

Annex A

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**Cour
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Court**

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PRE-TRIAL CHAMBER II

Before: Judge Cuno Tarfusser, Presiding Judge
Judge Marc Perrin de Brichambaut
Judge Chang-ho Chung

SITUATION IN UGANDA

**IN THE CASE OF
*THE PROSECUTOR v. DOMINIC ONGWEN***

Public Redacted Version

DOCUMENT CONTAINING THE CHARGES

Source: The Office of the Prosecutor

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1. THE SUSPECT: DOMINIC ONGWEN

1. Dominic Ongwen, also known as Odomi and Wai Wai, was born in 1975. He is a Ugandan national from Coorom, in Gulu, northern Uganda. Prior to his appearance before the Court, he was a member of the Lord's Resistance Army ("LRA").

2. STATEMENT OF FACTS REGARDING CONTEXTUAL ELEMENTS OF ARTICLE 7 AND ARTICLE 8

Contextual elements of article 7: existence of a widespread or systematic attack, directed against civilian population

2. The LRA carried out a widespread or systematic attack directed against the civilian population of northern Uganda, from at least 1 July 2002 to 31 December 2005.
3. From at least 1 July 2002 to 31 December 2005, the overall objective of the LRA was to overthrow the government of Uganda through armed rebellion. In order to achieve this objective and to sustain its activities, the LRA adopted a number of policies that were implemented throughout the organisation. The LRA adopted a policy of launching attacks on civilians, including those living in protected internally displaced persons' camps ("IDP camps") and abducting civilians; male abductees to be conscripted and used as soldiers and female abductees to serve primarily as domestic servants, sex slaves and forced exclusive conjugal partners.
4. The conduct that forms the basis for the charges in this document was committed as part of a widespread or systematic attack directed against the civilian

population of northern Uganda. As a long-term member of the LRA who held a number of command positions, and due to his participation in numerous LRA operations, Dominic Ongwen knew that his conduct was part of this widespread or systematic attack against the civilian population pursuant to, or in furtherance of the organisational policy.

Contextual elements of article 8: existence of a non-international armed conflict

5. From at least 1 July 2002 to 31 December 2005 a protracted armed conflict not of an international character between the LRA and armed forces of the government of Uganda together with associated local armed units existed in northern Uganda. The armed hostilities exceeded, in intensity, internal disturbances and tensions such as riots, isolated and sporadic acts of violence.
6. Both parties were well structured, armed and carried out protracted armed violence. During this time the LRA was an organised armed group with a sufficient degree of organisation to enable it to plan and carry out military operations for a prolonged period of time. The Uganda People's Defence Force ("UPDF") was the regular military of Uganda.
7. The conduct that forms the basis for the charges in this document took place in the context of and was associated with this armed conflict. As a long-term member of the LRA who held a number of command positions, and due to his participation in numerous LRA operations, Dominic Ongwen was aware of the factual circumstances that established the existence of this non-international armed conflict.
8. The statements of material facts and circumstances and legal characterisations in each category of charges should be read in conjunction with this section.

3. STATEMENT OF FACTS REGARDING COMMON ELEMENTS OF MODES OF LIABILITY

9. This statement of facts addresses elements of Dominic Ongwen's individual criminal responsibility pursuant to articles 25(3) (a) (indirect perpetration and indirect co-perpetration), 25(3) (b) (ordering), 25(3) (d) (i) and (ii) and 28(a) (command responsibility) that are common to multiple categories of charges in this document. The statements of material facts and circumstances and legal characterisations in each category of charges should be read in conjunction with this section.

10. Between at least 1 July 2002 and 31 December 2005, the LRA was an organised and hierarchical apparatus of power. It had a headquarters, a division, brigades, battalions and companies, with a commander assigned to each unit. The Sinia brigade, as one of the four LRA brigades, consisted of a brigade headquarters and a number of battalions and companies. Joseph Kony was the commander-in-chief of the LRA. Orders were generally communicated from Joseph Kony and other leaders to the brigade commander, who communicated them to the battalion commanders, who in turn passed them to their subordinates.

11. In the LRA, including the Sinia brigade, subordinates followed the orders of their superiors almost automatically. LRA fighters, conditioned by, and under threat of, physical punishment, obeyed superiors and followed orders. The LRA maintained a violent disciplinary system that guaranteed adherence to orders and rules. The LRA, including the Sinia brigade, was composed of a sufficient number of fungible individuals capable of replacement to guarantee that the orders of superiors were carried out, if not by one subordinate, then by another. Dominic

Ongwen was aware of the fundamental features of the LRA, including the Sinia brigade, as an organised and hierarchical apparatus of power.

12. Between 1 July 2002 and 31 December 2005 Dominic Ongwen was a military commander in the LRA, commanding units first at the battalion, and then at the brigade level. He spent the majority of this time in Sinia brigade, but also served for some time within the LRA headquarters, Control Altar. He commanded a battalion in Sinia brigade for much of mid-2002 to March 2004. On or about 5 March 2004, Dominic Ongwen became the commander of the Sinia brigade.

13. Dominic Ongwen had effective command and control, or authority and control, over his subordinates between 1 July 2002 and 31 December 2005. He mobilised his authority and power in the LRA, including the Sinia brigade, to secure compliance with his orders and cause his subordinates to carry out the conduct described in this document. This allowed him to exert control over the crimes charged as well as to prevent or repress any conduct by his subordinates of which he disapproved. His subordinates complied with his orders. He had the power, *inter alia*, to issue or give orders; to ensure compliance with the orders issued; to order forces or units under his command, whether under his immediate command or at a lower level, to engage in hostilities; to discipline any subordinate; and the authority to send forces to the site of hostilities and to withdraw them at any time.

4. ATTACK ON PAJULE IDP CAMP ON OR ABOUT 10 OCTOBER 2003 (Counts 1-10)

Material facts:

14. The factual allegations set out in Chapter 3 (contextual elements) and Chapter 4 (common elements of modes of liability) are incorporated herein by reference.
15. On or about 10 October 2003, between 05:00-06:00 approximately, Dominic Ongwen together with other senior members of the LRA, including Vincent Otti, Raska Lukwiya, and Bogi Bosco (“Pajule co-perpetrators”) put into action a common plan to attack Pajule and Lapul IDP camps,¹ then located in Aruu county, Pader district, its environs including the trading centre, barracks and Catholic mission (“Pajule common plan”). The Pajule co-perpetrators, including Dominic Ongwen, meant to engage in their conduct and intended to bring about the objective elements of the crimes of attacks against the civilian population, murder, torture, cruel treatment, other inhumane acts, enslavement, pillaging, and persecution or were aware that they would occur in the ordinary course of events in implementing the Pajule common plan. The victims of these crimes were civilians taking no active part in hostilities. Dominic Ongwen was aware of the factual circumstances that established this status.
16. The Pajule co-perpetrators implemented the Pajule common plan through the hierarchical apparatus of the LRA deployed for the Pajule attack, which they jointly controlled. Dominic Ongwen was aware of the fundamental features of the LRA and the factual circumstances that enabled him, together with other co-perpetrators, to jointly exercise control over the crimes charged in relation to Pajule.

¹ Hereinafter, the term “Pajule IDP Camp” is used for both Pajule and Lapul IDP camps.

17. Dominic Ongwen contributed to the planning and implementation of the Pajule common plan and to the commission of the charged crimes in relation to Pajule by, *inter alia*,

- participating in a pre-attack meeting together with other senior LRA members;
- leading a group of LRA fighters to attack the trading centre at the camp;
- personally committing acts of violence against civilians;
- ordering LRA fighters under his command to pillage items from shops and homes within the camp;
- encouraging LRA fighters through his presence to commit crimes;
- threatening to kill civilians that had been abducted if they did not move as the LRA fighters retreated from the attack and returned to their meeting point;
- failing, while being a military commander or person effectively acting as a military commander, to take necessary and reasonable measures within his power to prevent or repress the commission of the charged crimes or failing to submit the matter to the competent authorities for investigation and prosecution. Dominic Ongwen knew or, owing to the circumstances at the time, should have known that the LRA fighters were committing or were about to commit the crimes charged in relation to Pajule.

18. At the time of the attack, Dominic Ongwen had effective command and control, or authority and control, over his subordinates that participated in the attack at the trading centre.

19. When engaging in the above conduct, Dominic Ongwen had the requisite intent and knowledge under articles 25, 28 and 30, and under the elements of the respective crimes listed below.

Attacks against the civilian population

20. LRA fighters under the joint control of the Pajule co-perpetrators including Dominic Ongwen carried out an attack against the civilian population of Pajule IDP camp as such, or individual civilians not taking direct part in the hostilities. Dominic Ongwen intended the civilian population as such, or individual civilians not taking direct part in the hostilities to be the object of the attack.

Murder

21. LRA fighters who participated in the attack under the joint control of the Pajule co-perpetrators including Dominic Ongwen killed at least two civilian residents of Pajule.

Torture/cruel treatment/other inhumane acts

22. LRA fighters under the joint control of the Pajule co-perpetrators including Dominic Ongwen subjected many Pajule civilians to severe physical or mental pain or suffering or serious injury to body or to mental or physical health. The pain and suffering did not arise from and was not inherent in or incidental to lawful sanctions. The perpetrators carried out this treatment to intimidate and/or punish the Pajule civilian population because of their perceived support for the Ugandan government. This treatment was carried out when the victims were under the custody or control of the LRA attackers. LRA fighters under the joint control of Dominic Ongwen and his co-perpetrators abducted civilians, forced

them to carry looted items, forcibly removed civilians from their homes, shot at them, threatened them with acts of violence or physically assaulted them, tied up civilians, separated them from family members and forcibly removed clothing from civilians.

Enslavement

23. LRA fighters deprived civilians of their liberty by abducting them and placing them under military guard to prevent their escape. LRA fighters abducted hundreds of civilians and made them carry items and other equipment that they had looted from the camp. In doing so, attackers exercised any or all of the powers attaching to the right of ownership over the abductees including by depriving them of their liberty and exacting forced labour, reducing them to a servile status.

Pillaging

24. LRA fighters broke into homes and shops and appropriated food items and other property. They intended to deprive the owners of their food and property and to appropriate it for private or personal consumption and use. The owners did not consent to the appropriation.

Persecution

25. LRA fighters severely deprived, contrary to international law, the civilian residents of Pajule of their fundamental rights to life, to liberty and security of person, to freedom of movement, to private property, not to be subjected to torture or to cruel, inhumane or degrading treatment, and the right not to be held in slavery or servitude. The Pajule co-perpetrators, including Dominic Ongwen,

targeted this group of civilian residents based on political grounds, as they perceived them to be affiliated with and/or supporting the Ugandan government. They did so in connection with the crimes of attacks against the civilian population as such, murder, torture, other inhumane acts, cruel treatment, enslavement, and pillaging committed by the attackers at or near Pajule.

Legal characterisation of the facts:

- 1) **Attacks against the civilian population as such** as a war crime, pursuant to articles 8(2) (e) (i) and 25(3) (a) (indirect co-perpetration), or (c), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 10 October 2003, at or near Pajule IDP camp.
- 2) **Murder** as a crime against humanity, pursuant to articles 7(1) (a) and 25(3) (a) (indirect co-perpetration), or (c), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 10 October 2003, at or near Pajule IDP camp.
- 3) **Murder** as a war crime, pursuant to articles 8(2) (c) (i) and 25(3) (a) (indirect co-perpetration), or (c), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 10 October 2003, at or near Pajule IDP camp.
- 4) **Torture** as a crime against humanity, pursuant to articles 7(1) (f) and 25(3) (a) (indirect co-perpetration), or (c), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 10 October 2003, at or near Pajule IDP camp.

- 5) **Torture** as a war crime, pursuant to articles 8(2) (c) (i) and 25(3) (a) (indirect co-perpetration), or (c) or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 10 October 2003, at or near Pajule IDP camp.
- 6) **Cruel treatment** as a war crime, pursuant to articles 8(2) (c) (i) and 25(3) (a) (indirect co-perpetration), or (c), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 10 October 2003, at or near Pajule IDP camp.
- 7) **Other inhumane acts** as a crime against humanity, pursuant to articles 7(1) (k) and 25(3) (a) (indirect co-perpetration), or (c), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 10 October 2003, at or near Pajule IDP camp.
- 8) **Enslavement** as a crime against humanity, pursuant to articles 7(1) (c) and 25(3) (a) (indirect co-perpetration), or (b) (ordering), or (c) or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 10 October 2003, at or near Pajule IDP camp.
- 9) **Pillaging** as a war crime, pursuant to articles 8(2) (e) (v) and 25(3) (a) (indirect co-perpetration), or (b) (ordering), or (c), or (d) (i) and (ii) or 28(a), of the Rome Statute, on or about 10 October 2003, at or near Pajule IDP camp.
- 10) **Persecution**, on political grounds, of civilians perceived by the LRA as being affiliated with, or supporting the Ugandan government, by attacks against the civilian population, murder, torture, cruel treatment, other inhumane acts, enslavement, and

pillaging on or about 10 October 2003, at or near Pajule IDP camp pursuant to article 7(1) (h) and 25(3) (a) (indirect co-perpetration) or (b) (ordering) or (d) (i) and (ii) or 28(a) of the Rome Statute.

5. ATTACK ON ODEK IDP CAMP ON OR ABOUT 29 APRIL 2004 (Counts 11-23)

Material facts:

26. The factual allegations set out in Chapter 3 (contextual elements) and Chapter 4 (common elements of modes of liability) are incorporated herein by reference.

27. On or about 29 April 2004, Dominic Ongwen, Joseph Kony, the Sinia brigade leadership, [REDACTED] and other Sinia and Trinkle brigade commanders (“Odek co-perpetrators”) put into action a common plan to attack Odek IDP camp, situated in Odek sub-county, Omoro county, Gulu District (“Odek common plan”). The Odek co-perpetrators including Dominic Ongwen meant to engage in their conduct and intended to bring about the objective elements of the crimes of attacks against the civilian population, murder, attempted murder, torture, cruel treatment, other inhumane acts, enslavement, pillaging, outrages upon personal dignity and persecution or were aware that they would occur in the ordinary course of events in implementing the Odek common plan. The victims of these crimes were civilians taking no active part in hostilities. Dominic Ongwen was aware of the factual circumstances that established this status.

28. The Odek co-perpetrators implemented the Odek common plan through the hierarchical apparatus of the LRA deployed for the Odek attack, which they jointly controlled. Dominic Ongwen was aware of the fundamental features of the

LRA and the factual circumstances that enabled him together with other co-perpetrators, to jointly exercise control over the crimes charged in relation to Odek.

29. Dominic Ongwen contributed to the implementation of the Odek common plan and to the commission of the crimes charged in relation to Odek by, *inter alia*,

- planning the attack;
- briefing and instructing the troops prior to the attack;
- ordering fighters under his command to commit crimes in Odek;
- deploying troops to Odek;
- commanding and coordinating the Odek attack on the ground;
- failing, while being a military commander or person effectively acting as a military commander, to take necessary and reasonable measures within his power to prevent or repress the commission of the crimes charged in relation to Odek or failing to submit the matter to the competent authorities for investigation and prosecution. Dominic Ongwen knew or, owing to the circumstances at the time, should have known that the LRA fighters were committing or were about to commit these crimes.

30. At the time of the attack, Dominic Ongwen had effective command and control, or authority and control, over LRA fighters that participated in the attack on Odek.

31. When engaging in the above conduct, Dominic Ongwen had the requisite intent and knowledge under articles 25, 28 and 30, as well as under the elements of the crimes listed below.

Attacks against the civilian population

32. LRA fighters under the joint control of the Odek co-perpetrators including Dominic Ongwen carried out an attack against the civilian population of Odek IDP camp as such, or individual civilians not taking direct part in the hostilities. Dominic Ongwen intended the civilian population as such, or individual civilians not taking direct part in the hostilities to be the object of the attack.

Murder

33. As a result of the attack on Odek, at least 61 civilians – men, women and children – were killed, mainly by gunshot. LRA fighters spread throughout the camp targeting and killing civilians. Some abductees were killed after being taken away from the camp.

Attempted murder

34. Although the LRA fighters commenced the crime of murder by means of the substantial step of attacking the victims, on some occasions the victims did not die due to independent circumstances. The LRA shot, with the intention of killing, a number of civilian residents of Odek. Some victims survived these shootings.

Torture/cruel treatment/other inhumane acts

35. Many civilians in Odek were subjected to severe physical or mental pain or suffering or serious injury to body or to mental or physical health by LRA attackers. The pain and suffering did not arise from and was not inherent in or incidental to lawful sanctions. This treatment was carried out to intimidate and/or punish the Odek civilian population because of their perceived support for the

Ugandan government. During this time the victims were in the custody or under the control of the LRA attackers. Civilian residents were beaten, and threatened with death. At least one woman was sexually assaulted. Some abductees were made to carry heavy loads away from Odek IDP camp and were beaten if they walked too slowly. Others were beaten if their children cried.

Enslavement

36. LRA fighters deprived civilians of their liberty by abducting them and placing them under military guard to prevent their escape. Civilian men, women and children were abducted and forced to carry away the looted food from Odek IDP camp. Children were tied together with ropes and dragged away from their homes. In doing so, attackers exercised any or all of the powers attaching to the right of ownership over the abductees including by depriving them of their liberty and exacting forced labour, reducing them to a servile status.

Pillaging

37. The attackers appropriated food items and other property. They intended to deprive the owners of their food and property and to appropriate it for private or personal consumption and use. The owners did not consent to the appropriation. The attackers stole food and personal items from the homes of civilians. The trading centre was also looted.

Outrages upon personal dignity

38. The attackers humiliated, degraded or otherwise violated the dignity of Odek residents. The severity of the humiliation, degradation or other violations was of such degree as to be generally recognised as an outrage upon personal dignity. One individual was forced to kill an abducted man from Odek with a club and forced to inspect decomposing bodies, including that of his father. Women were forced by LRA attackers to abandon their children on the side of the road.

Persecution

39. The attackers severely deprived, contrary to international law, the residents of Odek of their fundamental rights to life, to liberty and security of person, to freedom of movement, to private property, not to be subjected to torture or to cruel, inhumane or degrading treatment, and the right not to be held in slavery or servitude. The Odek co-perpetrators, including Dominic Ongwen, targeted this group of civilian residents based on political grounds, as they perceived them to be affiliated with and/or supporting the Ugandan government. They did so in connection with the crimes of attacks against the civilian population, murder, attempted murder, torture, other inhumane acts, cruel treatment, enslavement, outrages against personal dignity and pillaging committed by the attackers at or near Odek IDP camp.

Legal characterisation of the facts:

11) Attacks against the civilian population as such as a war crime, pursuant to articles 8(2) (e) (i) and 25(3) (a) (indirect co-perpetration), or (b) (ordering), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 29 April 2004, at or near Odek IDP camp.

12) Murder as a crime against humanity, pursuant to articles 7(1) (a) and 25(3) (a) (indirect co-perpetration), or (b) (ordering), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 29 April 2004, at or near Odek IDP camp.

13) Murder as a war crime, pursuant to articles 8(2) (c) (i) and 25(3) (a) (indirect co-perpetration), or (b) (ordering), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 29 April 2004, at or near Odek IDP camp.

14) Attempted murder as a crime against humanity, pursuant to articles 7(1) (a) and 25(3) (f) and 25(3) (a) (indirect co-perpetration), or (b) (ordering), or (d) (i) and (ii) or 28(a), of the Rome Statute, on or about 29 April 2004, at or near Odek IDP camp.

15) Attempted murder as a war crime, pursuant to articles 8(2) (c) (i) and 25(3) (f) and 25(3) (a) (indirect co-perpetration), or (b) (ordering), or (d) (i) and (ii) or 28(a), of the Rome Statute, on or about 29 April 2004, at or near Odek IDP camp.

16) Torture as a crime against humanity, pursuant to articles 7(1) (f) and 25(3) (a) (indirect co-perpetration), or (b) (ordering), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 29 April 2004, at or near Odek IDP camp.

17) Torture as a war crime, pursuant to articles 8(2) (c) (i) and 25(3) (a) (indirect co-perpetration), or (b) (ordering), or (d) (i) and (ii),

or 28(a), of the Rome Statute, on or about 29 April 2004, at or near Odek IDP camp.

18) Other inhumane acts as a crime against humanity, pursuant to articles 7(1) (k) and 25(3) (a) (indirect co-perpetration), or (b) (ordering), or (d) (i) and (ii) or 28(a), of the Rome Statute, on or about 29 April 2004, at or near Odek IDP camp.

19) Cruel treatment as a war crime, pursuant to articles 8(2) (c) (i) and 25(3) (a) (indirect co-perpetration), or (b) (ordering), or (d) (i) and (ii), or 28(a), of the Rome Statute on or about 29 April 2004, at or near Odek IDP camp.

20) Enslavement as a crime against humanity, pursuant to articles 7(1) (c), and 25(3) (a) (indirect co-perpetration), or (b) (ordering), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 29 April 2004, at or near Odek IDP camp.

21) Pillaging as a war crime, pursuant to articles 8(2) (e) (v) and 25(3) (a) (indirect co-perpetration), or (b) (ordering) or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 29 April 2004, at or near Odek IDP camp.

22) Outrages upon personal dignity as a war crime, pursuant to articles 8(2) (c) (ii), and 25(3) (a) (indirect co-perpetration), or (b) (ordering), or (d) (i) and (ii) or 28(a), of the Rome Statute, on or about 29 April 2004, at or near Odek IDP camp.

23) Persecution, on political grounds, of civilians perceived by the LRA as being affiliated with, or supporting the Ugandan government, by attacks against the civilian population as such, murder, attempted murder, torture, cruel treatment, other inhumane acts, enslavement, outrages upon personal dignity and pillaging on or about 29 April 2004, at or near Odek IDP camp pursuant to article 7(1) (h) and 25(3) (a) (indirect co-perpetration) or (b) (ordering) or (d) (i) and (ii) or 28(a) of the Rome Statute.

6. ATTACK ON LUKODI IDP CAMP ON OR ABOUT 19 MAY 2004 (Counts 24 to 36)

Material facts:

40. The factual allegations set out in Chapter 3 (contextual elements) and Chapter 4 (common elements of modes of liability) are incorporated herein by reference.

41. On or about 19 May 2004 at approximately 6.00 p.m. Dominic Ongwen attacked Lukodi IDP camp in Bungatira sub-county, Aswa county, Gulu district. Dominic Ongwen meant to engage in his conduct and intended to bring about the objective elements of the crimes of attacks against the civilian population, murder, attempted murder, torture, cruel treatment, other inhumane acts, enslavement, pillaging, destruction of property and persecution or was aware that they would occur in the ordinary course of events during the attack on Lukodi IDP camp. The victims of these crimes were civilians taking no active part in hostilities. Dominic Ongwen was aware of the factual circumstances that established this status.

42. As the commander of the Lukodi attack, Dominic Ongwen exerted control over the crimes through the LRA fighters who carried out the attack. The attackers included members of the Sinia and Gilva brigades. These fighters complied with Dominic Ongwen's orders in carrying out the material elements of the charged crimes. Dominic Ongwen committed the crimes through the hierarchical apparatus of the LRA by planning the attack, selecting fighters and appointing leaders for the attack, instructing the troops prior to the attack, and ordering and deploying troops to commit crimes in Lukodi. Dominic Ongwen was aware of the fundamental features of the LRA and the factual circumstances which allowed him to exert control over the charged crimes.
43. The attackers were under the effective command and control, or effective authority and control, of Dominic Ongwen during the Lukodi attack. Dominic Ongwen failed, while being a military commander or person effectively acting as a military commander, to take necessary and reasonable measures within his power to prevent or repress the commission of the charged crimes or failed to submit the matter to the competent authorities for investigation and prosecution. Dominic Ongwen knew or, owing to the circumstances at the time, should have known that the LRA fighters were committing or were about to commit the crimes charged in relation to Lukodi.
44. When engaging in the above conduct, Dominic Ongwen had the requisite intent and knowledge under articles 25, 28 and 30, and under the elements of the crimes listed below.

Attacks against the civilian population

45. LRA fighters under the control of Dominic Ongwen carried out an attack against the civilian population of Lukodi IDP camp as such, or individual civilians not taking direct part in the hostilities. Dominic Ongwen intended the civilian population as such, or individual civilians not taking direct part in the hostilities to be the object of the attack.

Murder

46. During the attack and its aftermath the attackers killed approximately 45 civilians including at least 12 children. Several Lukodi civilians were killed during the attack including those inside their houses. The attackers continued to kill civilians abducted from Lukodi IDP camp during their retreat from the camp.

Attempted murder

47. On some occasions, murders were not fully carried out because of circumstances independent of Dominic Ongwen's intention. LRA fighters commenced the crime by means of the substantial step of attacking the victim, but the victim did not die. Despite the fact that LRA fighters shot indiscriminately at the residents of the camp, threw children inside burning houses, and/or kicked them back when they tried to escape in order to kill them, some victims survived.

Enslavement

48. LRA fighters deprived civilians of their liberty by abducting them and placing them under military guard to prevent their escape. Men, women and children were abducted, many of whom were forced to carry away looted goods from Lukodi IDP camp. In doing so, attackers exercised any or all of the powers

attaching to the right of ownership over the abductees including by depriving them of their liberty and exacting forced labour, reducing them to a servile status.

Torture/cruel treatment/other inhumane acts

49. The LRA attackers subjected the Lukodi IDP camp residents to severe physical or mental pain or suffering or serious injury to body or to mental or physical health. The pain and suffering did not arise from and was not inherent in or incidental to lawful sanctions. This treatment was carried out to intimidate and/or punish the Lukodi civilian population because of their perceived support for the Ugandan government. The victims were under the custody or control of the LRA attackers. Attackers assaulted civilians, including small children. Abducted civilians were forced to carry heavy loot while being constantly beaten, and under a threat of more beatings or death.

Pillaging

50. The attackers appropriated food items and other property. They intended to deprive the owners of their food and property and to appropriate it for private or personal consumption and use. The appropriation was without the consent of the owners. LRA fighters entered civilian houses and shops and looted food, livestock, clothes and household items.

Destruction of property

51. The attackers destroyed property belonging to the civilian residents of the government-protected Lukodi IDP camp, including by burning their houses. Dominic Ongwen viewed these civilian residents as adversaries. Such property was protected from destruction under the international law of armed conflict.

Dominic Ongwen was aware of the factual circumstances that established the status of the property. The destruction was not required by military necessity.

Persecution

52. The attackers severely deprived, contrary to international law, the residents of Lukodi of their fundamental rights to life, to liberty and security of person, to freedom of movement, to private property, not to be subjected to torture or to cruel, inhumane or degrading treatment, and the right not to be held in slavery or servitude. Dominic Ongwen targeted this group of civilian residents based on political grounds, as he perceived them to be affiliated with and/or supporting the Ugandan government. This conduct was committed in connection with the crimes of attacks against the civilian population, murder, attempted murder, torture, other inhumane acts, cruel treatment, enslavement, destruction of property and pillaging committed by the attackers at or near Lukodi.

Legal characterisation of the facts:

24) Attacks against the civilian population as such as a war crime, pursuant to articles 8(2) (e) (i) and 25(3) (a) (indirect perpetration), or (b) (ordering), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 19 May 2004, at or near Lukodi IDP camp.

25) Murder as a crime against humanity, pursuant to articles 7(1) (a) and 25(3) (a) (indirect perpetration), or (b) (ordering), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 19 May 2004, at or near Lukodi IDP camp.

26) Murder as a war crime, pursuant to articles 8(2) (c) (i) and 25(3) (a) (indirect perpetration), or (b) (ordering), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 19 May 2004, at or near Lukodi IDP camp.

27) Attempted murder as a crime against humanity, pursuant to articles 7(1) (a) and 25(3) (f) and 25(3) (a) (indirect perpetration), or (b) (ordering), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 19 May 2004, at or near Lukodi IDP camp.

28) Attempted murder as a war crime, pursuant to articles 8(2) (c) (i) and 25(3) (f) and 25(3) (a) (indirect perpetration), or (b) (ordering), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 19 May 2004, at or near Lukodi IDP Camp.

29) Torture as a crime against humanity, pursuant to articles 7(1) (f) and 25(3) (a) (indirect perpetration), or (b) (ordering), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 19 May 2004, at or near Lukodi IDP Camp.

30) Torture as a war crime, pursuant to articles 8(2) (c) (i) and 25(3) (a) (indirect perpetration), or (b) (ordering), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 19 May 2004, at or near Lukodi IDP Camp.

31) Other inhumane acts as a crime against humanity, pursuant to articles 7(1) (k) and 25(3) (a) (indirect perpetration), or (b)

(ordering), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 19 May 2004, at or near Lukodi IDP Camp.

32) Cruel treatment as a war crime, pursuant to articles 8(2) (c) (i) and 25(3) (a) (indirect perpetration), or (b) (ordering), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 19 May 2004, at or near Lukodi IDP Camp.

33) Enslavement as a crime against humanity, pursuant to articles 7(1) (c) and 25(3) (a) (indirect perpetration), or (b) (ordering), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 19 May 2004 at or near Lukodi IDP Camp.

34) Pillaging as a war crime, pursuant to articles 8(2) (e) (v) and 25(3) (a) (indirect perpetration), or (b) (ordering), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 19 May 2004, at or near Lukodi IDP Camp.

35) Destruction of property as a war crime, pursuant to articles 8(2) (e) (xii) and 25(3) (a) (indirect perpetration), or (b) (ordering), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 19 May 2004, at or near Lukodi IDP Camp.

36) Persecution, on political grounds, of civilians perceived by the LRA as being affiliated with, or supporting the Ugandan government, by attacks against the civilian population as such, murder, attempted murder, torture, cruel treatment, other inhumane acts, enslavement, pillaging and destruction of property on or about 19 May 2004, at or near Lukodi IDP camp

pursuant to article 7(1) (h) and 25(3) (a) (indirect perpetration) or (b) (ordering) or (d) (i) and (ii) or 28(a) of the Rome Statute.

7. ATTACK ON ABOK IDP CAMP ON OR ABOUT 8 JUNE 2004 (Counts 37 to 49)

Material facts:

53. The factual allegations set out in Chapter 3 (contextual elements) and Chapter 4 (common elements of modes of liability) are incorporated herein by reference.

54. On or about 8 June 2004, in the evening, Dominic Ongwen launched an attack on Abok IDP camp, then situated in Ngai sub-county, in Apac district.² Dominic Ongwen meant to engage in his conduct and intended to bring about the objective elements of the crimes of attacks against the civilian population, murder, attempted murder, torture, cruel treatment, other inhumane acts, enslavement, pillaging, destruction of property and persecution and/or was aware that they would occur in the ordinary course of events during the attack on Abok IDP camp. The victims of these crimes were civilians taking no active part in hostilities. Dominic Ongwen was aware of the factual circumstances that established this status.

55. Dominic Ongwen exerted control over the crimes through the LRA fighters who carried out the attack. These fighters complied with Dominic Ongwen's orders in

² The district and sub-county cited here are those applicable at the time of the charged crimes. Currently, the attacked location is in Abok sub-county in Oyam district.

carrying out the material elements of the charged crimes. Dominic Ongwen committed the crimes at Abok IDP camp through the hierarchical apparatus of the LRA by planning the attack, selecting fighters and appointing leaders for the attack, instructing the troops prior to the attack, and ordering and deploying troops to commit crimes in Abok. Dominic Ongwen was aware of the fundamental features of the LRA and the factual circumstances which allowed him to exert control over the charged crimes.

56. The attackers were under the effective command and authority, or control and authority, of Dominic Ongwen during the Abok attack. Dominic Ongwen failed, while being a military commander or person effectively acting as a military commander, to take necessary and reasonable measures within his power to prevent or repress the commission of the charged crimes or failed to submit the matter to the competent authorities for investigation and prosecution. Dominic Ongwen knew or, owing to the circumstances at the time, should have known that the LRA fighters were committing or were about to commit the crimes charged in relation to Abok.

57. When engaging in the above conduct, Dominic Ongwen had the requisite intent and knowledge under articles 25, 28 and 30, and under the elements of the crimes listed below.

Attacks against the civilian population

58. LRA fighters under the control of Dominic Ongwen carried out an attack against the civilian population of Abok IDP camp as such, or individual civilians not taking direct part in the hostilities. Dominic Ongwen intended the civilian population as such, or individual civilians not taking direct part in the hostilities to be the object of the attack.

Murder

59. The attackers killed approximately 28 civilian residents of the camp including children. LRA fighters shot, burned, and beat civilians to death during the attack.

Attempted murder

60. On some occasions, murders were not fully carried out because of circumstances independent of Dominic Ongwen's intention. LRA fighters commenced the crime by means of the substantial step of attacking the victim, but the victim did not die. LRA fighters, with the intent to kill, indiscriminately shot at fleeing camp residents, burned down homes with civilians trapped inside, and severely beat others leaving them for dead.

Torture/cruel treatment/inhumane treatment

61. LRA attackers inflicted severe physical or mental pain or suffering or serious injury to body or to mental or physical health on many civilians in Abok IDP camp. The pain and suffering did not arise from and was not inherent in or incidental to lawful sanctions. This treatment was carried out to intimidate and/or punish the civilian population of Abok because of their perceived support for the Ugandan government. This treatment was carried out when the victims were under the custody or control of the LRA attackers. Some civilians were assaulted by the attackers. Certain abductees were forced to march while carrying heavy loot, and/or while injured.

Enslavement

62. LRA fighters deprived civilians of their liberty by abducting them and placing them under military guard to prevent their escape. Before attacking the camp, LRA fighters abducted a number of camp residents. During the attack, attackers abducted approximately 26 men, women and children and forced them to carry looted goods away from the camp under threat of death. The attackers exercised any or all of the powers attaching to the right of ownership over these abductees including by depriving them of their liberty and exacting forced labour, reducing them to a servile status.

Pillaging

63. The attackers appropriated food items and other property. They intended to deprive the owners of their food and property and to appropriate it for private or personal consumption and use. The appropriation was without the consent of the owners. LRA fighters looted food items, clothing, cooking utensils, and first aid provisions from homes. They also looted shops at the trading centre.

Destruction of property

64. The attackers also destroyed certain property belonging to the civilian residents of the government-protected Abok IDP camp, by, *inter alia*, burning hundreds of houses and destroying the victims' food stocks in the process. Dominic Ongwen viewed these civilians as his adversaries. Dominic Ongwen was aware of the factual circumstances that established the status of the property. The destruction was not required by military necessity.

Persecution

65. The attackers severely deprived, contrary to international law, the residents of Abok of their fundamental rights to life, to liberty and security of person, to freedom of movement, to private property, not to be subjected to torture or to cruel, inhumane or degrading treatment, and the right not to be held in slavery or servitude. Dominic Ongwen targeted this group of civilian residents based on political grounds, as he perceived them to be affiliated with and/or supporting the Ugandan government. This conduct was committed in connection with the crimes of attacks against a civilian population, murder, attempted murder, torture, other inhumane acts, cruel treatment, enslavement, destruction of property and pillaging committed by the attackers at or near Abok.

Legal characterisation of the facts:

37) Attacks against the civilian population as such as a war crime, pursuant to articles 8(2) (e) (i) and 25(3) (a) (indirect perpetration), or (b) (ordering), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 8 June 2004, at or near Abok IDP camp.

38) Murder as a crime against humanity, pursuant to articles 7(1) (a) and 25(3) (a) (indirect perpetration), or (b) (ordering), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 8 June 2004, at or near Abok IDP camp.

39) Murder as a war crime, pursuant to articles 8(2) (c) (i) and 25(3) (a) (indirect perpetration), or (b) (ordering), or (d) (i) and (ii), or

28(a), of the Rome Statute, on or about 8 June 2004, at or near Abok IDP camp.

40) Attempted murder as a crime against humanity, pursuant to articles 7(1) (a) and 25(3) (f) and 25(3) (a) (indirect perpetration), or (b) (ordering), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 8 June 2004, at or near Abok IDP camp.

41) Attempted murder as a war crime, pursuant to articles 8(2) (c) (i) and 25(3) (f) and 25(3) (a) (indirect perpetration), or (b) (ordering), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 8 June 2004, at or near Abok IDP camp.

42) Torture as a crime against humanity, pursuant to articles 7(1) (f) and 25(3) (a) (indirect perpetration), or (b) (ordering), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 8 June 2004, at or near Abok IDP camp.

43) Torture as a war crime, pursuant to articles 8(2) (c) (i) and 25(3) (a) (indirect perpetration), or (b) (ordering), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 8 June 2004, at or near Abok IDP camp.

44) Other inhumane acts as a crime against humanity, pursuant to articles 7(1) (k) and 25(3) (a) (indirect perpetration), or (b) (ordering), or (d) (i) and (ii) or 28(a), of the Rome Statute, on or about 8 June 2004, at or near Abok IDP camp.

- 45) Cruel treatment** as a war crime, pursuant to articles 8(2) (c) (i) and 25(3) (a) (indirect perpetration), or (b) (ordering), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 8 June 2004, at or near Abok IDP camp.
- 46) Enslavement** as a crime against humanity, pursuant to articles 7(1) (c) and 25(3) (a) (indirect perpetration), or (b) (ordering), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 8 June 2004, at or near Abok IDP camp.
- 47) Pillaging** as a war crime, pursuant to articles 8(2) (e) (v) and 25(3) (a) (indirect perpetration), or (b) (ordering), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 8 June 2004, at or near Abok IDP camp.
- 48) Destruction of property** as a war crime, pursuant to articles 8(2) (e) (xii) and 25(3) (a) (indirect perpetration), or (b) (ordering), or (d) (i) and (ii), or 28(a), of the Rome Statute, on or about 8 June 2004, at or near Abok IDP camp.
- 49) Persecution**, on political grounds, of civilians perceived by the LRA as being affiliated with, or supporting the Ugandan government, by attacks against the civilian population as such, murder, attempted murder, torture, cruel treatment, other inhumane acts, enslavement, pillaging and destruction of property on or about 8 June 2004, at or near Abok IDP camp pursuant to article 7(1) (h) and 25(3) (a) (indirect perpetration) or (b) (ordering) or (d) (i) and (ii) or 28(a) of the Rome Statute.

8. [REDACTED] (Counts 50 to 60)

Material facts:

8.1. [REDACTED]

66. [REDACTED]

67. [REDACTED]

68. [REDACTED]

69. [REDACTED]

70. [REDACTED]

71. [REDACTED]

8.2. [REDACTED]

72. [REDACTED]

73. [REDACTED].

74. [REDACTED]

75. [REDACTED].

76. [REDACTED].

77. [REDACTED]

78. [REDACTED]

79. [REDACTED]

80. [REDACTED]

8.3. [REDACTED]

81. [REDACTED]

82. [REDACTED]

83. [REDACTED]

84. [REDACTED]

85. [REDACTED]

86. [REDACTED]

87. [REDACTED]

88. [REDACTED]

89. [REDACTED]

90. [REDACTED]

8.4. [REDACTED]

91. [REDACTED]

92. [REDACTED]

93. [REDACTED]

94. [REDACTED]

95. [REDACTED]

96. [REDACTED]

97. [REDACTED]

98. [REDACTED]

99. [REDACTED]

8.5. [REDACTED]

100. [REDACTED]

101. [REDACTED]

102. [REDACTED]

103. [REDACTED]

104. [REDACTED]

105. [REDACTED]

106. [REDACTED]

107. [REDACTED]

108. [REDACTED]

8.6. [REDACTED]

109. [REDACTED]

110. [REDACTED]

111. [REDACTED]

112. [REDACTED]

113. [REDACTED]

114. [REDACTED]

115. [REDACTED]

116. [REDACTED]

8.7. [REDACTED]

117. [REDACTED]

118. [REDACTED]

119. [REDACTED]

120. [REDACTED]

121. [REDACTED]

122. [REDACTED]

8.8. [REDACTED]

123. [REDACTED]

124. [REDACTED]

125. [REDACTED]

126. [REDACTED]

127. [REDACTED] .

Legal characterisation of the facts:

50) [REDACTED]

51) [REDACTED]

52) [REDACTED]

53) [REDACTED]

54) [REDACTED]

55) [REDACTED]

56) [REDACTED]

57) [REDACTED]

58) [REDACTED]

59) [REDACTED]

60) [REDACTED]

9. SEXUAL AND GENDER BASED CRIMES (“SGBC”) [REDACTED]

(Counts 61 to 68)

Material facts:

128. The factual allegations set out in Chapter 3 (contextual elements) and Chapter 4 (common elements of modes of liability) are incorporated herein by reference.

129. From at least 1 July 2002 until 31 December 2005, in northern Uganda, Dominic Ongwen, Joseph Kony, and Sinia brigade leadership (the “SGBC co-perpetrators”) pursued a common plan to abduct girls and women to serve as domestic servants, forced exclusive conjugal partners (forced wives) and sex slaves in the Sinia brigade (“SGBC common plan”). The co-perpetrators, including Dominic Ongwen, meant to engage in their conduct and intended to bring about the objective elements of the crimes of rape, torture, enslavement, sexual slavery and forced marriage, or were aware that they would occur in the ordinary course of events in implementing the SGBC common plan. The SGBC co-perpetrators acted in a coordinated manner to implement the common plan through a hierarchically organised structure of the LRA which was jointly controlled by the co-perpetrators. Dominic Ongwen was aware of the fundamental features of the LRA and of the factual circumstances that enabled him, together with other co-perpetrators, to jointly exercise functional control of the crimes.

130. From at least 1 July 2002 to 31 December 2005, women and girls were abducted in northern Uganda by LRA fighters pursuant to the common plan. They were deprived of their liberty and distributed to LRA fighters in Sinia brigade. The women were coerced to become forced exclusive conjugal partners – forced wives of the LRA fighters. They had to maintain an exclusive sexual relationship with the LRA fighter to whom they were distributed, have sexual intercourse with him on demand, bear children, perform domestic chores and otherwise do what their “husband” instructed them to do. This amounted to an inhumane act that caused great suffering or serious injury to these women’s and girls’ bodies, and mental and physical health of a character similar to other crimes against humanity charged in this document. Dominic Ongwen was aware of the factual circumstances that established the character of the inhumane act.

131. SGBC co-perpetrators including Dominic Ongwen, through other LRA commanders and fighters, exercised any or all of the powers attaching to the right of ownership over these women and girls. They deprived them of their liberty and exacted forced labour, reducing them to a servile status. The victims had no choice but to submit to rape, enslavement, sexual slavery and become forced wives. Non-compliance with demands for sex and the performance of domestic tasks resulted in severe beatings and other forms of abuse.

132. SGBC co-perpetrators including Dominic Ongwen, through other LRA commanders and fighters, by repeatedly raping and beating women and girls who were in their custody or control, inflicted on them severe physical or mental pain or suffering for the purpose of intimidation, coercion or punishment. The pain and suffering did not arise from and was not inherent in or incidental to lawful sanctions. During this time, these women and girls were civilians taking no active part in hostilities and Dominic Ongwen was aware of this status.

133. Dominic Ongwen contributed to the realization of the common plan by, *inter alia*,

- [REDACTED]
- ordering troops under his command to abduct women and girls to serve as forced wives and sex slaves; ordering his subordinates to beat women or girls for disciplinary purposes or when the women or girls refused to submit to sexual intercourse. His orders were complied with and women were abducted at various locations across northern Uganda and subsequently enslaved, sexually enslaved, tortured, raped and made to serve as forced wives of LRA fighters in Sinia brigade;
- overseeing the abduction of women and girls at various locations across northern Uganda and subsequently ensuring that they were

enslaved, sexually enslaved, tortured, raped and made to serve as forced wives of LRA fighters in Sinia brigade;

- having operational control over the implementation of the SGBC common plan in Sinia brigade;
- distributing or consenting to the distribution of women and girls to LRA fighters under his command;
- co-ordinating with Joseph Kony and his co-perpetrators about the implementation of the SGBC common plan;
- failing, while being a military commander or person effectively acting as a military commander, to take necessary and reasonable measures within his power to prevent or repress the commission of the charged crimes or failing to submit the matter to the competent authorities for investigation and prosecution. Dominic Ongwen knew or, owing to the circumstances at the time, should have known that the LRA fighters were committing or were about to commit the crimes of rape, torture, enslavement, sexual slavery and forced marriage. Dominic Ongwen had effective command and control, or authority and control, over LRA fighters that committed these crimes.

134. When engaging in the above conduct, Dominic Ongwen had the requisite intent and knowledge under articles 25, 28 and 30, and under the elements of the crimes listed below.

Legal characterisation of the facts:

61) Forced marriage, an inhumane act of a character similar to the acts set out in articles 7(1) (a)-(j), as a crime against humanity, pursuant to articles 7(1) (k), and 25(3) (a) (indirect co-

perpetration), or (b) (ordering) or (d) (i) and (ii), or 28(a), of the Rome Statute, from at least 1 July 2002 until 31 December 2005.

62) Torture as a crime against humanity, pursuant to articles 7(1)(f) and 25(3)(a) (indirect co-perpetration), or (b) (ordering) or (d) (i) and (ii), or 28(a), of the Rome Statute, from at least 1 July 2002 until 31 December 2005.

63) Torture as a war crime, pursuant to articles 8(2) (c) (i) and 25(3) (a) (indirect co-perpetration), or (b) (ordering) or (d) (i) and (ii), or 28(a) of the Rome Statute, from at least 1 July 2002 until 31 December 2005.

64) Rape as a crime against humanity, pursuant to articles 7(1) (g) and 25(3)(a) (indirect co-perpetration), or (b) (ordering) or (d) (i) and (ii), or 28(a) of the Rome Statute, from at least 1 July 2002 until 31 December 2005.

65) Rape as a war crime, pursuant to articles 8(2) (e) (vi) and 25(3) (a) (indirect co-perpetration), or (b) (ordering) or (d) (i) and (ii), or 28(a) of the Rome Statute, from at least 1 July 2002 until 31 December 2005.

66) Sexual slavery as a crime against humanity, pursuant to articles 7(1) (g) and 25(3) (a) (indirect co-perpetration), or (b) (ordering) or (d) (i) and (ii), or 28(a) of the Rome Statute, from at least 1 July 2002 until 31 December 2005.

67) Sexual slavery as a war crime, pursuant to articles 8(2) (e) (vi) and 25(3) (a) (indirect co-perpetration), or (b) (ordering) or (d) (i) and (ii), or 28(a) of the Rome Statute, from at least 1 July 2002 until 31 December 2005.

68) Enslavement as a crime against humanity, pursuant to articles 7(1) (c) 25(3) (a) (indirect co-perpetration), or (b) (ordering) or (d) (i) and (ii), or 28(a) of the Rome Statute, from at least 1 July 2002 until 31 December 2005.

10. CONSCRIPTION AND USE OF CHILD SOLDIERS (Counts 69 and 70)

Material facts:

135. The factual allegations set out in Chapter 3 (contextual elements) and Chapter 4 (common elements of modes of liability) are incorporated herein by reference.

136. Between at least 1 July 2002 and 31 December 2005 Dominic Ongwen, Joseph Kony, and the Sinia brigade leadership (“child soldiers co-perpetrators”) pursued a common plan to abduct children in the territory of northern Uganda and conscript them into the Sinia Brigade in order to ensure a constant supply of fighters (“child soldiers common plan”). The co-perpetrators meant to engage in their conduct and intended to bring about the objective elements of the crimes of children under the age of 15 years being conscripted into the LRA and used to participate actively in hostilities or were aware that they would occur in the ordinary course of events in implementing the child soldiers common plan. The co-perpetrators acted in a coordinated manner to implement the common plan through a hierarchically organised structure of the LRA fighters who were jointly

controlled by the co-perpetrators. Dominic Ongwen was aware of the fundamental features of the LRA and the factual circumstances that enabled him, together with other co-perpetrators, to jointly exercise functional control of the crimes.

137. As a result of the child soldiers common plan, children younger than 15 were abducted at various locations across northern Uganda and forcibly integrated into the Sinia brigade from at least 1 July 2002 until 31 December 2005. Following their recruitment, the children were trained. The aim of the training was generally to prepare them for active participation in hostilities. Some children were given uniforms and arms.

138. Children under 15 participated actively in hostilities. They participated in combat and activities linked to combat. Children *inter alia*, fought, raised alarms, burnt and pillaged civilian houses, collected and carried pillaged goods from attack sites and were used as scouts. Children under 15 served as escorts and bodyguards of LRA commanders. Dominic Ongwen personally used escorts who were younger than 15.

139. Dominic Ongwen contributed to the realization of the common plan by, *inter alia*,

- leading by example, by personally using children under 15 as escorts who participated in hostilities alongside him;
- ordering his subordinates to abduct children to replenish the ranks of his troops, who proceeded to abduct and conscript children under 15 into Sinia brigade as a result of his orders;
- planning, coordinating, ordering and deploying troops for military attacks and attacks against the civilian population in which children under 15 actively participated;

- having operational control over the implementation of the child soldiers common plan in the units he commanded;
- supervising and taking part in military training of children and
- failing, while being a military commander or person effectively acting as a military commander, to take necessary and reasonable measures within his power to prevent or repress the commission of the charged crimes or failing to submit the matter to the competent authorities for investigation and prosecution. Dominic Ongwen knew or, owing to the circumstances at the time, should have known that the LRA fighters were committing or were about to commit the crimes of conscription and use of child soldiers. Dominic Ongwen had effective command and control, or authority and control, over LRA fighters that committed these crimes.

140. Dominic Ongwen knew or should have known that the children conscripted into the LRA and used to actively participate in hostilities pursuant to the common plan were younger than 15.

141. When engaging in the above conduct, Dominic Ongwen had the requisite intent and knowledge under articles 25, 28 and 30, and under the elements of the respective crimes listed below.

Legal characterisation of the facts:

69) Conscription of children under the age of 15 into an armed group as a war crime, pursuant to articles 8(2) (e) (vii) and 25(3) (a) (indirect co-perpetration), or (b) (ordering), or (d) (i) and (ii), or

28(a), of the Rome Statute, between 1 July 2002 and 31 December 2005 in northern Uganda.

70) Use of children under the age of 15 to participate actively in hostilities as a war crime, pursuant to articles 8(2) (e) (vii) and 25(3) (a) (indirect co-perpetration), or (b) (ordering), or (d) (i) and (ii), or 28(a), of the Rome Statute, between 1 July 2002 and 31 December 2005 in northern Uganda.



Fatou Bensouda,
Prosecutor

Dated this 22nd day of December 2015
At The Hague, The Netherlands