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**International
Criminal
Court**

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Date: 26 October 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 Public Annex A**

Public Redacted Version of "Prosecution's application to introduce prior recorded testimony and related documents pursuant to rule 68(3) of the Rules", 21 October 2016, ICC-02/04-01/15-575-Conf

Source: The Office of the Prosecutor

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INTRODUCTION

1. The Office of the Prosecutor (“Prosecution”), in accordance with rule 68(3) of the Rules of Procedure and Evidence (“Rules”) and the Trial Chamber’s “Initial Directions on the Conduct of the Proceedings”,¹ requests that the prior recorded testimony and related documents (collectively, “rule 68(3) documents”)² of 14 witnesses: P-0006, P-0081, P-0119, P-0199, P-0218, P-0275, P-0306, P-0307, P-0351, P-0352, P-0366, P-0374, P-0396, and P-0414 (“rule 68(3) witnesses”) be conditionally³ introduced into evidence.⁴

2. Introduction of the rule 68(3) documents would further the efficiency of the proceedings, reducing the estimated duration of the Prosecution’s case by about 50 hours (about two weeks of court sittings), while respecting the fair trial rights of the Accused. The rule 68(3) documents are relevant, and they bear sufficient indicia of reliability. The rule 68(3) witnesses will be available for questioning by the Defence, the Chamber and other participants. All parties and the Chamber would benefit from a more focused, streamlined trial.

3. Permitting the introduction of the prior recorded testimony of these above witnesses under rule 68(3) will also lessen their emotional burden of giving evidence. The witnesses will not have to recount damaging and distressing parts of their personal histories which have no direct connection with the Accused and about which they have already given full statements.

¹ [ICC-02/04-01/15-497](#), para. 18.

² The related documents are those referred to by the witnesses in their statements or otherwise annexed thereto. See [ICC-02/11-01/15-573-Red](#), para. 9 (holding that, in the case of introduction of written statements under rule 68, “any documentary evidence annexed is also to be considered submitted”).

³ Dependant on the witnesses’ not objecting to this procedure.

⁴ The Prosecution previously listed P-0252 as a potential rule 68(3) witness on the Prosecution’s updated list of witnesses, filed on 30 September 2016: [ICC-02/04-01/15-548-Conf-AnxA](#). The Prosecution no longer intends to apply for introduction of P-0252’s prior recorded testimony through rule 68(3).

4. Pursuant to rule 68(3), all rule 68(3) witnesses will be present before the Chamber and will be asked to confirm that they do not object to the introduction of their previously recorded testimony. The Prosecution's *viva voce* questioning of these witnesses will be limited to clarification of the witness' personal knowledge of the Accused and other salient issues arising from the charges.
5. All of the rule 68(3) documents have been disclosed to the Defence and are on the Prosecution's list of evidence. The Acholi translations of the rule 68(3) documents, where applicable, have been or will be disclosed within the time frame set by the Trial Chamber. The Prosecution will provide the Chamber and other participants with a list of any items to be used during its questioning of the rule 68(3) witnesses within the time frame set by the Trial Chamber.⁵

CONFIDENTIALITY

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

SUBMISSIONS

I. Legal framework

7. Rule 68 provides exceptions to the principle of orality enshrined in article 69(2) of the Statute.⁶

⁵ [ICC-02/04-01/15-497](#), para. 19.

⁶ Other Trial Chambers have confirmed this position: [ICC-02/11-01/15-573-Red](#), paras. 9 and 24; [ICC-01/05-01/13-1478-Red-Corr](#), para. 48.

8. While in-court personal testimony is the rule, the Appeals Chamber has confirmed that a Chamber has the discretion to receive the testimony of a witness by means other than in-court personal testimony in accordance with the Statute and the Rules.⁷ Rule 68 addresses the introduction of “[p]rior recorded testimony”. Chambers of this Court have recognised “prior recorded testimony” as including written witness statements and transcripts of interviews taken pursuant to rules 111 and 112 of the Rules, and associated exhibits.⁸
9. Rule 68(3) requires that: (i) a witness is present before the Chamber; (ii) the witness does not object to the submission of the previously recorded testimony; and (iii) the Parties and the Chamber have the opportunity to examine the witness.

II. Request for admission of rule 68(3) documents

10. In ruling on this request, the Prosecution submits that the Chamber should take into account the following factors: (i) the relevance of the documents; (ii) whether the documents bear sufficient indicia of reliability; (iii) whether introduction of the documents would enhance the efficiency of the proceedings, by avoiding unnecessary repetition or reducing the trial’s potentially excessive duration; and (iv) whether the admission of the documents would affect the Accused’s right to a fair trial.⁹

⁷ [ICC-01/05-01/08-1386](#), para. 77.

⁸ [ICC-01/05-01/08-2012-Red](#), paras. 134-136; [ICC-01/05-01/13-1478-Red-Corr](#), paras. 29 and 33 and [ICC-02/11-01/15-573-Red](#), para. 5.

⁹ Other Trial Chambers have considered such factors in guiding the exercise of their discretion to allow introduction of previously recorded testimony under article 68(3). See, e.g. [ICC-01/04-01/06-1603](#), paras. 21-24; [ICC-02/11-01/15-573-Red](#), paras. 25, 38; [ICC-01/04-01/07-2289-Corr-Red](#), para. 14.

(i) *The rule 68(3) documents are prima facie relevant to the case*

11. The rule 68(3) documents are witness statements and annexes referenced or created by the witnesses during their interviews. All witnesses provide evidence relevant to the attacks on Pajule, Lukodi, Odek or Abok IDP camps, sexual and gender-based crimes, or the use or conscription of child soldiers. The relevance of each witness is detailed below at paragraphs 14-55.

(ii) *The rule 68(3) documents are reliable*

12. The rule 68(3) documents bear sufficient indicia of reliability. During their interviews, the Prosecution explained to the witnesses the procedure and significance of providing a statement. The interviews were conducted in accordance with the appropriate procedures under the Rome Statute and the Rules, in the language that the witnesses speak and fully understand. A competent interpreter was provided, where necessary. The witnesses confirmed that they provided their testimony voluntarily. Prior to signing their statements, the Prosecution's investigators read back the statements to the witnesses, and they were given an opportunity to clarify, correct or add anything to the content. The rule 68(3) witnesses acknowledged the truthfulness and accuracy of their statements. The statements also include information as to how the witness came to know of particular facts, distinguishing between circumstances where the witness had direct knowledge of events and where the witness obtained the information from another source.¹⁰ Importantly, the rule 68(3) witnesses will appear before the Chamber and the Defence for any clarifications that are deemed necessary.

¹⁰ Where the witnesses obtained information from another source, they stated "I heard from...", "I was told..." or "XXX told me that...". For example, see the statements of P-0006, [UGA-OTP-0144-0072-R01](#) at paras. 20-21; P-0081, [UGA-OTP-0070-0029-R01](#) at paras. 20, 30 and 36; P-0119, [UGA-OTP-0171-0064-R01](#), paras. 24, 40, 44, 45 and 46.

(iii) *Allowing the introduction of the rule 68(3) documents will enhance the efficiency of the proceedings*

13. Introducing the rule 68(3) documents into evidence will enable the Prosecution to present its evidence in a more concise and streamlined manner. It will minimise unnecessary repetition of the prior recorded evidence, since the Prosecution will not need to question witnesses in detail about issues that have been fully addressed during the statement-taking.¹¹ Instead, the Prosecution will conduct limited and focused questioning to clarify the witness' personal knowledge of the Accused and other salient issues arising from the charges. The Prosecution has calculated that introducing the rule 68(3) documents could reduce the estimated duration of the Prosecution's case by approximately 50 hours.

(iv) *Allowing introduction of the rule 68(3) documents is consistent with the Accused's fair trial rights*

14. The Accused will suffer no unfair prejudice as a result of the introduction of the rule 68(3) documents. The Defence will be given full opportunity to question the witnesses and to explore all relevant or contested issues. As the Trial Chamber in *Gbagbo and Blé Goudé* noted recently, "introduction of prior recorded testimony under Rule 68(3) of the Rules typically carries a lower risk of interfering with the fair trial rights of the accused [compared to certain other prongs of that rule], because the witness still appears before the Chamber and is available for examination, including by the Defence".¹² Furthermore, as noted above, in this particular case, the Prosecution intends to focus most of its abbreviated questioning time on eliciting a spontaneous account of the witness' first-hand

¹¹ In the *Lubanga* case, the Trial Chamber I recognised that avoiding the unnecessary repetition of previously recorded witness evidence was a valid consideration in assessing applications for introduction of previously recorded testimony. See [ICC-01/04-01/06-1603](#), para. 22. That same Trial Chamber also noted that "there is a real potential for war crimes trials to last an excessive period of time and the court is entitled to bear this issue in mind when weighing the possibility of receiving non-oral evidence." *Id.*

¹² [ICC-02/11-01/15-629-Red](#), para. 16. See also [ICC-01/05-01/13-1478-Red-Corr](#), paras. 64, 81, 86 and 94; [ICC-02/11-01/15-573-Red](#), para. 38 and [ICC-02/11-01/15-722-Red](#), paras. 13-16.

knowledge of the Accused. The Prosecution's planned approach would have the effect of further reducing any prospect of prejudice to the Accused.

The witnesses

UGA-OTP-P-0006 [REDACTED]

15. P-0006 was abducted by LRA fighters during the attack at Pajule IDP camp in October 2003. She witnessed crimes that were committed in Pajule IDP camp. P-0006 saw Otti distribute abducted women to different LRA commanders. She herself was distributed into Ocitti's group.

16. P-0006's statement¹³ and the Acholi translation¹⁴ were disclosed to the Defence on 17 August 2015 and on 29 July 2016 respectively. P-0006's statement is on the list of evidence.

17. The provisional summary of P-0006's evidence was filed on 7 June 2016 and her questioning by the Prosecution was expected to last four hours.¹⁵ Introducing her statement *via* rule 68(3) will save about three hours of court-time.

UGA-OTP-P-0081 [REDACTED]

18. P-0081 was abducted by LRA fighters during the attack at Pajule IDP camp in October 2003. P-0081 witnessed crimes that were committed in Pajule IDP camp. P-0081 joined Control Altar, under the command of Captain Apar, who told the witness that Ongwen was present during the attack at Pajule IDP camp. Captain Apar also promised the witness that if he stayed in the LRA and received

¹³ [UGA-OTP-0144-0072-R01](#).

¹⁴ [UGA-OTP-0263-2936-R01](#).

¹⁵ [ICC-02/04-01/15-458-Conf-AnxB](#), pp. 2-3. The final version of the summary appears at [ICC-02/04-01/15-532-Conf-AnxC](#), p. 9.

military training, he would be given a wife. P-0081 witnessed that young abducted girls were distributed to the LRA commanders.

19. P-0081's statement¹⁶ and the Acholi translation¹⁷ were disclosed to the Defence on 15 June 2015 and on 29 July 2016 respectively. On 15 July 2007 the Prosecution met the witness to follow up several issues in his statement. At the meeting, P-0081 indicated that he remembered some of the facts after the statement had been read back to him at the time of his interview in 2005. Accordingly, he made some corrections to his statement. The corrections were recorded in the investigator's notes.¹⁸ Both the witness' statement and the investigator's notes are on the list of evidence.

20. The provisional summary of P-0081's evidence was filed on 7 July 2016 and his questioning by the Prosecution was expected to last three hours.¹⁹ The Prosecution seeks to introduce his statement, the sketch of Pajule IDP camp and the investigator's notes *via* rule 68(3). Introducing these items will save about two and a half hours of court-time.

UGA-OTP-P-0119 **[REDACTED]**

21. P-0119 was abducted at age 14 by LRA fighters during the attack at Lukodi IDP camp in May 2004. P-0119 witnessed crimes that were committed in Lukodi IDP camp. Particularly, he saw his father and two of his brothers shot dead before his eyes. P-0119 then joined Ongwen's group and was told that Ongwen was the big commander. P-0119's duties with the LRA were principally looting food and uprooting cassava.

¹⁶ [UGA-OTP-0070-0029-R01](#). The Prosecution seeks to introduce the Sketch map of Pajule IDP camp drawn by the witness during his interview. The sketch map is registered at page [UGA-OTP-0070-0050](#) of the statement.

¹⁷ [UGA-OTP-0262-0144](#).

¹⁸ [UGA-OTP-0201-0229-R01](#).

¹⁹ [ICC-02/04-01/15-493-Conf-AnxB](#), pp. 11-15. The final version of the summary appears at [ICC-02/04-01/15-532-Conf-AnxC](#), p. 74.

22. P-0119's statement²⁰ and the Acholi translation²¹ were disclosed to the Defence on 15 May 2015 and on 17 August 2015 respectively. On 4 August 2007, the Prosecution met with the witness to follow up several issues in his statement. During the meeting, the witness made some corrections to his statement. The corrections were recorded in the investigator's notes.²² Both P-0119's statement and the investigator's notes are on the list of evidence.

23. The provisional summary of P-0119's evidence was filed on 7 June 2016 and his questioning by the Prosecution was expected to last five hours.²³ The Prosecution seeks to introduce his statement and the investigator's notes *via* rule 68(3). Introducing these items will save about four hours and 15 minutes of court-time.

UGA-OTP-P-0199 **[REDACTED]**

24. P-0199 was abducted by the LRA in 2003 at age 12. While in the bush, the witness joined Oka group and was taken to Lira-Pajule to carry food and other looted items. P-0199 was forcibly given as a wife to commander [REDACTED]. After [REDACTED] had left the bush, she was given to another commander, [REDACTED]. This was towards the end of 2005. He was injured soon thereafter and P-0199 then joined Ongwen's household and became a *ting ting*²⁴ to one of Ongwen's wives, [REDACTED], in Sudan.

²⁰ [UGA-OTP-0171-0064-R01](#). The Prosecution seeks to introduce the Sketch map of Lukodi IDP camp drawn by the witness during his interview. The sketch map is registered at page [UGA-OTP-0171-0077](#) of the statement.

²¹ [UGA-OTP-0236-0258-R01](#).

²² [UGA-OTP-0207-0079-R01](#).

²³ [ICC-02/04-01/15-458-Conf-AnxB](#), p. 9.

²⁴ [REDACTED].

25. P-0199's statement²⁵ and the Acholi translation²⁶ were disclosed to the Defence on 11 September 2015 and on 21 December 2015 respectively. P-0199's statement is on the list of evidence.

26. The provisional summary of P-0199's evidence was filed on 12 July 2016 and her questioning by the Prosecution was expected to last four hours.²⁷ Introducing her statement *via* rule 68(3) will save about three hours and 15 minutes of court-time.

UGA-OTP-P-0218 **[REDACTED]**

27. P-0218 was a former resident in Odek IDP camp. P-0218 talks about the background and living environment of Odek IDP camp. P-0218 was present during the Odek attack on 29 April 2004. He saw the LRA fighters firing their weapons at civilians. He saw children and women among the attackers. He ran away to hide. When he returned to the camp he saw dead bodies of civilians everywhere. P-0218 was told that the attacking group was led by Dominic Ongwen's men.

28. P-0218's statement²⁸ and the Acholi translation²⁹ were disclosed to the Defence on 11 September 2015 and on 21 December 2015 respectively. The Prosecution also seeks to introduce a sketch map³⁰ depicting Odek IDP camp, which is annexed to his statement. P-0218's statement and the sketch map are on the list of evidence.

²⁵ [UGA-OTP-0236-0557-R01](#).

²⁶ [UGA-OTP-0251-1038](#).

²⁷ [ICC-02/04-01/15-495-Conf-AnxB](#), pp. 3-7. The final version of the summary appears at [ICC-02/04-01/15-532-Conf-AnxC](#), p. 131.

²⁸ [UGA-OTP-0238-0720-R01](#).

²⁹ [UGA-OTP-0251-1050](#).

³⁰ [UGA-OTP-0238-0731-R01](#).

29. The provisional summary of P-0218's evidence was filed on 7 July 2016 and his questioning by the Prosecution was expected to last four hours.³¹ Introducing his statement and the sketch map *via* rule 68(3) will save about three hours and 15 minutes of court-time.

UGA-OTP-P-0275 [REDACTED]

30. P-0275 is a victim of Odek attack and was abducted by the LRA at age 9. He and other boys were forced to carry looted items. In the bush, he joined Lapwony's group and underwent military training. P-0275 saw that young boys aged between 6 and 14 were armed, and that girls were given to commanders as wives.

31. P-0275's statement³² was disclosed to the Defence on 13 November 2015. The Acholi translation of his statement will be disclosed within the time frame set by the Trial Chamber. The Prosecution also seeks to introduce the P-0275' birth certificate,³³ his national ID card³⁴ and a letter from Gulu support the children organisation³⁵. These items were referenced in the witness' statement. P-0275's statement and annexes are included in the list of evidence.

32. The provisional summary of P-0275's evidence was filed on 7 June 2016 and his questioning by the Prosecution was expected to last five hours.³⁶ Introducing his statement and the annexes *via* rule 68(3) will save about four hours of court-time.

³¹ [ICC-02/04-01/15-493-Conf-AnxB](#), pp. 21-24. The final version of the summary appears at [ICC-02/04-01/15-532-Conf-AnxC](#), p. 165.

³² [UGA-OTP-0244-3398-R01](#).

³³ [UGA-OTP-0244-3417](#).

³⁴ [UGA-OTP-0244-3418](#).

³⁵ [UGA-OTP-0244-3419](#).

³⁶ [ICC-02/04-01/15-458-Conf-AnxB](#), pp. 10-12. The final version of the summary appears at [ICC-02/04-01/15-532-Conf-AnxC](#), p. 233.

UGA-OTP-P-0306 [REDACTED]

33. P-0306 was the [REDACTED] at Abok IDP camp. P-0306 describes the Abok attack. He was instructed to leave the camp and when he returned he saw that many people had been shot dead and that children were burnt in houses. P-0306's relatives were abducted and his goods were looted by the LRA rebels. He was told that the LRA group led by Ongwen was responsible for the attack.

34. P-0306's statement³⁷ was disclosed to the Defence on 6 June 2016. The Acholi translation of his statement will be disclosed within the time frame set by the Trial Chamber. The Prosecution also seeks to introduce a sketch map of Abok IDP camp³⁸ drawn by the witness during his interview, as well as a list of the persons who were killed during the Abok attack³⁹ and a list of the names of the camp block leaders.⁴⁰ These items are referenced in the witness' statement. P-0306's statement and the annexes are on the list of evidence.

35. The provisional summary of P-0306's evidence was filed on 28 June 2016 and his questioning by the Prosecution was expected to last four hours.⁴¹ Introducing his statement and the annexes *via* rule 68(3) will save about three and a half hours of court-time.

UGA-OTP-P-0307 [REDACTED]

36. P-0307 was abducted in September 2002 by Ongwen's group when he was 12 years old. He stayed with this group throughout his time in the bush. P-0307 received military training, was armed, and participated in several attacks. P-0307

³⁷ [UGA-OTP-0261-0277-R01](#).

³⁸ [UGA-OTP-0261-0285](#).

³⁹ [UGA-OTP-0247-1270-R01](#).

⁴⁰ [UGA-OTP-0247-1269](#).

⁴¹ [ICC-02/04-01/15-485-Conf-AnxB](#), pp. 20-23. The final version of the summary appears at [ICC-02/04-01/15-532-Conf-AnxC](#), p. 248.

stated that Dominic Ongwen was the overall commander of the group of about 600 people. P-0307 saw young boys participating in combat, and young girls distributed as wives.

37. P-0307's statement⁴² was disclosed to the Defence on 15 August 2015. The Acholi translation of his statement will be disclosed within the time frame set by the Trial Chamber. The Prosecution also seeks to introduce P-0307's child health card⁴³ and national ID card.⁴⁴ Both were annexed to the witness' statement. P-0307's statement and the annexes are on the list of evidence.

38. The summary of P-0307's evidence was filed on 6 September 2016 and his questioning by the Prosecution was expected to last four hours.⁴⁵ Introducing his statement and the annexes *via* rule 68(3) will save about two hours of court-time.

UGA-OTP-P-0351 [REDACTED]

39. P-0351 was abducted by the LRA at age 12. She first joined Raska's group and then moved to Odomi's group. She was required to help Odomi's wives with housework. She saw many girls abducted to become *ting tings* and boys to become *kadogos*.⁴⁶ Odomi ordered that P-0351 should become commander [REDACTED] wife.

40. P-0351's statement⁴⁷ was disclosed to the Defence on 15 July 2016. The Acholi translation of her statement will be disclosed within the time frame set by the Trial Chamber. The Prosecution also seeks to introduce P-0351's national ID

⁴² [UGA-OTP-0266-0425-R01](#).

⁴³ [UGA-OTP-0266-0446](#).

⁴⁴ [UGA-OTP-0266-0448](#).

⁴⁵ [ICC-02/04-01/15-532-Conf-AnxC](#), p. 251.

⁴⁶ The Kiswahili word for small. Loosely translated as "young fighters".

⁴⁷ [UGA-OTP-0263-0002-R01](#).

card,⁴⁸ which is referenced in her statement. P-0351's statement is on the list of evidence.

41. The provisional summary of P-0351's evidence was filed on 12 July 2016 and her questioning by the Prosecution was expected to last six hours.⁴⁹ Introducing her statement *via* rule 68(3) will save about three hours of court-time.

UGA-OTP-P-0352 [REDACTED]

42. P-0352 was abducted by the LRA in March 2003. P-0352 first joined Buk's group and then moved to Odomi's household. P-0352 believed that ten women living in Odomi's household as wives and *ting tings*. Odomi told P-0352 to babysit for the child of [REDACTED]. Odomi have one girl to one of [REDACTED] soldiers. About one month after joining Odomi's group, P-0352 believed that [REDACTED] obtained Odomi's permission to take her as his wife. While in the bush, the witness participated in an attack against Odek in 2004. P-0352 provides evidence mainly related to sexual and gender based crimes.

43. P-0352's statement⁵⁰ was disclosed to the Defence on 15 June 2016 and is on the list of evidence. The Acholi translation of her statement will be disclosed within the time frame set by the Trial Chamber.

44. The provisional summary of P-0352's evidence was filed on 19 July 2016 and her questioning by the Prosecution was expected to last seven hours.⁵¹ Introducing her statement *via* rule 68(3) will save about four hours of court-time.

⁴⁸ [UGA-OTP-0266-0016](#) and [UGA-OTP-0266-0017](#). The front and back sides of the witness' national ID card were registered separately and therefore bear two different ERNs.

⁴⁹ [ICC-02/04-01/15-495-Conf-AnxB](#), pp. 21-25. The final version of the summary appears at [ICC-02/04-01/15-532-Conf-AnxC](#), p. 278.

⁵⁰ [UGA-OTP-0260-0315-R01](#).

UGA-OTP-P-0366 [REDACTED]

45. P-0366 was abducted at age 11 by the LRA in 2000. P-0366 was taken to Odomi's household as a *ting ting*. Odomi told her she would be killed if she tried to escape. P-0366 saw that there were a number of wives and *ting tings* in Odomi's household. P-0366 described how Odomi distributed wives to his escorts and, as a result, she was given to [REDACTED]. Odomi ordered her beaten after she had refused to sleep with [REDACTED]. P-0366 provides evidence mainly related to sexual and gender based crimes.

46. P-0366's statement⁵² was disclosed to the Defence on 15 July 2016. The Acholi translation of her statement will be disclosed within the time frame set by the Trial Chamber. The Prosecution also seeks to introduce the witness' amnesty certificate⁵³ and national ID card,⁵⁴ which are referenced in the witness' statement. P-0366's statement, her amnesty card and national ID card are on the list of evidence.

47. The provisional summary of P-0366's evidence was filed on 7 July 2016 and her questioning by the Prosecution was expected to last eight hours.⁵⁵ Introducing her statement *via* rule 68(3) will save about five hours of court-time.

UGA-OTP-P-0374 [REDACTED]

48. P-0374 was abducted by the LRA in 2003. P-0374 stayed with Terwanga group in Sinia Brigade. The witness believed there were 50 people in Sinia. Odomi was the only person she knew as the leader of Sinia when she was in the bush. She and four other small boys were taught how to use a gun. Among the smallest boys

⁵¹ [ICC-02/04-01/15-502-Conf-AnxB](#), pp. 50-54. The final version of the summary appears at [ICC-02/04-01/15-532-Conf-AnxC](#), p. 283.

⁵² [UGA-OTP-0260-0289-R01](#).

⁵³ [UGA-OTP-0265-0077](#) (both sides of the amnesty certificate), [UGA-OTP-0265-0078](#) (close up of the left side of the amnesty certificate) and [UGA-OTP-0265-0079](#) (close up of the right side of the amnesty certificate).

⁵⁴ [UGA-OTP-0265-0298](#).

⁵⁵ [ICC-02/04-01/15-493-Conf-AnxB](#), pp. 32-37. The final version of the summary appears at [ICC-02/04-01/15-532-Conf-AnxC](#), p. 298.

she saw, the youngest ones were 8 or 9 years old. P-0374 lived in the house of a Sinia commander, [REDACTED]. P-0374 was raped by [REDACTED]. P-0374 stated that in the bush girls or women were given as wives even if they were not willing.

49. P-0374's statement⁵⁶ was disclosed to the Defence on 15 July 2016. The Acholi translation of her statement will be disclosed within the time frame set by the Trial Chamber. The Prosecution also seeks to introduce P-0374's intake form⁵⁷ prepared by the Rachele Rehabilitation Centre ("Rachele file"). The Rachele file is referenced in the witness' statement. P-0374's statement and her Rachele file are on the list of evidence.

50. The provisional summary of P-0374's evidence was filed on 26 July 2016 and her questioning by the Prosecution was expected to last eight hours.⁵⁸ Introducing her statement and Rachele file *via* rule 68(3) will save about six hours of court-time.

UGA-OTP-P-0396 **[REDACTED]**

51. P-0396 was abducted by an LRA group led by Kalalang in 2004 at age 13. P-0396 saw young boys and girls were abducted. Ongwen distributed the witness and several other girls to his commanders as wives. He told the witness that she would be killed if she refused. P-0396 was given to [REDACTED], one of Ongwen's commanders. [REDACTED] raped the witness. While with Ongwen's group, P-0396 saw that one of his escorts was between 10 and 15 years old and carried a gun.

⁵⁶ [UGA-OTP-0263-0023-R01](#).

⁵⁷ [UGA-OTP-0244-2258](#).

⁵⁸ [ICC-02/04-01/15-506-Conf-AnxB](#), pp. 23-28. The final version of the summary appears at [ICC-02/04-01/15-532-Conf-AnxC](#), p. 307.

52. P-0396's statement⁵⁹ was disclosed to the Defence on 15 August 2016. The Acholi translation of her statement will be disclosed within the time frame set by the Trial Chamber. The Prosecution also seeks to introduce the witness' national ID card.⁶⁰ P-0396's statement and her national ID card are on the list of evidence.

53. The provisional summary of P-0396's evidence was filed on 2 August 2016 and her questioning by the Prosecution was expected to last seven hours.⁶¹ Introducing her statement and the national ID card *via* rule 68(3) will save about five hours of court-time.

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54. P-0414 is a forensic and DNA kinship analysis expert working at the Netherlands Forensic Institute ("NFI"). P-0414 provided the Prosecution with three expert reports dated 1 March, 6 June and 6 July 2016. The March report⁶² details the outcome of the request to generate DNA profiles from ten reference samples and to conduct DNA kinship analysis on them. The June report⁶³ details the outcome of the request to investigate the parenthood of Mr Ongwen and his alleged children with P-0099 and P-0101 and to crosscheck the labelling of previous samples of these persons. The July report⁶⁴ details the outcome of the re-sampling operation of six persons previously sampled in 2006 and the DNA profiles of four persons who had not been analysed before.

55. The evidence of these women whose children were the subject of the DNA kinship analysis have been submitted for evidence and their evidence preserved

⁵⁹ [UGA-OTP-0267-0246-R01](#).

⁶⁰ [UGA-OTP-0267-0264-R01](#).

⁶¹ [ICC-02/04-01/15-512-Conf-AnxB](#), pp. 39-41. The final version of the summary appears at [ICC-02/04-01/15-532-Conf-AnxC](#), p. 322.

⁶² [UGA-OTP-0258-0357](#).

⁶³ [UGA-OTP-0265-0106](#).

⁶⁴ [UGA-OTP-0267-0160](#).

for later consideration by the Chamber.⁶⁵ The Prosecution seeks to introduce these reports. Additionally, it seeks to introduce the NFI's correspondence⁶⁶ dated 18 July 2016 transferring the DNA-profiling data to the Office of the Prosecutor. The three reports and the FNI's correspondence have been disclosed to the Defence between 9 March and 6 September 2016 and are on the list of evidence.

56. The Prosecution anticipated that P-0414's questioning by the Prosecution was expected to last two hours.⁶⁷ Introducing these reports and the FNI's correspondence *via* rule 68(3) will save about one hour and 15 minutes of court-time.

Relief Sought

57. For the above reasons, the Prosecution requests that the Chamber conditionally admits the rule 68(3) documents.



Fatou Bensouda,
Prosecutor

Dated this 26th day of October 2016
At The Hague, The Netherlands

⁶⁵ [ICC-02/04-01/15-520](#).

⁶⁶ [UGA-OTP-0267-0413-R01](#).

⁶⁷ [ICC-02/04-01/15-516-Conf-AnxB](#), pp. 75-80.