

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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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 1-23**

**Prosecution's second submission of proposed public redacted versions of
testimonies introduced under rules 68(2)(b) and (c) of the Rules of Procedure and
Evidence**

Source: The Office of the Prosecutor

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

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Introduction

1. Pursuant to the Chamber's orders¹ and articles 54, 64(2), 64(7), 67(1), 68, and 72 of the Statute, the Prosecution files proposed public redacted versions of prior recorded testimonies of the remaining 23 witnesses introduced under rules 68(2)(b) and (c) of the Rules of Procedure and Evidence.
2. The proposed public redacted testimonies are attached as Annexes 1-23.²

Background

3. On 14 June, 21 September and 28 October 2016, the Prosecution requested the Chamber to introduce into evidence prior recorded testimonies of trial witnesses under rules 68(2)(b) and (c) of the Rules.³
4. On 18 and 22 November 2016, the Chamber granted the Prosecution's request in relation to 39 witnesses under rule 68(2)(b) of the Rules subject to the receipt of their declarations, and 1 witness under rule 68(2)(c) of the Rules.⁴ The Chamber further ordered the Prosecution to file proposed public redacted versions of their testimonies within 21 days of the filing of witness declarations in the case record.⁵
5. On 6 October 2017, further to the Single Judge's Decision dated 25 September 2017,⁶ the Prosecution prepared and disclosed via eCourt the public redacted versions of prior recorded testimonies of the first 17 rule 68(2)(b) witnesses.⁷
6. On 21 December 2017, the Registry filed the rule 68(2)(b) declarations of the remaining 22 witnesses.⁸

¹ ICC-02/04-01/15-596-Conf, p. 111; ICC-02/04-01/15-600, pp. 14-15.

² Witnesses P-0001 (Annex 1), P-0007 (Annex 2), P-0008 (Annex 3), P-0015 (Annex 4), P-0026 (Annex 5), P-0035 (Annex 6), P-0040 (Annex 7), P-0060 (Annex 8), P-0061 (Annex 9), P-0130 (Annex 11), P-0185 (Annex 12), P-0195 (Annex 13), P-0196 (Annex 14), P-0268 (Annex 15), P-0270 (Annex 16), P-0274 (Annex 17), P-0279 (Annex 18), P-0281 (Annex 19), P-0282 (Annex 20), P-0284 (Annex 21), P-0287 (Annex 22), and P-0325 (Annex 23) are introduced under rule 68(2)(b) of the Rules. Witness P-0096 (Annex 10) is introduced under rule 68(2)(c) of the Rules.

³ ICC-02/04-01/15-465-Conf; ICC-02/04-01/15-538-Conf; ICC-02/04-01/15-579-Conf.

⁴ ICC-02/04-01/15-596-Conf; ICC-02/04-01/15-600.

⁵ ICC-02/04-01/15-596-Conf, p. 111.

⁶ ICC-02/04-01/15-1005.

⁷ Witnesses P-0017, P-0027, P-0029, P-0032, P-0036, P-0084, P-0126, P-0291, P-0301, P-0303, P-0337, P-0370, P-0384, P-0385, P-0386, P-0400, and P-0404.

⁸ ICC-02/04-01/15-1116-Conf+Anxs.

Submissions

7. The 23 witnesses include victims of the LRA's attacks, former LRA members, and government officials.⁹ Witnesses P-0001, P-0007, P-0008, P-0026, P-0060, P-0061, P-0185, P-0195, P-0196, P-0286, P-0270, P-0274, P-0279, P-0281, P-0282, P-0284, P-0287, and P-0325 were Pajule, Odek, Lukodi, and Abok IDP camp residents during the charged attacks. Witness P-0015 was a student abducted from the Lwala Girls School. Witness P-0035 was a UPDF soldier stationed at the Lukodi IDP Camp during the LRA's attack. Witnesses P-0040, P-0096, and P-0130 became LRA members as a result of their forceful recruitment into the organisation.

8. Mindful that "the written record of introduced prior recorded testimony [...] shall be public to the extent possible",¹⁰ the Prosecution proposes limited redactions to their testimonies. The proposed redactions are necessary to protect national security information of the Republic of Uganda under article 72 of the Statute, safety and dignity of witnesses and victims under article 68 of the Statute, and current and future investigative activities of the Prosecution under article 54 of the Statute.

Protection of national security information under article 72 of the Statute

9. The Prosecution proposes to redact information relating to the national security interests of Uganda in Witness P-0035's testimony. This includes the witness' name, signature and other identifying information (including education and employment details), rank and affiliation, and his superior's name. The proposed redactions are based on the UPDF's request to withhold national security related information in Witness P-0035's testimony from the public.¹¹

Protection of witnesses and victims under article 68 of the Statute

⁹ Witnesses P-0001, P-0007, P-0008, P-0026, P-0060, P-0061, P-0185, P-0195, P-0196, P-0268, P-0274, P-0279, P-0281, P-0282, P-0284, P-0287, and P-0325 are dual status individuals.

¹⁰ ICC-02/04-01/15-596-Conf, para. 223.

¹¹ UGA-OTP-0276-4123.

10. The Prosecution proposes to redact identifying information of witnesses and victims to protect their personal safety, dignity, and well-being. This includes their names, signatures and other identifying information, such as names of relatives, dates and places of birth, places of residence, occupation, as well as any unique association with particular people or events.

11. The identities of Witnesses P-0015, P-0130, P-0195, and P-0287 are redacted based on concerns expressed during recent witness management meetings with the Prosecution.¹² The identities of the victims of sexual and gender-based crimes that are mentioned in the testimonies of Witnesses P-0015, P-0040, P-0096, P-0270, P-0274, and P-0282 are redacted due to a possibility of social stigmatisation by communities, families, or partners.¹³

12. In addition, Witness P-0060's place of residence,¹⁴ and the ID or passport numbers of Witnesses P-0268, P-0274, P-0279, P-0281, P-0282, P-0284, and P-0325 are redacted to protect their privacy.

Protection of current and future investigations under article 54 of the Statute

13. The Prosecution proposes redactions to protect its operational information, the disclosure of which may jeopardise its current and future investigative activities in all cases and situations, in particular those with unstable security environments. This includes names and signatures of psycho-social experts, interpreters, current investigators and analysts, as well as interview locations and witness accommodation. This proposal concerns testimonies of all 23 witnesses.

Conclusion

14. The Prosecution requests the Chamber's approval of the proposed public redacted versions of prior recorded testimonies of 23 rule 68(2)(b) and (c) witnesses

¹² UGA-OTP-0282-0442 at 0443-0446, 0449.

¹³ See, for example, UGA-D26-0018-0429 at 0461-0462; UGA-OTP-0132-0423 at 0428, para. 19; UGA-OTP-0220-0381; ICC-02/04-01/15-T-140-CONF-ENG, pp. 30-32. However, proposed redactions do not cover known or deceased victims of sexual and gender-based crimes.

¹⁴ UGA-OTP-0282-0442 at 0445.

in Annexes 1-23 further to the Chamber's order and pursuant to articles 54, 64(2), 64(7), 67(1), 68, and 72 of the Statute.



Fatou Bensouda, Prosecutor

Dated this 28th day of December 2017
At The Hague, The Netherlands