009, [UGA-OTP-0151-0167-R01](#); P-0045, [UGA-OTP-0220-1035-R01](#), [UGA-OTP-0218-0113-R01](#); P-0045, [UGA-OTP-0218-0171-R01](#); P-0070, [UGA-OTP-0228-3010-R01](#); P-0101, ICC-02/04-01/15-T-13-CONF-ENG; P-0144, [UGA-OTP-0228-1376-R01](#); P-0209, [UGA-OTP-0243-0354-R01](#); P-0081, [UGA-OTP-0070-0029-R01](#); P-0309, [UGA-OTP-0249-0472-R01](#).

soldiers. This includes but is not limited to P-0097,⁵² P-0252,⁵³ P-0264⁵⁴, P-0275⁵⁵, P-0314⁵⁶ and P-0330⁵⁷. P-0015 also corroborates witnesses who already testified that the LRA had a policy to distribute and use females as forced wives.⁵⁸ This includes but is not limited to P-0101,⁵⁹ P-0214,⁶⁰ P-0226,⁶¹ P-0235,⁶² and P-0236.⁶³

UGA-OTP-P-0047 [REDACTED]

32. P-0047 was a UPDF soldier stationed at the army barracks of Pajule IDP camp. He was present when the camp was attacked.⁶⁴

Proof of a matter other than the acts and conduct of the accused

33. P-0047's prior recorded testimony relates to the layout of the camp,⁶⁵ the time of the attack,⁶⁶ the nature of the attack and the weapons used by the LRA,⁶⁷ the duration of the attack,⁶⁸ the scene after the attack occurred,⁶⁹ and how the attack was documented.⁷⁰

⁵² P-0097, [UGA-OTP-0165-0035-R01](#).

⁵³ P-0252, [UGA-OTP-0243-0428-R01](#).

⁵⁴ P-0264, [UGA-OTP-0256-0139-R01](#).

⁵⁵ P-0257, [UGA-OTP-0244-3398-R01](#).

⁵⁶ P-0314, [UGA-OTP-0258-0841-R01](#).

⁵⁷ P-0330, [UGA-OTP-0256-0071-R01](#).

⁵⁸ P-0015, [UGA-OTP-0043-0131-R01](#) at 0144.

⁵⁹ P-0101, ICC-02/04-01/15-T-13-CONF-ENG.

⁶⁰ P-0214, ICC-02/04-01/15-T-15-CONF-ENG.

⁶¹ P-0226, ICC-02/04-01/15-T-8-CONF-ENG.

⁶² P-0235, ICC-02/04-01/15-T-17-CONF-ENG.

⁶³ P-0236, ICC-02/04-01/15-T-16-CONF-ENG.

⁶⁴ P-0047, [UGA-OTP-0027-0177-R01](#) at 0180.

⁶⁵ P-0047, [UGA-OTP-0027-0177-R01](#) at 0184; [UGA-OTP-0027-0198](#).

⁶⁶ P-0047, [UGA-OTP-0027-0177-R01](#) at 0182, 0190.

⁶⁷ P-0047, [UGA-OTP-0027-0177-R01](#) at 0182-0184, 0190-0192.

⁶⁸ P-0047, [UGA-OTP-0027-0177-R01](#) at 0182, 0191-0192.

⁶⁹ P-0047, [UGA-OTP-0027-0177-R01](#) at 0182-0184, 0193-0194.

⁷⁰ P-0047, [UGA-OTP-0027-0177-R01](#) at 0195; [UGA-OTP-0037-0282](#).

Issues that are not materially in dispute

34. See paragraph 17.

Cumulative or corroborative nature

35. P-0047's prior recorded testimony is corroborative of witnesses P-0009, P-0249 and P-0067.⁷¹

UGA-OTP-P-0061 [REDACTED]

36. P-0061 is a former resident at Pajule IDP camp. He was present when the camp was attacked.⁷²

Proof of a matter other than the acts and conduct of the accused

37. P-0061's prior recorded testimony relates to the time of the attack,⁷³ the layout of the camp,⁷⁴ the nature of the attack,⁷⁵ the number and appearance of LRA fighters that attacked the camp,⁷⁶ the perpetration of crimes against civilians by LRA fighters during the attack,⁷⁷ and what happened to civilians after the LRA abducted them.⁷⁸ P-0061's prior recorded testimony is silent as to the role played by Dominic Ongwen during the attack on Pajule.

⁷¹ P-0009, [UGA-OTP-0151-0167-R01](#); P-0009, [UGA-OTP-0241-0546-R01](#); P-0249, [UGA-OTP-0238-0771-R01](#); P-0067, [UGA-OTP-0139-0193-R01](#).

⁷² P-0061, [UGA-OTP-0144-0043-R01](#) at 0045.

⁷³ P-0061, [UGA-OTP-0144-0043-R01](#) at 0046.

⁷⁴ P-0061, [UGA-OTP-0144-0043-R01](#) at 0045.

⁷⁵ P-0061, [UGA-OTP-0144-0043-R01](#) at 0046.

⁷⁶ P-0061, [UGA-OTP-0144-0043-R01](#) at 0046.

⁷⁷ P-0061, [UGA-OTP-0144-0043-R01](#) at 0046-0047.

⁷⁸ P-0061, [UGA-OTP-0144-0043-R01](#) at 0047-0050.

Issues that are not materially in dispute

38. See paragraph 17.

Cumulative or corroborative nature

39. P-0061 corroborates P-0009, P-0067 and P-0249, who will testify in person, in relation to the attack, the perpetration of crimes and the treatment of civilians by LRA fighters during and immediately after the attack on Pajule.⁷⁹ He further corroborates P-0009 and P-0249 in relation to the release of civilians who were abducted from Pajule.⁸⁰

UGA-OTP-P-0084 [REDACTED]

40. P-0084 was an [REDACTED] officer with the UPDF during the attack on Pajule camp.⁸¹ He was not present during the attack but flew over Pajule in a helicopter as the attack was ending.⁸² He was also part of a fact-finding team that visited Pajule after the attack had finished on 10 October 2003.⁸³ The Prosecution relies on the prior recorded testimony of P-0084 only in part. The Prosecution does not rely on the limited reference in his account to Dominic Ongwen and does not request for this part of the witness' account to be admitted into evidence. The excluded references can be found at paragraph 71 of P-0084's statement⁸⁴ and on one page of the investigative report produced by him.⁸⁵

⁷⁹ P-0061, [UGA-OTP-0144-0043-R01](#) at 0046-0048; P-0009, [UGA-OTP-0151-0167-R01](#) at 0175-0177; P-0009, [UGA-OTP-0241-0546-R01](#) at 0549; P-0249, [UGA-OTP-0238-0771-R01](#) at 0773-0777; P-0067, [UGA-OTP-0139-0193-R01](#) at 0199-0201.

⁸⁰ P-0061, [UGA-OTP-0144-0043-R01](#) at 0049-0050; P-0009, [UGA-OTP-0151-0167-R01](#) at 0175-0177; P-0249, [UGA-OTP-0238-0771-R01](#) at 0780.

⁸¹ P-0084, [UGA-OTP-0139-0149-R01](#) at 0151.

⁸² P-0084, [UGA-OTP-0139-0149-R01](#) at 0153.

⁸³ P-0084, [UGA-OTP-0139-0149-R01](#) at 0152-0153; P-0084, [UGA-OTP-0069-0416](#).

⁸⁴ P-0084, [UGA-OTP-0139-0149-R01](#) at 0161.

⁸⁵ P-0084, [UGA-OTP-0069-0416](#) at 418.

Proof of a matter other than the acts and conduct of the accused

41. P-0084's prior recorded testimony is relied on in order to corroborate the number of civilians who were abducted from Pajule on 10 October 2003.⁸⁶ He is also relied on because he was part of a fact-finding team that visited Pajule after the attack.⁸⁷

Issues that are not materially in dispute

42. See paragraph 17.

Cumulative or corroborative nature

43. P-0084 is corroborative of several witnesses including P-0006, P-0009, P-0045, P-0048, P-0067, P-0081, P-0101, P-0144 and P-0249, who provide details as to crimes committed by the LRA during the attack, the timing of the attack, the weapons used in the attack, and the strategy and purpose of the LRA attack on Pajule.⁸⁸

UGA-OTP-P-0130 [REDACTED]

44. P-0130 served with the LRA after being abducted in 2002.⁸⁹ He participated in the attack on Pajule.⁹⁰ Specifically, P-0130 was part of a group of LRA fighters who attacked [REDACTED] of the camp.⁹¹

⁸⁶ P-0084, [UGA-OTP-0139-0149-R01](#) at 0153.

⁸⁷ P-0084, [UGA-OTP-0139-0149-R01](#) at 0152-0153; P-0084, [UGA-OTP-0069-0416](#); P-0084 [UGA-OTP-0139-0178](#).

⁸⁸ P-0006, [UGA-OTP-0144-0072-R01](#); P-0009, [UGA-OTP-0151-0167-R01](#), [UGA-OTP-0241-0546-R01](#); P-0045, [UGA-OTP-0218-0113-R01](#), [UGA-OTP-0218-0143-R01](#), [UGA-OTP-0220-1035-R01](#); P-0048, [UGA-OTP-0209-0179-R01](#), [UGA-OTP-0209-0337-R01](#), [UGA-OTP-0221-0280-R01](#), [UGA-OTP-0209-0204-R01](#), [UGA-OTP-0221-0314-R01](#), [UGA-OTP-0209-0227-R01](#); P-0067, [UGA-OTP-0139-0193-R01](#); P-0081, [UGA-OTP-0070-0029-R01](#); P-0249, [UGA-OTP-0238-0771-R01](#); P-0101, ICC-02/04-01/15-T-13-CONF-ENG; and P-0144, [UGA-OTP-0228-1376-R01](#).

⁸⁹ P-0130, [UGA-OTP-0191-0272-R01](#) at 0275.

⁹⁰ P-0130, [UGA-OTP-0191-0272-R01](#) at 0277.

⁹¹ P-0130, [UGA-OTP-0191-0272-R01](#) at 0279.

Issues that are not materially in dispute

45. See paragraph 17.

Proof of a matter other than the acts and conduct of the accused

46. P-0130's prior recorded testimony contains information relating to the strategy employed by the LRA when attacking Pajule camp. Specifically, P-0130 confirms that the LRA were divided into three groups for the attack. Each group was assigned to target a different area of Pajule camp.⁹² P-0130's prior recorded testimony is relied on to establish the lead up to the attack on Pajule as well as its purpose,⁹³ the day and time of the attack,⁹⁴ the nature of the attack and the number of LRA fighters that participated in the attack,⁹⁵ and the duration of the attack.⁹⁶

47. P-0130's prior recorded testimony is silent as to the role played by Dominic Ongwen during the attack on Pajule. The witness states as follows: "I have heard of ODOMI's name, but I never saw him. I do not know him, and so I cannot say whether he was at this fight at Pajule or not."⁹⁷

Cumulative or corroborative nature

48. P-0130 is corroborative of witnesses P-0006, P-0009, P-0045, P-0070, P-0081, P-0101, P-0209 and P-0144 who will testify in person, providing details as to the timing, strategy and purpose of the LRA attack on Pajule.⁹⁸

⁹² P-0130, [UGA-OTP-0191-0272-R01](#) at 0278.

⁹³ P-0130, [UGA-OTP-0191-0272-R01](#) at 0278-0279.

⁹⁴ P-0130, [UGA-OTP-0191-0272-R01](#) at 0278-0280.

⁹⁵ P-0130, [UGA-OTP-0191-0272-R01](#) at 0278-0279.

⁹⁶ P-0130, [UGA-OTP-0191-0272-R01](#) at 0278.

⁹⁷ P-0130, [UGA-OTP-0191-0272-R01](#) at 0280-0281.

⁹⁸ P-0006, [UGA-OTP-0144-0072-R01](#); P-0009, [UGA-OTP-0151-0167-R01](#); P-0045, [UGA-OTP-0220-1035-R01](#), [UGA-OTP-0218-0113-R01](#); P-0070, [UGA-OTP-0228-3010-R01](#); P-0101, ICC-02/04-01/15-T-13-Conf-Eng; P-0144, [UGA-OTP-0228-1376-R01](#); P-0209, [UGA-OTP-0243-0354-R01](#); P-0081, [UGA-OTP-0070-0029-R01](#).

b) Witnesses principally related to Odek

49. The accounts of the witnesses in this section relate to background of the attack on Odek. They do not provide information on the acts and conduct of the accused. Nor do they link him in any manner to the attack. Their accounts relate to matters that are not materially in dispute. This includes time, nature and duration of the attack, the scene after the attack occurred, the abduction of civilians, and how the attack was documented. The Defence did not contest these issues in their written or oral submissions during the confirmation hearing.⁹⁹

UGA-OTP-P-0270

[REDACTED]

50. P-0270 is a victim of 29 April 2004 attack on Odek on. The Prosecution relies on the prior recorded testimony of P-0270 only in part. The Prosecution does not rely on the limited reference in her account to Dominic Ongwen and does not request for this part of the witness' account to be admitted into evidence. The excluded references can be found at paragraph 33 of P-0270's statement.¹⁰⁰

Proof of a matter other than the acts and conduct of the accused

51. The evidence of P-0270 relates entirely to her personal experience during the attack on Odek. P-0270 describes how on 29 April 2004, she was in her hut in Odek IDP camp. She recalls how LRA fighters armed with guns kicked in the door of her hut and dragged all of her children outside.¹⁰¹ Two of her sons, [REDACTED] (P-0275) and [REDACTED] were abducted by the LRA fighters.¹⁰²

⁹⁹ ICC-02/04-01/15-404-Conf at para. 135. See further ICC-02/04-01/15-T-22-ENG from page 52 line 8 to page 53 line 20, where Defence Counsel summarizes the positions taken by the Defence.

¹⁰⁰ P-0270, [UGA-OTP-0241-0168-R01](#) at -0172, 0173.

¹⁰¹ P-0270, [UGA-OTP-0241-0168-R01](#) at 0170-0171.

¹⁰² P-0270, [UGA-OTP-0241-0168-R01](#) at 0174.

Female LRA fighters then entered and pillaged goods.¹⁰³ After all of P-0270's food and possessions were taken, a sole LRA female fighter entered her hut. This female LRA fighter then proceed to sexually assault P-0270, using first a comb and then a cooking stick, forcefully inserting both into her vagina.¹⁰⁴ This caused P-0270 immense emotional and physical pain, including bleeding.¹⁰⁵ P-0270 remained in her hut until the following morning when she emerged from her hut to see the dead bodies of many civilians lying around the camp, including mothers shot dead with children still on their backs.¹⁰⁶ P-0270 also saw the bodies of some of her own children.¹⁰⁷ She recalls how the bodies were buried in separate graves, with many people coming to help and dig the graves.¹⁰⁸ She describes how she still has a wound and swelling as a result of the assault.¹⁰⁹

Issues that are not materially in dispute

52. See paragraph 49.

Cumulative or corroborative nature

53. P-0270's testimony is of a cumulative or corroborative nature. Other witnesses also speak to the crimes of torture, cruel treatment of civilians, enslavement, conscription of children under 15, murder and pillaging that occurred in Odek IDP camp on 29 April 2004. For example, her son, P-0275, will testify as to the circumstances of his abduction from Odek,¹¹⁰ as will P-0252.¹¹¹ P-0269¹¹² will also

¹⁰³ P-0270, [UGA-OTP-0241-0168-R01](#) at 0171.

¹⁰⁴ P-0270, [UGA-OTP-0241-0168-R01](#) at 0172.

¹⁰⁵ P-0270, [UGA-OTP-0241-0168-R01](#) at 0172.

¹⁰⁶ P-0270, [UGA-OTP-0241-0168-R01](#) at 0173.

¹⁰⁷ P-0270, [UGA-OTP-0241-0168-R01](#) at 0174.

¹⁰⁸ P-0270, [UGA-OTP-0241-0168-R01](#) at 0174.

¹⁰⁹ P-0270, [UGA-OTP-0241-0168-R01](#) at 0175.

¹¹⁰ P-0275, [UGA-OTP-0244-3398-R01](#) at 3401.

¹¹¹ P-0252, [UGA-OTP-0243-0428-R01](#) at 0433.

¹¹² P-0269, [UGA-OTP-0248-0026-R01](#) at 0032-0033

speak to the crimes of pillaging, while P-0218¹¹³ will speak to the murder of civilians by the LRA and their subsequent burials in Odek. Witnesses such as P-0314,¹¹⁴ P-0264,¹¹⁵ P-0245,¹¹⁶ P-0054,¹¹⁷ P-0142¹¹⁸ and P-0309¹¹⁹ will also testify *viva voce* on the same crimes.

UGA-OTP-P-0274 [REDACTED]

54. P-0274 is a victim of the attack on Odek on 29 April 2004. He was the former camp leader of Odek IDP camp [REDACTED] and speaks of civilians being abducted and killed during the attack.

Proof of a matter other than the acts and conduct of the accused

55. The evidence of P-0274 entirely relates to his personal role [REDACTED], and his experience during the attack on Odek IDP camp on 29 April 2004. P-0274 describes how Odek IDP camp was established in 2003, due to rising insecurity in the area and LRA activity. He became the camp leader [REDACTED], and remained in this position until [REDACTED]. It was his duty to liaise with government authorities and NGOs.¹²⁰ P-0274 describes how the attack on Odek unfolded on 29 April 2004. During the attack, he saw two young LRA fighters, estimated to be between 14 and 16 years old, enter his compound holding guns.¹²¹

¹¹³ P-0218, [UGA-OTP-0238-0720-R01](#) at 0726.

¹¹⁴ P-0314, [UGA-OTP-0258-0841-R01](#) at 0852 (on pillaging and enslavement).

¹¹⁵ P-0264, [UGA-OTP-0256-0139-R01](#) at 0155 (on murder), 0156 (on pillaging).

¹¹⁶ P-0245, [UGA-OTP-0244-0285-R01](#) at 0311 (on pillaging); [UGA-OTP-0244-0313-R01](#) at 0319-0320 (on enslavement).

¹¹⁷ P-0054, [UGA-OTP-0251-0101-R01](#) at 0104 (on pillaging).

¹¹⁸ P-0142, [UGA-OTP-0228-4542-R01](#) at 4552, 4546.4547, [UGA-OTP-0244-0693-R01](#) at 0705-0706 (on enslavement).

¹¹⁹ P-0309, [UGA-OTP-0249-0472-R01](#) at 0493 (on pillaging), 0494 (on murder and enslavement).

¹²⁰ P-0274, [UGA-OTP-0244-3375-R01](#) at 3377-3378.

¹²¹ P-0274, [UGA-OTP-0244-3375-R01](#) at 3379.

56. P-0274 later saw LRA fighters enter an adjacent hut where his wife, [REDACTED] (P-0268) was hiding. P-0274 saw LRA fighters instruct her to carry maize and follow them away from the camp.¹²² Following the attack, P-0274 saw a lady on the ground shot in the mouth, with her baby on her back. He helped to nurse her wounds.¹²³ P-0274 describes how camp residents began burying the murdered civilians.¹²⁴ He states that victims were shot in the chest and had broken bones.¹²⁵ P-0274 describes how he recorded lists of the injured and dead, recording 32 deceased civilians.¹²⁶ In the days following the attack, P-0274 recalls how the deceased were buried in shallow graves close to the camp.¹²⁷

Issues that are not materially in dispute

57. See paragraph 49.

Cumulative or corroborative nature

58. P-0274's testimony is of a cumulative or corroborative nature. Other witnesses also speak to the crimes of torture, cruel treatment of civilians, enslavement, conscription of children under 15, murder and pillaging that occurred in Odek IDP camp on 29 April 2004. For example, P-0269¹²⁸ will testify as to the circumstances of her abduction from Odek, as will P-0252¹²⁹ and P-0275.¹³⁰ P-0218¹³¹ will testify to the murder of civilians by the LRA and their subsequent

¹²² P-0274, [UGA-OTP-0244-3375-R01](#) at 3379, 3801.

¹²³ P-0274, [UGA-OTP-0244-3375-R01](#) at 3380.

¹²⁴ P-0274, [UGA-OTP-0244-3375-R01](#) at 3380.

¹²⁵ P-0274, [UGA-OTP-0244-3375-R01](#) at 3380.

¹²⁶ P-0274, [UGA-OTP-0244-3375-R01](#) at 3382-3384.

¹²⁷ P-0274, [UGA-OTP-0244-3375-R01](#) at 3384-3385.

¹²⁸ P-0269, [UGA-OTP-0248-0026-R01](#) at 0032-0033.

¹²⁹ P-0252, [UGA-OTP-0243-0428-R01](#) at 0433.

¹³⁰ P-0275, [UGA-OTP-0244-3398-R01](#) at 3401.

¹³¹ P-0218, [UGA-OTP-0238-0720-R01](#) at 0726.

burials in Odek. Witnesses such as P-0314,¹³² P-0264,¹³³ P-0245,¹³⁴ P-0054¹³⁵, P-0142¹³⁶ and P-0309¹³⁷ will also testify *viva voce* on the same crimes.

UGA-OTP-P-0268 [REDACTED]

59. P-0268 is a female victim of the attack on Odek on 29 April 2004.

Proof of a matter other than the acts and conduct of the accused

60. The evidence of P-0268 entirely relates to her personal experience during the attack on Odek. P-0268 lived with her husband (P-0274) and six children in Odek IDP camp. On 29 April 2004, at around 17h00, she recalls hearing gun shots and running into her hut. P-0268 describes how civilians were being shot at outside.¹³⁸ An LRA fighter carrying a gun kicked in the door of her hut, and assaulted P-0268 with his weapon.¹³⁹ P-0268 was then led away from the camp, and made to carry a sack of maize, while being beaten by her captors.¹⁴⁰ She saw other LRA fighters carrying pillaged food such as beans and flour.¹⁴¹ As she was being led away, P-0268 describes seeing the bodies of five civilians.¹⁴²

¹³² P-0314, [UGA-OTP-0258-0841-R01](#) at 0852 (on pillaging and enslavement).

¹³³ P-0264, [UGA-OTP-0256-0139-R01](#) at 0155 (on murder), 0156 (on pillaging).

¹³⁴ P-0245, [UGA-OTP-0244-0285-R01](#) at 0311 (on pillaging); [UGA-OTP-0244-0313-R01](#) at 0319-0320 (on enslavement).

¹³⁵ P-0054, [UGA-OTP-0251-0101-R01](#) at 0104 (on pillaging).

¹³⁶ P-0142, [UGA-OTP-0228-4542-R01](#) at 4552, 4546, 4547, [UGA-OTP-0244-0693-R01](#) at 0705-0706 (on enslavement).

¹³⁷ P-0309, [UGA-OTP-0249-0472-R01](#) at 0493 (on pillaging), 0494 (on murder and enslavement).

¹³⁸ P-0268, [UGA-OTP-0248-0013-R01](#) at 0016-0017.

¹³⁹ P-0268, [UGA-OTP-0248-0013-R01](#) at 0017.

¹⁴⁰ P-0268, [UGA-OTP-0248-0013-R01](#) at 0018.

¹⁴¹ P-0268, [UGA-OTP-0248-0013-R01](#) at 0018.

¹⁴² P-0268, [UGA-OTP-0248-0013-R01](#) at 0018.

61. P-0268 estimates that around 20 civilians were abducted, including women and children.¹⁴³ She saw abandoned babies on the road.¹⁴⁴ In the bush, LRA fighters used their guns to beat P-0268 and other women because their babies were crying too much.¹⁴⁵ P-0268 saw male abductees carrying an injured LRA commander away from Odek.¹⁴⁶ She later learned these men were killed when the LRA commander died.¹⁴⁷ The day after the attack, P-0268 was released along with other women, and returned to Odek IDP camp where she saw dead civilian bodies being collected by the camp residents.¹⁴⁸

Issues that are not materially in dispute

62. See paragraph 49.

Cumulative or corroborative nature

63. P-0268's testimony is of a cumulative or corroborative nature. Other witnesses also speak to the crimes of torture, cruel treatment of civilians, enslavement, conscription of children under the age of 15, murder and pillaging that occurred in Odek IDP camp on 29 April 2004. For example, P-0275¹⁴⁹ will testify as to the circumstances of his abduction from Odek, as will P-0252.¹⁵⁰ P-0269¹⁵¹ will also speak to the crimes of pillaging, while P-0218¹⁵² will speak to the murder of civilians by the LRA and their subsequent burials in Odek. Witnesses such as P-

¹⁴³ P-0268, [UGA-OTP-0248-0013-R01](#) at 0019, 0022.

¹⁴⁴ P-0268, [UGA-OTP-0248-0013-R01](#) at 0019.

¹⁴⁵ P-0268, [UGA-OTP-0248-0013-R01](#) at 0020.

¹⁴⁶ P-0268, [UGA-OTP-0248-0013-R01](#) at 0020-0021.

¹⁴⁷ P-0268, [UGA-OTP-0248-0013-R01](#) at 0022.

¹⁴⁸ P-0268, [UGA-OTP-0248-0013-R01](#) at 0021.

¹⁴⁹ P-0275, [UGA-OTP-0244-3398-R01](#) at 3401.

¹⁵⁰ P-0252, [UGA-OTP-0243-0428-R01](#) at 0433.

¹⁵¹ P-0269, [UGA-OTP-0248-0026-R01](#) at 0032-0033.

¹⁵² P-0218, [UGA-OTP-0238-0720-R01](#) at 0726.

0314,¹⁵³ P-0264,¹⁵⁴ P-0245,¹⁵⁵ P-0054,¹⁵⁶ P-0142¹⁵⁷ and P-0309¹⁵⁸ will also testify *viva voce* on the same crimes.

UGA-OTP-P-0325 [REDACTED]

64. P-0325 is a male victim of the attack on Odek on 29 April 2004.

Proof of a matter other than the acts and conduct of the accused

65. The evidence of P-0325 entirely relates to his personal role as a sub-leader within Odek IDP camp, and his experience during the attack on Odek IDP camp on 29 April 2004. P-0325 describes how LRA attackers first burned down the barracks before entering the camp and attacking civilians.¹⁵⁹ He recalls witnessing the murder of two civilians, one man in his twenties who was shot in the back, and a pregnant woman who was shot in the legs and later died from her injuries.¹⁶⁰

66. The day after the attack, P-0325 returned to the camp and found that two of his bulls were killed.¹⁶¹ As he moved into the camp, P-0325 came upon the dead bodies of a number of relatives, all with bullet wounds and covered in blood.¹⁶² One of the dead civilians was a mother who still had her crying baby tied to her

¹⁵³ P-0314, [UGA-OTP-0258-0841-R01](#) at 0852 (on pillaging and enslavement).

¹⁵⁴ P-0264, [UGA-OTP-0256-0139-R01](#) at 0155 (on murder), 0156 (on pillaging).

¹⁵⁵ P-0245, [UGA-OTP-0244-0285-R01](#) at 0311 (on pillaging); [UGA-OTP-0244-0313-R01](#) at 0319-0320 (on enslavement).

¹⁵⁶ P-0054, [UGA-OTP-0251-0101-R01](#) at 0104 (on pillaging).

¹⁵⁷ P-0142, [UGA-OTP-0228-4542-R01](#) at 4552, 4546.4547, [UGA-OTP-0244-0693-R01](#) at 0705-0706 (on enslavement).

¹⁵⁸ P-0309, [UGA-OTP-0249-0472-R01](#) at 0493 (on pillaging), 0494 (on murder and enslavement).

¹⁵⁹ P-0325, [UGA-OTP-0264-0242-R01](#) at 0245, disclosed via email on 13 June 2016.

¹⁶⁰ P-0325, [UGA-OTP-0264-0242-R01](#) at 0245-0246, disclosed via email on 13 June 2016.

¹⁶¹ P-0325, [UGA-OTP-0264-0242-R01](#) at 0246, disclosed via email on 13 June 2016.

¹⁶² P-0325, [UGA-OTP-0264-0242-R01](#) at 0246-0247, disclosed via email on 13 June 2016.

back.¹⁶³ P-0325 also saw dead civilians lying in Odek trading centre.¹⁶⁴ He also spoke to P-0252, a young boy who was abducted and forced to kill his father in the bush.¹⁶⁵ P-0325 states that he offered a plot of his land to bury the deceased, on which around 16 civilians were buried.¹⁶⁶ Most of the victims buried on his land were women and children.¹⁶⁷ P-0325 spoke to female abductees who were abducted and made to carry pillaged goods away from Odek.¹⁶⁸ He also saw that the shops in Odek trading centre had been broken into and emptied of their goods after the attack.¹⁶⁹

Issues that are not materially in dispute

67. See paragraph 49.

Cumulative or corroborative nature

68. P-0325's testimony is of a cumulative or corroborative nature. Other witnesses also speak to the crimes of torture, cruel treatment of civilians, enslavement, conscription of children under 15, murder and pillaging that occurred in Odek IDP camp on 29 April 2004. For example, P-0269¹⁷⁰ will testify as to the circumstances of her abduction from Odek, as will P-0252¹⁷¹ and P-0275.¹⁷² P-0218¹⁷³ will testify to the murder of civilians by the LRA and their subsequent burials in Odek. Witnesses such as P-0314,¹⁷⁴ P-0264,¹⁷⁵ P-0245,¹⁷⁶ P-0054,¹⁷⁷ P-0142¹⁷⁸ and P-0309¹⁷⁹ will also testify *viva voce* on the same crimes.

¹⁶³ P-0325, [UGA-OTP-0264-0242-R01](#) at 0246, disclosed via email on 13 June 2016.

¹⁶⁴ P-0325, [UGA-OTP-0264-0242-R01](#) at 0248, disclosed via email on 13 June 2016.

¹⁶⁵ P-0325, [UGA-OTP-0264-0242-R01](#) at 0249, disclosed via email on 13 June 2016; See also P-0252, [UGA-OTP-0243-0428-R01](#) at 0433.

¹⁶⁶ P-0325, [UGA-OTP-0264-0242-R01](#) at 0247, disclosed via email on 13 June 2016.

¹⁶⁷ P-0325, [UGA-OTP-0264-0242-R01](#) at 0247, disclosed via email on 13 June 2016.

¹⁶⁸ P-0325, [UGA-OTP-0264-0242-R01](#) at 0248-0249, disclosed via email on 13 June 2016.

¹⁶⁹ P-0325, [UGA-OTP-0264-0242-R01](#) at 0249, disclosed via email on 13 June 2016.

¹⁷⁰ P-0269, [UGA-OTP-0248-0026-R01](#) at 0032-0033.

¹⁷¹ P-0252, [UGA-OTP-0243-0428-R01](#) at 0433.

¹⁷² P-0275, [UGA-OTP-0244-3398-R01](#) at 3401.

¹⁷³ P-0218, [UGA-OTP-0238-0720-R01](#) at 0726.

¹⁷⁴ P-0314, [UGA-OTP-0258-0841-R01](#) at 0852 (on pillaging and enslavement).

c) Witnesses principally related to Lukodi

69. The accounts of the witnesses in this section relate to the charged attack on Lukodi. They do not provide information about the acts and conduct of the accused. Nor do they link him in any manner to the attack. Their accounts relate to matters that are not materially in dispute. This includes the time, nature and duration of the attack; the scene after the attack occurred, the abduction of civilians, and how the attack was documented. The Defence did not contest these issues in their written or oral submissions during the confirmation hearing.¹⁸⁰

UGA-OTP-P-0185

[REDACTED]

70. P-0185 was a resident of the Lukodi IDP camp.¹⁸¹

Proof of a matter other than the acts and conduct of the accused

71. P-0185 recalls the attack starting at about 18h00. He heard gunshots at the edge of the camp, where there were only civilians and no UPDF troops. There were about 100 LRA attackers. The witness himself was shot at and hid in a shop. He heard the LRA saying “Kill all of them.” When he tried to escape he was struck with a bayonet by one of the LRA fighters. When he continued running he was shot at. He hid outside the camp until the early morning and then returned to look for his wife [REDACTED] (P-0195) and child. In the camp, he saw the

¹⁷⁵ P-0264, [UGA-OTP-0256-0139-R01](#) at 0155 (on murder), 0156 (on pillaging).

¹⁷⁶ P-0245, [UGA-OTP-0244-0285-R01](#) at 0311 (on pillaging); [UGA-OTP-0244-0313-R01](#) at 0319-0320 (on enslavement).

¹⁷⁷ P-0054, [UGA-OTP-0251-0101-R01](#) at 0104 (on pillaging).

¹⁷⁸ P-0142, [UGA-OTP-0228-4542-R01](#) at 4552, 4546, 4547, [UGA-OTP-0244-0693-R01](#) at 0705-0706 (on enslavement).

¹⁷⁹ P-0309, [UGA-OTP-0249-0472-R01](#) at 0493 (on pillaging), 0494 (on murder and enslavement).

¹⁸⁰ ICC-02/04-01/15-404-Conf at para. 135. See further ICC-02/04-01/15-T-22-ENG from page 52 line 8 to page 53 line 20, where Defence Counsel summarizes the positions taken by the Defence.

¹⁸¹ P-0185, [UGA-OTP-0233-1020-R01](#) at 1023.

bodies of people who had been shot and stabbed to death. He observed that others had been burned inside their houses. His own house had been burned down. He found his daughter when other survivors returned with her to the camp. He believed his wife had been killed but was eventually reunited with her.¹⁸² P-0185's wife (P-0195) was abducted to carry items looted from the camp.¹⁸³ Their toddler daughter was mistreated as a result of the attack.¹⁸⁴

Relates to issues that are not materially in dispute

72. See paragraph 69.

Cumulative or corroborative nature

73. P-0185's evidence is cumulative and corroborative of other residents of the camp, in particular P-0024 and P-0187, who will testify *viva voce*. These witnesses are will give oral testimony regarding looting, burning and destruction of property, and the targeting, injuring and killing of civilians.¹⁸⁵

UGA-OTP-P-0195

[REDACTED]

74. P-0195 was a resident of the Lukodi IDP camp.¹⁸⁶

Proof of a matter other than the acts and conduct of the accused

75. P-0195 recounts how she moved to Lukodi camp in March or April 2004, and that, shortly before the attack there had been a distribution of food and cooking utensils. She recalls the attack taking place on 19 May 2004 starting at about 18h00. The LRA entered the camp blowing whistles and shouting insults. She

¹⁸² P-0185, [UGA-OTP-0233-1020-R01](#) at 1023-1026.

¹⁸³ P-0185, [UGA-OTP-0233-1020-R01](#) at 1026-1027.

¹⁸⁴ P-0185, [UGA-OTP-0233-1020-R01](#) at 1026.

¹⁸⁵ P-0024, [UGA-OTP-0069-0189-R01](#); P-0187, [UGA-OTP-0233-1031-R01](#). See also P-0018, [UGA-OTP-0159-0002-R01](#).

¹⁸⁶ P-0195, [UGA-OTP-0233-1046-R01](#) at 1049.

heard gunshots. One of the attackers entered her house and demanded that she and her sister-in-law, who both had infant children with them, leave the house and carry foodstuff. The house was set on fire. She saw other houses burning and was forced to leave the camp with other abductees at gunpoint. She saw that other women had been forced to abandon their children, who had been thrown into the bush. After a while one of the attackers forced her to abandon her own small daughter, who was also thrown into the bush.¹⁸⁷ Later in the evening she was part of a group of abductees who were taken to a commander who indicated they were not to be killed, but that their husbands and children had been killed.¹⁸⁸ After she and other abductees were released they returned to the camp. They saw the dead body of one camp resident on their way, and others when they arrived. Some had been shot and others burned in their houses. One child appeared to have been put in a sack and stepped on; his neck was broken. The witness saw her husband, who had found their daughter bruised but otherwise uninjured.¹⁸⁹

Issues that are not materially in dispute

76. See paragraph 69.

Cumulative or corroborative nature

77. P-0195's evidence is cumulative and corroborative of other residents of the camp, in particular P-0024 and P-0187, who will testify *viva voce*. These witnesses are expected to give oral testimony regarding looting, burning and destruction of property and the targeting, injuring and killing of civilians.¹⁹⁰

¹⁸⁷ P-0195, [UGA-OTP-0233-1046-R01](#) at 1049-1052.

¹⁸⁸ P-0195, [UGA-OTP-0233-1046-R01](#) at 1054.

¹⁸⁹ P-0195, [UGA-OTP-0233-1046-R01](#) at 1055-1057.

¹⁹⁰ P-0024, [UGA-OTP-0069-0189-R01](#); P-0187, [UGA-OTP-0233-1031-R01](#). See also P-0018, [UGA-OTP-0159-0002-R01](#).

Relates to background information

78. Parts of P-0195's evidence relate to background information, such as her move to the camp with her family, description of the camp, and events after the attack¹⁹¹

UGA-OTP-P-0196 **[REDACTED]**

79. P-0196 was a resident of the Lukodi IDP camp, aged about seven at the time of the attack.¹⁹²

Proof of a matter other than the acts and conduct of the accused

80. P-0196's account does not feature matters regarding acts and conduct of Dominic Ongwen. The witness recounts hiding in a hut from the attackers, being abducted together with his siblings, and later thrown into a burning house and threatened with being shot when he tried to escape.¹⁹³ P-0196 managed to escape the attackers and certain death.¹⁹⁴

Issues that are not materially in dispute

81. See paragraph 69.

Cumulative or corroborative nature

82. P-0196's evidence is cumulative and corroborative of other residents of the camp, in particular P-0024 and P-0187, who will testify *viva voce*. These

¹⁹¹ P-0195, [UGA-OTP-0233-1046-R01](#) at 1050-1052

¹⁹² P-0196, [UGA-OTP-0233-1061-R01](#) at 1061, 1064.

¹⁹³ P-0196, [UGA-OTP-0233-1061-R01](#) at 1065.

¹⁹⁴ P-0196, [UGA-OTP-0233-1061-R01](#) at 1065-1066.

witnesses are expected to give oral testimony regarding looting, burning and destruction of property and the targeting, injuring and killing of civilians.¹⁹⁵

UGA-OTP-P-0026 [REDACTED]

83. P-0026 was a resident of the Lukodi IDP camp.¹⁹⁶

Goes to proof of a matter other than the acts and conduct of the accused

84. P-0026 recounts how she was at home cooking with her two daughters on the day of the attack when she heard whistles and gunshots. A group of five attackers approached her house demanding that people should come out. As the witness moved to open the door they started shooting. The witness was hit in the leg and her eight-year-old daughter was killed. The attackers demanded cooking oil and then left. The witness hid in the latrine with the dead body of her daughter. The attackers could be heard looting her house. Her other daughter was also injured.¹⁹⁷

Issues that are not materially in dispute

85. See paragraph 69.

Cumulative or corroborative nature

86. P-0026's evidence is corroborative of other residents of the camp, in particular P-0024 and P-0187, who will testify *viva voce*. These witnesses are expected to

¹⁹⁵ P-0024, [UGA-OTP-0069-0189-R01](#); P-0187, [UGA-OTP-0233-1031-R01](#). See also P-0018, [UGA-OTP-0159-0002-R01](#).

¹⁹⁶ P-0026, [UGA-OTP-0069-0018-R01](#) at 0020.

¹⁹⁷ P-0026, [UGA-OTP-0069-0018-R01](#) at 0020-0024.

give oral testimony regarding looting, burning and destruction of property and the targeting, injuring and killing of civilians.¹⁹⁸

UGA-OTP-P-0035 [REDACTED]

87. P-0035 was the UPDF commander of the military detachment stationed at the Lukodi IDP camp.¹⁹⁹ He witnessed the attack and its aftermath, but escaped the attackers.²⁰⁰ The Prosecution relies on the prior recorded testimony of P-0035 only in part. The Prosecution does not rely on the limited reference in his account to Dominic Ongwen and does not request for this part of the witness' account to be admitted into evidence. The excluded references can be found at paragraph 68 of P-0035's statement.²⁰¹

Goes to proof of a matter other than the acts and conduct of the accused

88. The witness recounts that he had 30 local defence soldiers under his command. There had been previous small scale attacks by the LRA in April. During the big attack there were 100 attackers, but there were civilians between the witness's troops and the attackers, so his troops could not shoot. The witness was himself the subject of direct threats by the attackers. The witness saw houses burned and inhabitants being beaten, kicked and dragged. The witness himself and a number of his soldiers were wounded. Reinforcements arrived after dark and the witness then followed the attackers' tracks. He saw a number of corpses lying outside houses. The next morning he counted the bodies of at least 12

¹⁹⁸ P-0024, [UGA-OTP-0069-0189-R01](#); P-0187, [UGA-OTP-0233-1031-R01](#). See also P-0018, [UGA-OTP-0159-0002-R01](#).

¹⁹⁹ P-0035, [UGA-OTP-0036-0082-R01](#) at 0084-0085.

²⁰⁰ P-0035, [UGA-OTP-0036-0082-R01](#) at 0087-0092.

²⁰¹ P-0035, [UGA-OTP-0036-0082-R01](#) at 0091.

children of eight years old or younger. Some had been tied up and burned inside their houses.²⁰²

Issues that are not materially in dispute

89. See paragraph 69.

Cumulative or corroborative nature

90. P-0035's evidence is cumulative and corroborative of other residents of the camp, in particular P-0024 and P-0187, who will testify *viva voce*. These witnesses are expected to give oral testimony regarding looting, burning and destruction of property and the targeting, injuring and killing of civilians.²⁰³

Relates to background information

91. A significant part of P-0035's evidence relates to background information, such as P-0035's functions as a UPDF commander in Lukodi, previous encounters with the LRA, and events in the aftermath of the attack.²⁰⁴

UGA-OTP-P-0036 [REDACTED]

92. P-0036 is a government pathologist who carried out post-mortem exhumation and examination on 25 bodies at the Lukodi IDP camp.

Proof of a matter other than the acts and conduct of the accused

93. P-0036 arrived with his team in Lukodi in the afternoon on 21 May 2004. Photographs and video footage were taken upon his arrival in Lukodi, and P-

²⁰² P-0035, [UGA-OTP-0036-0082-R01](#) at 0084-0090.

²⁰³ P-0024, [UGA-OTP-0069-0189-R01](#); P-0187, [UGA-OTP-0233-1031-R01](#). See also P-0018, [UGA-OTP-0159-0002-R01](#).

²⁰⁴ P-0035, [UGA-OTP-0036-0082-R01](#) at 0084-0092.

0036 commented on them. He documents 25 bodies.²⁰⁵ Most of the bodies in Lukodi had multiple gunshot injuries, with the exception of two cases: one was burned (died as a result of “neurogenic shock”) and the second was stabbed to death.²⁰⁶

Relates to issues that are not materially in dispute

94. See paragraph 69.

Cumulative or corroborative nature

95. P-0036’s evidence is cumulative and corroborative of camp residents, in particular P-0024 and P-0187, who will testify *viva voce*. These witnesses are expected to give oral testimony regarding looting, burning and destruction of property and the targeting injuring and killing of civilians.²⁰⁷

Relates to background information

96. A significant part of P-0036’s evidence relates to background information, such as P-0036’s functions as a government pathologist, description of the Lukodi camp, his arrival at Lukodi with an investigative team, identification of graves, exhumations, and visit to the Gulu Main Hospital.²⁰⁸

²⁰⁵ P-0036, [UGA-OTP-0146-0154](#), [UGA-OTP-0146-0157](#), [UGA-OTP-0146-0160](#), [UGA-OTP-0146-0163](#), [UGA-OTP-0146-0166](#), [UGA-OTP-0146-0169](#), [UGA-OTP-0146-0172](#), [UGA-OTP-0146-0175](#), [UGA-OTP-0146-0178](#), [UGA-OTP-0146-0182](#), [UGA-OTP-0146-0185](#), [UGA-OTP-0146-0188](#), [UGA-OTP-0146-0191](#), [UGA-OTP-0146-0194](#), [UGA-OTP-0146-0197](#), [UGA-OTP-0146-0200](#), [UGA-OTP-0146-0203](#), [UGA-OTP-0146-0206](#), [UGA-OTP-0146-0209](#), [UGA-OTP-0146-0212](#), [UGA-OTP-0146-0215](#), [UGA-OTP-0146-0218](#), [UGA-OTP-0146-0221](#), [UGA-OTP-0146-0224](#) and [UGA-OTP-0146-0227](#).

²⁰⁶ P-0036, [UGA-OTP-0036-0042-R01](#) at 0043-0045, 0056-0059.

²⁰⁷ P-0024, [UGA-OTP-0069-0189-R01](#); P-0187, [UGA-OTP-0233-1031-R01](#). See also P-0018, [UGA-OTP-0159-0002-R01](#).

²⁰⁸ P-0036, [UGA-OTP-0036-0042-R01](#) at 0043-0045, 0056-0059.

UGA-OTP-P-0017 [REDACTED]

97. P-0017 is a police detective who investigated the attack on the Lukodi IDP camp.²⁰⁹

Goes to proof of a matter other than the acts and conduct of the accused

98. P-0017's account does not feature matters regarding acts and conduct of Dominic Ongwen. The witness wrote an official report on the attack on Lukodi camp.²¹⁰ The witness arrived at the camp on 21 May 2004 and received reports of the attack in the form of witness statements from those who had been present. These recounted an attack by about 80 people in which the UPDF were forced to withdraw before civilians were killed and homes burned.²¹¹ The witness refers to and comments on video footage and photographs taken when he arrived after the attack.²¹²

Issues that are not materially in dispute

99. See paragraph 69.

Cumulative or corroborative nature

100. P-0017's evidence is cumulative and corroborative of camp residents, in particular P-0024 and P-0187, who will testify *viva voce*. These witnesses will give oral testimony regarding looting, burning and destruction of property and the targeting, injuring and killing of civilians.²¹³

²⁰⁹ P-0017, [UGA-OTP-0036-0007-R01](#) at 0008, 0030-0032, 0035-0038.

²¹⁰ P-0017, [UGA-OTP-0036-0007-R01](#) at 0030.

²¹¹ P-0017, [UGA-OTP-0036-0007-R01](#) at 0030-0037.

²¹² The video: [UGA-OTP-0023-0008](#); the pictures: [UGA-OTP-0023-0310-0360](#) (Camp) and [UGA-OTP-0023-0387-0407](#) (GULU Main Hospital).

²¹³ P-0024, [UGA-OTP-0069-0189-R01](#); P-0187, [UGA-OTP-0233-1031-R01](#). See also P-0018, [UGA-OTP-0159-0002-R01](#).

Relates to background information

101. A significant part of P-0017's evidence relates to background information, such as description of the Lukodi IDP camp, investigation into the attack, evidence and conclusions regarding the attack, and exhumation of 25 bodies.²¹⁴

UGA-OTP-P-0060 **[REDACTED]**

102. P-0060 was a resident and zonal administrator of the Lukodi IDP camp.²¹⁵ He witnessed the attack and its aftermath, but managed to hide from the attackers.²¹⁶

Goes to proof of a matter other than the acts and conduct of the accused

103. P-0060 recounts that the big attack began at around 18h30; when he saw and heard the attack he ran. He heard gunshots and the attackers blowing whistles. He saw other camp residents running. He saw the light from burning houses. He returned to the camp at about 07h00 the next morning and saw that food had been looted and many houses burned. His own house had been burned. Inside one of the burned houses he recognises five people who had been burned inside it.²¹⁷

Relates to issues that are not materially in dispute

104. See paragraph 69.

²¹⁴ P-0017, [UGA-OTP-0036-0007-R01](#) at 0030-0032, 0035-0038.

²¹⁵ P-0060, [UGA-OTP-0069-0034-R01](#) at 0036-0038.

²¹⁶ P-0060, [UGA-OTP-0069-0034-R01](#) at 0041-0044.

²¹⁷ P-0060, [UGA-OTP-0069-0034-R01](#) at 0040-0044.

Cumulative or corroborative nature

105. P-0060's evidence is cumulative and corroborative of other residents of the camp, in particular P-0024 and P-0187, who will testify *viva voce*. These witnesses will give oral testimony regarding looting, burning and destruction of property and the targeting, injuring and killing of civilians.²¹⁸

Relates to background information

106. A significant part of P-0060's evidence relates to background information, such as description of the camp, history of Lukodi and neighbouring Coopee camp, camp administration, camp registration system, P-0060's functions as a zonal leader, a typical day in the camp before the attack, beginning of the attack, and its consequences.²¹⁹

d) Witnesses principally related to Abok

107. The accounts of the witnesses in this section relate to the background of the charged attack on Abok. They do not provide information on the acts and conduct of the accused. Nor do they link him in any manner to the attack. Their accounts relate to matters that are not materially in dispute. This includes the time, nature, and duration of the attack, the scene after the attack occurred, the abduction of civilians, and how the attack was documented. The Defence did not contest these issues in their written or oral submissions during the confirmation hearing.²²⁰

²¹⁸ P-0024, [UGA-OTP-0069-0189-R01](#); P-0187, [UGA-OTP-0233-1031-R01](#). See also P-0018, [UGA-OTP-0159-0002-R01](#).

²¹⁹ P-0060, [UGA-OTP-0069-0034-R01](#) at 0035-0042, 0043-0046.

²²⁰ ICC-02/04-01/15-404-Conf at para. 135. See further ICC-02/04-01/15-T-22-ENG from page 52 line 8 to page 53 line 20, where Defence Counsel summarizes the positions taken by the Defence.

UGA-OTP- P-0279 [REDACTED]

108. P-0279 was abducted by LRA rebels that attacked Abok IDP camp on 8 June 2004.

Proof of a matter other than the acts and conduct of the accused

109. P-0279's evidence does not pertain to the acts and conduct by the accused as it makes no reference to the accused in this case. Her evidence is that at about 20h00 on 8 June 2004 Kony's rebels attacked Abok IDP camp.²²¹ According to P-0279, rebels comprising men and children carrying guns and speaking Acholi broke into the house where she hid. The rebels abducted P-0279 from her home.²²² P-0279 confirms that the rebels who attacked the camp killed people, burned houses and abducted many children.²²³ The rebels who abducted P-0279 forced her to carry two goats and later a big bag as they retreated from the camp.²²⁴ When she could no longer carry the load the rebels beat, strangled and cut P-0279 all over her body with a machete and then left her for dead.²²⁵

Issues that are not materially in dispute

110. See paragraph 107.

Cumulative or corroborative in nature

111. Witnesses P-0280, P-0281, P-0282, P-0284, P-0286, P-0287, P-0293, P-0304 and P-0306 will give oral testimony bearing similar facts and in greater detail

²²¹ P-0279, [UGA-OTP-0258-0478-R01](#) at 0482-0483.

²²² P-0279, [UGA-OTP-0258-0478-R01](#) at 0483.

²²³ P-0279, [UGA-OTP-0258-0478-R01](#) at 0483.

²²⁴ P-0279, [UGA-OTP-0258-0478-R01](#) at 0483-0484.

²²⁵ P-0279, [UGA-OTP-0258-0478-R01](#) at 0484.

regarding the crimes perpetrated by LRA rebels during the attack on Abok IDP camp.²²⁶

UGA-OTP-P-0282 [REDACTED]

112. P-0282 is a former resident of Abok who witnessed the attack on Abok IDP camp that took place on 8 June 2004.

Proof of a matter other than the acts and conduct of the accused

113. P-0282's evidence is that at about 20h15 on 8 June 2004, rebels attacked Abok IDP camp.²²⁷ According to P-0282, rebels carrying guns, *pangas* and speaking Acholi broke into his house and began to pillage foodstuffs and personal property.²²⁸ P-0282 was shot in the leg by one of the rebels as he attempted to escape from the house.²²⁹ In the aftermath of the attack P-0282 saw many dead bodies strewn all over the camp.²³⁰ The bodies he saw had been shot and burned to death in their homes.²³¹ P-0282 further confirms that civilians who were injured during the attack had cuts on their heads while others bore gunshot wounds in the stomach and arms.²³² He was also informed that civilians had been abducted by the rebels during the attack and made to carry the loot.²³³

²²⁶ P-0280, [UGA-OTP-0247-1252-R01](#) at 1257; P-0281, [UGA-OTP-0261-0257](#) at 0262-0263, disclosed via email on 13 June 2016; P-0282, [UGA-OTP-0261-0246-R01](#) at 0249-0252; P-0284, [UGA-OTP-0244-1180-R01](#) at 1185-1186; P-0286, [UGA-OTP-0248-0060-R01](#) at 0069; P-0287, [UGA-OTP-0261-0268-R01](#) at 0270-0271; P-0293, [UGA-OTP-0248-0040-R01](#) at 0046-0048; P-0304, [UGA-OTP-0261-0233-R01](#) at 0236-0238; P-0306, [UGA-OTP-0261-0277-R01](#) at 0281-0282.

²²⁷ P-0282, [UGA-OTP-0261-0246-R01](#) at 0249.

²²⁸ P-0282, [UGA-OTP-0261-0246-R01](#) at 0249-0251.

²²⁹ P-0282, [UGA-OTP-0261-0246-R01](#) at 0250.

²³⁰ P-0282, [UGA-OTP-0261-0246-R01](#) at 0251.

²³¹ P-0282, [UGA-OTP-0261-0246-R01](#) at 0251.

²³² P-0282, [UGA-OTP-0261-0246-R01](#) at 0251.

²³³ P-0282, [UGA-OTP-0261-0246-R01](#) at 0252.

Issues that are not materially in dispute

114. See paragraph 107.

Cumulative or corroborative in nature

115. Other witnesses corroborate the account of P-0282. Witnesses P-0279, P-0280, P-0281, P-0284, P-0286, P-0287, P-0293, P-0304 and P-0306 will give oral testimony that on the night of 8 June 2004 between 19h00 and 21h00, LRA rebels attacked the Abok IDP camp, abducted and killed civilians, pillaged property and set their homes on fire.²³⁴

UGA-OTP-P-0284 [REDACTED]

116. P-0284 fled from Abok IDP camp when the LRA rebels attacked on the night of 8 June 2004.

Proof of a matter other than the acts and conduct of the accused

117. P-0284's evidence is that at 20h45 LRA rebels attacked Abok IDP camp.²³⁵ As he fled the camp with his family, P-0284 saw LRA rebels shoot at civilians fleeing the camp as well as the UPDF soldiers.²³⁶ He confirms that the LRA rebels also set houses in the camp on fire.²³⁷ When he returned to the camp the following morning P-0284 saw the dead bodies of children and adults strewn all over the camp.²³⁸ They had died from burns and gunshot wounds.²³⁹ He counted

²³⁴ P-0279, [UGA-OTP-0258-0478-R01](#); P-0280, [UGA-OTP-0247-1252-R01](#); P-0281, [UGA-OTP-0261-0257](#), disclosed via email on 13 June 2016; P-0284, [UGA-OTP-0244-1180-R01](#); P-0286, [UGA-OTP-0248-0060-R01](#); P-0287, [UGA-OTP-0261-0268-R01](#); P-0293, [UGA-OTP-0248-0040-R01](#); P-0304, [UGA-OTP-0261-0233-R01](#); P-0306, [UGA-OTP-0261-0277-R01](#).

²³⁵ P-0284, [UGA-OTP-0244-1180-R01](#) at 1186.

²³⁶ P-0284, [UGA-OTP-0244-1180-R01](#) at 1186.

²³⁷ P-0284, [UGA-OTP-0244-1180-R01](#) at 1186.

²³⁸ P-0284, [UGA-OTP-0244-1180-R01](#) at 1187.

²³⁹ P-0284, [UGA-OTP-0244-1180-R01](#) at 1187.

a total of 28 bodies that were found in the camp.²⁴⁰ P-0284 further confirms discovering that the rebels had looted foodstuffs and other relief supplies from the camp and abducted civilians during the attack including children in age range of 13 to 20 years.²⁴¹

Issues that are not materially in dispute

118. See paragraph 107.

Cumulative or corroborative in nature

119. Witnesses P-0280, P-0281, P-0282, P-0286, P-0287, P-0293, P-0304 and P-0306 will give oral testimony that corroborates witness P-0284, describing how on the night of 8 June 2004 between 19h00 and 21h00 LRA rebels attacked Abok IDP camp, abducted and killed civilians, pillaged property and set their homes on fire.²⁴²

UGA-OTP-P-0287 [REDACTED]

120. P-0287 is an Abok resident who witnessed the attack on Abok IDP camp, on 8 June 2004.

Proof of a matter other than the acts and conduct of the accused

121. P-0287's evidence is that on the evening of 8 June 2004 rebels attacked Abok IDP camp.²⁴³ According to P-0287 rebels carrying guns, sticks and speaking

²⁴⁰ P-0284, [UGA-OTP-0244-1180-R01](#) at 1187.

²⁴¹ P-0284, [UGA-OTP-0244-1180-R01](#) at 1188.

²⁴² P-0279, [UGA-OTP-0258-0478-R01](#); P-0280, [UGA-OTP-0247-1252-R01](#); P-0281, [UGA-OTP-0261-0257](#); disclosed via email on 13 June 2016; P-0282, [UGA-OTP-0261-0246-R01](#); P-0286, [UGA-OTP-0248-0060-R01](#); P-0287, [UGA-OTP-0261-0268-R01](#); P-0293, [UGA-OTP-0248-0040-R01](#); P-0304, [UGA-OTP-0261-0233-R01](#); P-0306, [UGA-OTP-0261-0277-R01](#).

²⁴³ P-0287, [UGA-OTP-0261-0268-R01](#) at 0270.

Acholi were setting huts in the camp on fire and shooting at fleeing civilians.²⁴⁴ While P-0287, his mother and brother attempted to flee from the camp they were abducted by the rebels.²⁴⁵ As they retreated from the camp in the direction of Bung Agweo two rebels pillaged money from P-0287's mother and beat her over the head repeatedly with thick sticks, leaving her for dead.²⁴⁶ After P-0287 was rescued and returned to Abok IDP camp he saw dead bodies of children and adults as well as animals strewn all over the camp.²⁴⁷ The bodies he saw had been shot and burned to death in their homes.²⁴⁸ He further confirms that civilians who were injured in the attack had burns on their bodies.²⁴⁹

Issues that are not materially in dispute

122. See paragraph 107.

Cumulative or corroborative in nature

123. Witnesses²⁵⁰ P-0279, P-0280, P-0281, P-0282, P-0284, P-0286, P-0293, P-0293, P-0304 and P-0306 will give oral testimony that corroborates witness P-0287, describing how on the night of 8 June 2004 between 19h00 and 21h00 LRA rebels attacked the Abok IDP camp, abducted and killed civilians, pillaged property and set their homes on fire.

²⁴⁴ P-0287, [UGA-OTP-0261-0268-R01](#) at 0270-0271.

²⁴⁵ P-0287, [UGA-OTP-0261-0268-R01](#) at 0271.

²⁴⁶ P-0287, [UGA-OTP-0261-0268-R01](#) at 0271-0272.

²⁴⁷ P-0287, [UGA-OTP-0261-0268-R01](#) at 0272.

²⁴⁸ P-0287, [UGA-OTP-0261-0268-R01](#) at 0272.

²⁴⁹ P-0287, [UGA-OTP-0261-0268-R01](#) at 0272.

²⁵⁰ P-0279, [UGA-OTP-0258-0478-R01](#); P-0280, [UGA-OTP-0247-1252-R01](#); P-0281, [UGA-OTP-0261-0257](#), disclosed via email on 13 June 2016; P-0282, [UGA-OTP-0261-0246-R01](#); P-0284, [UGA-OTP-0244-1180-R01](#); P-0286, [UGA-OTP-0248-0060-R01](#); P-0293, [UGA-OTP-0248-0040-R01](#); P-0304, [UGA-OTP-0261-0233-R01](#); P-0306, [UGA-OTP-0261-0277-R01](#).

e) Witnesses related to intercepted communications

124. The following seven paragraphs refer to submissions that apply to all intercept witnesses in this section except for P-0242 and P-0038. The arguments will not be repeated or referred to under each witness' section.

Issues that are not materially in dispute

125. The intercept witnesses' evidence is focused on operations carried out from at least July 2002 to December 2005 by the Ugandan government's Internal Security Organisation ("ISO"), the UPDF and the Ugandan Police Force ("Police"). The existence of these operations is not materially in dispute. In its pre-confirmation submission and at the confirmation hearing, the Defence made repeated reference to the ISO and the UPDF interception operations.²⁵¹ During the confirmation hearing, the Defence referred to multiple ISO logbook entries to support its submissions.²⁵² In light of the Defence submissions regarding the ISO and UPDF interception operations it should reasonably be inferred that the existence of the Police interception operation is also not materially in dispute.

Cumulative or corroborative nature

126. There are seventeen intercept witnesses from the three Ugandan government organisations that the Prosecution currently relies on. Nine of these witnesses worked with the ISO. P-0027²⁵³ was in charge of the ISO interception operation. He worked at ISO headquarters in Kampala with P-0303²⁵⁴ and P-0385,²⁵⁵ who were ISO intercept administrators. P-0059²⁵⁶ was one of the ISO's principal

²⁵¹ ICC-02/04-01/15-404-Conf, at para. 24; see also ICC-02/04-01/15-T-22-ENG, at pp. 68-69. ICC-02/04-01/15-404-Conf, at para. 89.

²⁵² ICC-02/04-01/15-T-23-CONF-ENG, at pp. 30, 32-36.

²⁵³ P-0027, [UGA-OTP-0207-0256-R01](#), [UGA-OTP-0249-0444-R01](#).

²⁵⁴ P-0303, [UGA-OTP-0258-0723-R01](#).

²⁵⁵ P-0385, [UGA-OTP-0260-0498-R01](#), disclosed via email on 13 June 2016.

²⁵⁶ P-0059, [UGA-OTP-0027-0244](#), [UGA-OTP-0258-0699-R01](#).

intercept operatives.²⁵⁷ P-0291,²⁵⁸ P-0384²⁵⁹ and P-0386²⁶⁰ were also ISO intercept operatives in Gulu. P-0032²⁶¹ and P-0301²⁶² were their supervisors. All provide similar evidence of the ISO interception operation. For this reason, the Prosecution intends to call only P-0059 to give oral testimony.

127. Five of these witnesses worked with the UPDF. P-0029²⁶³ was in charge of the UPDF interception operation. P-0003²⁶⁴ and P-0339²⁶⁵ were two of the UPDF's principal intercept operatives. P-0400²⁶⁶ was another UPDF intercept operative P-0337²⁶⁷ was the Officer Commanding in Gulu of the UPDF interception and direction-finding operations. All provide similar testimony of the interception process and the procedures. For this reason, the Prosecution intends to call only P-0003, P-0337 and P-0339 to give oral testimony.

128. Three of these witnesses worked with the Police. P-0126²⁶⁸ was the supervisor of the Police's interception operation in Kamdini. P-0125²⁶⁹ was the Police's principal intercept operative. P-0370²⁷⁰ assisted P-0125. P-0126, P-0125 and P-0370 provide similar and detailed testimony about the interception process in Kamdini. For this reason, the Prosecution intends to call only P-0125 to give oral testimony.

²⁵⁷ P-0059, [UGA-OTP-0027-0244](#) at 0246, [UGA-OTP-0258-0699-R01](#) at 0701.

²⁵⁸ P-0291, [UGA-OTP-0246-0061-R01](#).

²⁵⁹ P-0384, [UGA-OTP-0260-0491-R01](#).

²⁶⁰ P-0386, [UGA-OTP-0260-0508-R01](#).

²⁶¹ P-0032, [UGA-OTP-0069-0796-R01](#), [UGA-OTP-0246-0003-R01](#).

²⁶² P-0301, [UGA-OTP-0249-0423-R01](#).

²⁶³ P-0029, [UGA-OTP-0027-0231-R01](#).

²⁶⁴ P-0003, [UGA-OTP-0027-0214-R01](#), [UGA-OTP-0069-0803-R01](#), [UGA-OTP-0246-0077-R01](#).

²⁶⁵ P-0339, [UGA-OTP-0258-0732-R01](#).

²⁶⁶ P-0400, [UGA-OTP-0264-0015-R01](#).

²⁶⁷ P-0337, [UGA-OTP-0256-0201-R01](#).

²⁶⁸ P-0126, [UGA-OTP-0253-0764-R01](#), [UGA-OTP-0264-0002-R01](#).

²⁶⁹ P-0125, [UGA-OTP-0170-0047-R01](#), [UGA-OTP-0175-0300-R01](#), [UGA-OTP-0253-0780-R01](#).

²⁷⁰ P-0370, [UGA-OTP-0258-0687-R01](#).

129. Many of these seventeen intercept witnesses knew about the existence of the other interception operations. Four UPDF interception operatives corroborate the existence of the ISO operation.²⁷¹ Five ISO interception operatives corroborate the existence of the UPDF operation.²⁷² P-0027 corroborates the existence of the Police interception operation,²⁷³ and P-0126 corroborates that of the ISO and the UPDF.²⁷⁴ Further, independent corroboration of the Ugandan government's intercept operation is provided by former LRA fighter P-0019, who was a signaller while he was in the LRA and later served in the UPDF.²⁷⁵ P-0019 will testify in court.

Relates to background information

130. Unlike the logbooks and sound recordings of intercepted communications, the intercept evidence in the rule 68(2)(b) documents is not directly related to the charges.²⁷⁶ The latter merely provides the background of how the intercept evidence was intercepted, recorded, reported to superiors, stored and collected by the Prosecution.

131. The Prosecution does not seek to obtain admission of any material relating to intercepted communications via this current motion unless it is annexed to the witness' statement and listed in Annex A. All the material relating to the intercepted communications that is cited or referred to in the intercept witnesses' statements will be sought to be admitted at a later time, through witnesses or via a bar table motion.

²⁷¹ P-0003, [UGA-OTP-0246-0077-R01](#) at 0087; P-0337, [UGA-OTP-0256-0201-R01](#) at 0204-0205; P-0339, [UGA-OTP-0258-0732-R01](#) at 0738-0739; P-0400, [UGA-OTP-0264-0015-R01](#) at 0020.

²⁷² P-0027, [UGA-OTP-0207-0256-R01](#) at 0257; P-0032, [UGA-OTP-0246-0003-R01](#) at 0013; P-0059, [UGA-OTP-0258-0699-R01](#) at 0707-0708; P-0291, [UGA-OTP-0246-0061-R01](#) at 0070-0071; P-0301, [UGA-OTP-0249-0423-R01](#) at 0427-0428.

²⁷³ P-0027, [UGA-OTP-0249-0444-R01](#) at 0449.

²⁷⁴ P-0126, [UGA-OTP-0253-0764-R01](#) at 0773.

²⁷⁵ P-0019, [UGA-OTP-0262-0176-R01](#) at 0180-0181; see also [UGA-OTP-0218-0571-R01](#) at 0591-0592.

²⁷⁶ Certain passages of P-0301's statement do talk about Dominic Ongwen's acts and conducts. The Prosecution identifies where they are in his statement and does not rely on them.

UGA-OTP-P-0027 [REDACTED]

132. P-0027 oversaw the interception of LRA radio communications by the ISO in Gulu.

Proof of a matter other than the acts and conduct of the accused

133. P-0027 states that the ISO began to intercept LRA radio communications in 1990.²⁷⁷ He names relevant ISO staff and describes their role.²⁷⁸ He describes the process by which they intercepted and recorded communications²⁷⁹ details their reporting requirements up the relevant hierarchy²⁸⁰ and explains how records were stored.²⁸¹ He details which material he provided to the Prosecution.²⁸²

UGA-OTP-P-0032 [REDACTED]

134. P-0032 is a Radio Operative Officer in the ISO.

Proof of a matter other than the acts and conduct of the accused

135. P-0032 states that he supervised other staff in their interception of LRA radio communications.²⁸³ He names the ISO staff with whom he worked and describes their role.²⁸⁴ He describes the process by which his team intercepted and recorded LRA communications and the equipment that they used.²⁸⁵ He details

²⁷⁷ [UGA-OTP-0207-0256-R01](#) at 0257-0258; [UGA-OTP-0249-0444-R01](#) at 0449.

²⁷⁸ [UGA-OTP-0249-0444-R01](#) at 0446-0448.

²⁷⁹ [UGA-OTP-0249-0444-R01](#) at 0448-0449.

²⁸⁰ [UGA-OTP-0207-0256-R01](#) at 0258.

²⁸¹ [UGA-OTP-0207-0256-R01](#) at 0259.

²⁸² [UGA-OTP-0207-0256-R01](#) at 0259-0260; [UGA-OTP-0249-0444-R01](#) at 0450-0454.

²⁸³ [UGA-OTP-0069-0796-R01](#) at 0797; [UGA-OTP-0246-0003-R01](#) at 0010-0011.

²⁸⁴ [UGA-OTP-0246-0003-R01](#) at 0009.

²⁸⁵ [UGA-OTP-0069-0796-R01](#) at 0797-0798; [UGA-OTP-0246-0003-R01](#) at 0008, 0010-0012.

their reporting requirements up the relevant hierarchy.²⁸⁶ He explains how records were stored²⁸⁷ how he prepared tapes, and that he handed over material to the Prosecution.²⁸⁸

UGA-OTP-P-0126 [REDACTED]

136. P-0126 supervised the Police's interception of LRA radio communications in Kamdini from 2003.

Proof of a matter other than the acts and conduct of the accused

137. P-0126's evidence relates to the Police interception operation. He supervised P-0125²⁸⁹ and describes the process by which P-0125 intercepted and recorded LRA radio communications,²⁹⁰ how P-0125 reported to him, and how he reported up the hierarchy.²⁹¹ P-0126 verifies and comments on intelligence reports that he produced, many of which were based on information intercepted by P-0125.²⁹² He explains how the records that P-0125 and he made were handled and stored²⁹³ and sets out which material he handed over to the Prosecution.²⁹⁴

²⁸⁶ [UGA-OTP-0069-0796-R01](#) at 0799; [UGA-OTP-0246-0003-R01](#) at 0010-0012.

²⁸⁷ [UGA-OTP-0069-0796-R01](#) at 0799; [UGA-OTP-0246-0003-R01](#) at 0015.

²⁸⁸ [UGA-OTP-0069-0796-R01](#) at 0800; [UGA-OTP-0246-0003-R01](#) at 0013-0017.

²⁸⁹ [UGA-OTP-0253-0764-R01](#) at 0771.

²⁹⁰ [UGA-OTP-0253-0764-R01](#) at 0773-0775.

²⁹¹ [UGA-OTP-0253-0764-R01](#) at 0772-0775.

²⁹² [UGA-OTP-0264-0002-R01](#)-R01.

²⁹³ [UGA-OTP-0253-0764-R01](#) at 0770-0771.

²⁹⁴ [UGA-OTP-0253-0764-R01](#) at 0776-0778.

UGA-OTP-P-0291 [REDACTED]

138. P-0291 was a radio operative in the ISO.

Proof of a matter other than the acts and conduct of the accused

139. P-0291 intercepted LRA radio communications.²⁹⁵ He names relevant ISO staff²⁹⁶ and describes the process by which they intercepted and recorded communications and the equipment that they used to do so.²⁹⁷ He details their reporting up the relevant hierarchy.²⁹⁸ P-0291 outlines how the LRA used the radio and how he was able to break the codes.²⁹⁹ Finally, P-0291 authenticates certain ISO records of intercepted LRA communications in the case record.³⁰⁰

UGA-OTP-P-0301 [REDACTED]

140. P-0301 was a radio operative in the ISO.

Proof of a matter other than the acts and conduct of the accused

141. P-0301 intercepted LRA radio communications.³⁰¹ He explains the purpose of interception,³⁰² names relevant ISO staff,³⁰³ and describes the process by which the ISO intercepted and recorded the LRA communications and the equipment that they used.³⁰⁴ He details the ISO reporting requirements up the relevant hierarchy.³⁰⁵ He explains how the LRA communicated and how he understood

²⁹⁵ [UGA-OTP-0246-0061-R01](#) at 0064.

²⁹⁶ [UGA-OTP-0246-0061-R01](#) at 0065-0066.

²⁹⁷ [UGA-OTP-0246-0061-R01](#) at 0067-0070.

²⁹⁸ [UGA-OTP-0246-0061-R01](#) at 0069.

²⁹⁹ [UGA-OTP-0246-0061-R01](#) at 0066-0067.

³⁰⁰ [UGA-OTP-0246-0061-R01](#) at 0071-0072.

³⁰¹ [UGA-OTP-0249-0423-R01](#) at 0426.

³⁰² [UGA-OTP-0249-0423-R01](#) at 0427.

³⁰³ [UGA-OTP-0249-0423-R01](#) at 0426-0427.

³⁰⁴ [UGA-OTP-0249-0423-R01](#) at 0430-0432.

³⁰⁵ [UGA-OTP-0249-0423-R01](#) at 0428.

their coded conversations.³⁰⁶ P-0301 states that he visited Lukodi and Odek IDP camps after they were attacked by the LRA. He states that at Lukodi he saw dead bodies of men, women and children and that he was involved in their exhumation.³⁰⁷ He states that he wrote a report of the attack on the Odek IDP camp after he visited the location.³⁰⁸ The Prosecution does not intend to rely upon the passages in which P-0301 makes hearsay statements about Dominic Ongwen's acts or conduct at Lukodi and Odek.³⁰⁹

UGA-OTP-P-0303 [REDACTED]

142. P-0303 served in the ISO.

Proof of a matter other than the acts and conduct of the accused

143. P-0303 describes his role, the roles of other ISO intercept staff,³¹⁰ and explains ISO interception and reporting procedures.³¹¹ He describes the process by which the ISO recorded and stored records of intercepts³¹² and explains reporting requirements to ISO superiors.³¹³ P-0303 confirms that he wrote in several of the logbooks that were written in Kampala.³¹⁴ P-0303 sets out how he located and provided to the Prosecution sound recordings of LRA radio communications made in Gulu.³¹⁵

³⁰⁶ [UGA-OTP-0249-0423-R01](#) at 0429-0430.

³⁰⁷ [UGA-OTP-0249-0423-R01](#) at 0432-0433.

³⁰⁸ [UGA-OTP-0249-0423-R01](#) at 0435.

³⁰⁹ [UGA-OTP-0249-0423-R01](#) at 0433 (paragraphs 56 and 57 in their entirety), 0435 (paragraph 60, "The attack was commanded by Dominic Ongwen. I obtained this information from camp leaders and relatives of those killed and abducted. I recall interviewing a young boy named in the report as [REDACTED] who was abducted during the attack but who escaped on the 9th May. He informed me that the leader of the attack was Ongwen."); [UGA-OTP-0249-0438-R01](#) at 0438 ("A.4 – Commander of GRP – Lt. Col Ongwen Dominic").

³¹⁰ [UGA-OTP-0258-0723-R01](#) at 0726-0727.

³¹¹ [UGA-OTP-0258-0723-R01](#) at 0726-0727.

³¹² [UGA-OTP-0258-0723-R01](#) at 0727.

³¹³ [UGA-OTP-0258-0723-R01](#) at 0727-0728.

³¹⁴ [UGA-OTP-0258-0723-R01](#) at 0728.

³¹⁵ [UGA-OTP-0258-0723-R01](#) at 0729.

UGA-OTP-P-0370 [REDACTED]

144. P-0370 was a Detective Constable in the Police.

Proof of a matter other than the acts and conduct of the accused

145. P-0370 assisted P-0125 to intercept and record LRA radio communications.³¹⁶

They passed the information to their superior P-0126 who distributed the information.³¹⁷ P-0370 discusses the equipment that he and P-0125 used,³¹⁸ explains the process followed to intercept and record LRA communications, and details how they reported to P-0126.³¹⁹ He explains how the LRA used the radio³²⁰ and confirms his and P-0125's handwriting on the handwritten records that they produced.³²¹

UGA-OTP-P-0384 [REDACTED]

146. P-0384 was a radio operative in the ISO.

Proof of a matter other than the acts and conduct of the accused

147. P-0384's intercepted LRA radio communications.³²² He names relevant ISO staff³²³ and describes the process by which the ISO intercepted and recorded LRA communications.³²⁴ He states that his primary duty was to report to UPDF

³¹⁶ [UGA-OTP-0258-0687-R01](#) at 0690.

³¹⁷ [UGA-OTP-0258-0687-R01](#) at 0690-0691.

³¹⁸ [UGA-OTP-0258-0687-R01](#) at 0691-0692.

³¹⁹ [UGA-OTP-0258-0687-R01](#) at 0693-0694.

³²⁰ [UGA-OTP-0258-0687-R01](#) at 0694-0695.

³²¹ [UGA-OTP-0258-0687-R01](#) at 0695-0696.

³²² [UGA-OTP-0260-0491-R01](#) at 0493.

³²³ [UGA-OTP-0260-0491-R01](#) at 0493-0494.

³²⁴ [UGA-OTP-0260-0491-R01](#) at 0494.

commanders.³²⁵ He states where he can see his handwriting in ISO records of LRA communications in the case record.³²⁶

UGA-OTP-P-0385 [REDACTED]

148. P-0385 was an operative in the ISO.

Proof of a matter other than the acts and conduct of the accused

149. P-0385 received and processed records of intercepted LRA radio communications.³²⁷ He describes how the ISO recorded, stored and reported on intercepts³²⁸ and names relevant staff.³²⁹ P-0385 confirms that he wrote in several of the logbooks of intercepts.³³⁰

UGA-OTP-P-0386 [REDACTED]

150. P-0386 was a radio operative in the ISO.

Proof of a matter other than the acts and conduct of the accused

151. P-0386 intercepted LRA radio communications.³³¹ He names relevant ISO staff,³³² and describes how the ISO intercepted and recorded LRA communications.³³³ He details ISO reporting requirements.³³⁴ P-0386 states where he can see his handwriting in ISO records, and comments on the

³²⁵ [UGA-OTP-0260-0491-R01](#) at 0495.

³²⁶ [UGA-OTP-0260-0491-R01](#) at 0495.

³²⁷ [UGA-OTP-0260-0498-R01](#) at 0501, disclosed via email on 13 June 2016.

³²⁸ [UGA-OTP-0260-0498-R01](#) at 0501-0502, disclosed via email on 13 June 2016.

³²⁹ [UGA-OTP-0260-0498-R01](#) at 0502, disclosed via email on 13 June 2016.

³³⁰ [UGA-OTP-0260-0498-R01](#) at 0502-0503, disclosed via email on 13 June 2016.

³³¹ [UGA-OTP-0260-0508-R01](#) at 0510-0511.

³³² [UGA-OTP-0260-0508-R01](#) at 0510-0511.

³³³ [UGA-OTP-0260-0508-R01](#) at 0511-0512.

³³⁴ [UGA-OTP-0260-0508-R01](#) at 0511-0513.

contents of, ISO records of intercepted LRA radio communications.³³⁵

UGA-OTP-P-0400 [REDACTED]

152. P-0400 is a Captain in the UPDF.

Proof of a matter other than the acts and conduct of the accused

153. P-0400 intercepted LRA radio communications.³³⁶ P-0400 outlines how he intercepted, decoded and recorded the LRA's radio communications.³³⁷ He describes his working with P-0003 and P-0337³³⁸ and details how his team reported up the hierarchy.³³⁹ He briefly sets out how the LRA used the radio.³⁴⁰ Finally, P-0400 comments on a series of UPDF logbooks, including whether they contain his handwriting.³⁴¹

UGA-OTP-P-0242 [REDACTED]

154. P-0242 is the Senior Forensic Audio Consultant at [REDACTED]. P-0242 performed the audio enhancement of 43 sound recordings of LRA radio communications.

Proof of a matter other than the acts and conduct of the accused

155. The evidence of P-0242 relates to his audio enhancement of sound recordings of LRA radio communications produced by the UPDF and the

³³⁵ [UGA-OTP-0260-0508-R01](#) at 0513-0516.

³³⁶ [UGA-OTP-0264-0015-R01](#)-R01 at 0019-0020.

³³⁷ [UGA-OTP-0264-0015-R01](#)-R01 at 0020-0021.

³³⁸ [UGA-OTP-0264-0015-R01](#)-R01 at 0020-0021.

³³⁹ [UGA-OTP-0264-0015-R01](#)-R01 at 0021.

³⁴⁰ [UGA-OTP-0264-0015-R01](#)-R01 at 0022.

³⁴¹ [UGA-OTP-0264-0015-R01](#)-R01 at 0022-0024.

ISO. P-0242 describes his background and work experience.³⁴² He details his receipt of the sound recordings from the Prosecution, describes the condition of the tapes, and explains in detail the procedure by which he undertook the enhancement of the sound recordings, using one of the tapes as an example.³⁴³

Issues that are not materially in dispute

156. The enhancement of the sound recordings is not a matter materially in dispute. The sound recordings in the case record are of varying quality. Thus, the Prosecution requested the enhancement of the most relevant original sound recordings. P-0242 did not modify the original sound recordings, which are still available in unenhanced form. P-0242's statement describes the enhancement procedure and details the filters he used on the sound recordings, providing maximum transparency in the process.

Relates to background information

157. P-0242's evidence is background information: it does not speak to any crimes that Dominic Ongwen is alleged to have committed, nor about the substance of the intercept evidence.

UGA-OTP-P-0038 [REDACTED]

158. P-0038 is an officer in the Ugandan military who acted as a liaison for the Minister of Defence, the UPDF and the OTP of the ICC.³⁴⁴

³⁴² [UGA-OTP-0261-0333-R01](#) at 0335-0336.

³⁴³ [UGA-OTP-0261-0333-R01](#) at 0336-0340.

³⁴⁴ [UGA-OTP-0069-0784-R01](#) at 0787 para. 8.

Proof of a matter other than the acts and conduct of the accused

159. The witness describes the collection, collation and handover of intercept material,³⁴⁵ captured documents³⁴⁶ and photographs³⁴⁷ to the Prosecution.

Issues that are not materially in dispute

160. Regarding the intercepted communications, P-0038 only provides a general overview of their collection. The Prosecution does not seek to rely on any portion of his statement in which he refers to how the Ugandan government performed the interception of LRA radio communications.³⁴⁸ Regarding captured documents and photographs, P-0038 only provides a general overview of their collection and handover.

Relates to background information

161. P-0038 does not discuss the substantive content of any of the items described by him and merely describes the context of their collection.

f) Persecution

UGA-OTP-P-0028 [REDACTED]

162. P-0028 served in the LRA and was a senior advisor to Kony.³⁴⁹

Proof of a matter other than the acts and conduct of the accused

163. The Prosecution seeks to rely on P-0028 for the purpose of corroborating oral evidence regarding the general persecutory aims of the LRA and related

³⁴⁵ [UGA-OTP-0069-0784-R01](#) at 0787 paras. 10-22. [UGA-OTP-0244-0912-R01](#) at paras. 20-49.

³⁴⁶ [UGA-OTP-0069-0784-R01](#) at 0787 paras. 23-45.

³⁴⁷ [UGA-OTP-0069-0784-R01](#) at 0787 paras. 46-50.

³⁴⁸ P-0038, [UGA-OTP-0069-0784-R01](#) at 0787 paras. 10, 14, 15.

³⁴⁹ P-0028, [UGA-OTP-0217-0075-R01](#) at 0093-0094.

orders issued by Kony. P-0028 describes how the LRA targeted civilians who were perceived as supporting the government³⁵⁰ and the UPDF³⁵¹ and states that Kony issued orders for those civilians to be killed.³⁵² After Kony gave the order for civilians to be killed because they were government supporters, the witness started hearing over the radio about the killing of many people in IDP camps or other places.³⁵³ P-0028 states that the purpose of the order to kill civilians was to show them that the government or the UPDF was not able to protect them.³⁵⁴ P-0028 states that the civilians targeted by the LRA included members of Kony's own ethnic group, the Acholi.³⁵⁵ He states that initially Kony sought support from the Acholi,³⁵⁶ but that after they did not join his fight against the Ugandan government, he issued orders for them to be killed.³⁵⁷

Cumulative or corroborative in nature

164. P-0028's prior recorded testimony is cumulative or corroborative of other evidence. Other LRA insiders discuss Kony's orders to kill civilians for their perceived opposition to the government, including at least seven who will be called live.³⁵⁸

Relates to background information

165. P-0028's statement provides important context for understanding the LRA's overall persecutory aims and conduct. However, this is background evidence,

³⁵⁰ P-0028, [UGA-OTP-0217-0171-R01](#) at 0174-0175; [UGA-OTP-0217-0100-R01](#) at 0103-0104; [UGA-OTP-0217-0148-R01](#) at 0169; [UGA-OTP-0217-0171-R01](#)-R01 at 0189.

³⁵¹ [UGA-OTP-0217-0100-R01](#) at 0103-0104.

³⁵² P-0028, [UGA-OTP-0217-0100-R01](#) at 0103-0104; [UGA-OTP-0217-0125-R01](#) at 0140-0141; [UGA-OTP-0217-0148-R01](#) at 0169; [UGA-OTP-0217-0171-R01](#)-R01 at 0189.

³⁵³ P-0028, [UGA-OTP-0217-0100-R01](#) at 0103-0105.

³⁵⁴ P-0028, [UGA-OTP-0217-0171-R01](#) at 0188- 0189.

³⁵⁵ P-0028, [UGA-OTP-0217-0171-R01](#) at 0175; [UGA-OTP-0217-0148-R01](#) at 0168-0169.

³⁵⁶ P-0028, [UGA-OTP-0217-0171-R01](#) at 0174; [UGA-OTP-0217-0148-R01](#) at 0168-0169.

³⁵⁷ P-0028, [UGA-OTP-0217-0148-R01](#) at 0168-0169.

³⁵⁸ These witnesses include P-0045, P-0070, P-0085, P-0138, P-0200, P-0245, and P-0258.

and his prior recorded testimony contains no mention of the accused.

g) Persecution and Sexual and Gender - Based Crimes

UGA-OTP-P-0040 [REDACTED]

166. P-0040 is a former LRA Captain. The Prosecution does not rely on the limited portions of P-0040's prior recorded testimony that reflect on the acts and conduct of the accused. These latter excluded references can be found at: [UGA-OTP-0209-0436-R01](#) at 0454-0456; [UGA-OTP-0209-0461-R01](#) at 0480-0481; [UGA-OTP-0209-0569-R01](#) at 0592-0596; [UGA-OTP-0209-0634-R01](#) at 0640-0641, 0665-0666; [UGA-OTP-0209-0877-R01](#) at 0908-0909; [UGA-OTP-0220-0779-R01](#) at 0780-0782, 0793-0797; [UGA-OTP-0220-0805-R01](#) at 0812-0813.

Proof of a matter other than the acts and conduct of the accused

167. The evidence of P-0040 that the Prosecution seeks to admit provides general context about the LRA's objectives in relation to persecution of civilians who were perceived to support the government and abduction of girls and women and forced marriage. In relation to persecution, P-0040 states that he heard Kony giving orders for civilians to be killed in large numbers to draw the attention of the international community and to put pressure on the Ugandan government to talk to the LRA.³⁵⁹ He also states that he heard Kony ordering the Langis to be killed because of their perceived support for the UPDF and the government.³⁶⁰ Likewise, he states that Kony instructed Charles Tabuley to go to Soroti (Teso) and kill civilians who were "not cooperating" and

³⁵⁹ P-0040, [UGA-OTP-0220-0678-R01](#) at 0685-0686.

³⁶⁰ P-0040, [UGA-OTP-0209-0461-R01](#) at 0487-0490; [UGA-OTP-0220-0704-R01](#) at 0707-0708; [UGA-OTP-0220-0678-R01](#)-R01 at 0687-0688.

“stubborn”.³⁶¹ In relation to sexual and gender-based crimes, P-0040 states that he heard Kony issue the order to abduct girls on a number of occasions.³⁶² He also states that Kony required LRA fighters not to have sex with any woman or girl before he was given the opportunity to select the ones that he wanted.³⁶³ P-0040 further describes Kony’s orders in relation to forced marriage and how neither the women nor the men had a choice in the matter.³⁶⁴

Cumulative or corroborative nature

168. Various other witnesses, including at least seven who will testify *viva voce*,³⁶⁵ give evidence about Kony’s orders to kill civilians for their perceived opposition to the LRA. Many witnesses, including at least four who will testify *viva voce*,³⁶⁶ describe the LRA’s policy of abducting women and girls and forcing them into exclusive conjugal relationships. In addition to the witnesses mentioned above, the Prosecution intends to rely on extensive documentary material, including public radio recordings and intercept logbooks, which also reflects the information provided by P-0040.

³⁶¹ P-0040, [UGA-OTP-0220-0678-R01](#) at 0702.

³⁶² P-0040, [UGA-OTP-0220-0779-R01](#) at 0791.

³⁶³ P-0040, [UGA-OTP-0220-0779-R01](#) at 0792; [UGA-OTP-0209-0762-R01](#) at 0778-0779.

³⁶⁴ [UGA-OTP-0209-0786-R01](#) at 0792-0803.

³⁶⁵ These witnesses include P-0045, P-0070, P-0085, P-0138, P-0200, P-0245, and P-0258. See, e.g., P-0045, [UGA-OTP-0220-1087-R01](#) at 1109; P-0070, [UGA-OTP-0208-0107-R01](#) at 0111-0113; P-0085, [UGA-OTP-0215-0047-R01](#) at 0073; P-0138, [UGA-OTP-0228-0467-R01](#) at 0496, 0498-0499, [UGA-OTP-0228-0503-R01](#) at 0521; P-0200, [UGA-OTP-0243-0107-R01](#) at 0110; P-0245, [UGA-OTP-0244-0461-R01](#) at 0485-0486, [UGA-OTP-0244-0313-R01](#) at 0327-0328; P-0258, [UGA-OTP-0243-1824-R01](#) at 1828.

³⁶⁶ These witnesses are P-0142, P-0245, P-0233, and P-0138. See, e.g., P-0142, [UGA-OTP-0244-0755-R01](#) at 0767-0768; P-0245, [UGA-OTP-0244-0545-R01](#) at 0553; P-0233, [UGA-OTP-0243-1149-R01](#) at 1159-1160; P-0138, [UGA-OTP-0228-0538-R01](#) at 0551-0552. See also Defence Pre-Confirmation Brief, ICC-02/04-01/15-404-Conf, para. 132 (acknowledging that there was a general LRA policy to distribute “wives” among the LRA fighters and that neither the women nor the fighters had any choice in the matter).

Relates to background information

169. P-0040 provides background information relating to the LRA's objectives. This information does not pertain to the specific crimes that Dominic Ongwen is alleged to have committed. P-0040's testimony about the LRA's persecutory aims is general and does not relate to Dominic Ongwen specifically or the four attacks in relation to which the persecution is charged.

CONCLUSION

170. For the above reasons, the Prosecution requests that the Chamber:

- Conditionally admit the rule 68(2)(b) documents, subject to the fulfilment of the further conditions of admissibility set out in rule 68(2)(b)(ii) and (iii) of the Rules; and
- designate the Registry Legal Counsel, or any appropriate person delegated by him, to be the person authorised to witness declarations made pursuant to rule 68(2)(b) of the Rules for the purposes of this case.



Fatou Bensouda,
Prosecutor

Dated this 5th day of December 2016

At The Hague, The Netherlands