

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

No.: ICC-02/04-01/15

Date: 2 July 2018

**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**

**Decision on Defence Request to Introduce Previously Recorded Testimony  
Pursuant to Rule 68(2)(b) of the Rules of Procedure and Evidence**

To be notified, in accordance with Regulation 31 of the *Regulations of the Court*, to:

**The Office of the Prosecutor**

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**Unrepresented Applicants for  
Participation/Reparation**

**The Office of Public Counsel for  
Victims**

**The Office of Public Counsel for the  
Defence**

**States Representatives**

*Amicus Curiae*

**REGISTRY**

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**Registrar**  
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**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Others**

**Trial Chamber IX** ('Chamber') of the International Criminal Court ('Court'), in the case of *The Prosecutor v. Dominic Ongwen*, having regard to Articles 64(2) and 69(2) of the Rome Statute ('Statute') and Rule 68(2)(b) of the Rules of Procedure and Evidence ('Rules'), issues the following 'Decision on Defence Request to Introduce Previously Recorded Testimony Pursuant to Rule 68(2)(b) of the Rules of Procedure and Evidence'.

### **I. Procedural history and submissions**

1. On 4 June 2018, the defence for Mr Ongwen ('Defence') filed a request seeking the submission into evidence of prior recorded testimony and associated documents of nine witnesses pursuant to Rule 68(2)(b) of the Rules ('Request').<sup>1</sup> The Defence indicates that, at the date of filing of the Request, D-49's statement was not available and gives notice that it will seek leave to introduce the statement when it is ready.<sup>2</sup> It is alleged that none of the prior recorded testimonies relating to the other eight witnesses 'go to the alleged acts and conduct of Mr Ongwen'.<sup>3</sup> The Defence also requests the Chamber to authorise the Registry Legal Counsel to witness any declarations.<sup>4</sup>
2. On 8 June 2018, the Defence filed a supplement to its Request ('Supplement') detailing, for the first time, the specific evidence reference numbers of the prior recorded testimonies sought to be introduced *via* its Request.<sup>5</sup>
3. On 13 June 2018, the Office of the Prosecutor ('Prosecution') submitted its response ('Response').<sup>6</sup> The Prosecution does not oppose the introduction into

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<sup>1</sup> Defence Request to Introduce Previously Recorded Testimony Pursuant to Rule 68(2)(b) of the Rules of Procedure and Evidence, ICC-02/04-01/15-1271-Conf (D-8, D-12, D-19, D-20, D-34, D-49, D-50, D-77 and P-28). A public redacted version was filed on 27 June 2018, ICC-02/04-01/15-1271-Red.

<sup>2</sup> Request, ICC-02/04-01/15-1271-Red, para. 20.

<sup>3</sup> Request, ICC-02/04-01/15-1271-Red, paras 16-18, 21-22 and 24.

<sup>4</sup> Request, ICC-02/04-01/15-1271-Red, para. 27(b).

<sup>5</sup> Supplement to 'Defence Request to Introduce Previously Recorded Testimony Pursuant to Rule 68(2)(b) of the Rules of Procedure and Evidence' (ICC-02/04-01/15-1271-Conf), ICC-02/04-01/15-1277.

evidence of the prior recorded testimony and associated documents relating to six witnesses,<sup>7</sup> but opposes the Request in relation to the other three witnesses.<sup>8</sup> The Chamber will engage with the Prosecution's objections in the relevant portions of its analysis below.

## II. Applicable law

4. The Chamber recalls the interpretation of Rule 68(2)(b) of the Rules as set out in detail previously.<sup>9</sup> The Chamber reiterates that prior recorded testimony can only be introduced pursuant to Rule 68(2)(b) of the Rules if it goes to 'proof of a matter other than the acts and conduct of the accused'. The expression 'acts and conduct of the accused' is understood as referring exclusively to those actions of the accused which are described in the charges brought against him or her or which are otherwise relied upon to establish the accused's criminal responsibility for the crimes charged.<sup>10</sup>
5. It should also be noted that a limited reference to the acts and conduct of the accused does not, in and of itself, entail that the prior recorded testimony cannot be introduced under Rule 68(2)(b) of the Rules when: (i) the calling party indicates that it does not intend to rely on that reference; and (ii) the reference is not of significance to the case or is, in any event, of limited importance and does not constitute the core of the testimony.<sup>11</sup> However, if introduced into evidence,

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<sup>6</sup> Prosecution's Response to the Defence Request to Introduce Previously Recorded Testimony Pursuant to Rule 68(2)(b), ICC-02/04-01/15-1282-Conf. A public redacted version was filed on 27 June 2018, ICC-02/04-01/15-1282-Red.

<sup>7</sup> Response, ICC-02/04-01/15-1282-Red, paras 2(a) and 6 (D-8, D-12, D-20, D-34, D-77 and P-28).

<sup>8</sup> Response, ICC-02/04-01/15-1282-Red, paras 2(b), 7-15 (D-19, D-49 and D-50).

<sup>9</sup> Decision on the Prosecution's Applications for Introduction of Prior Recorded Testimony under Rule 68(2)(b) of the Rules, 18 November 2016, ICC-02/04-01/15-596-Red, paras 4-20 ('Rule 68(2)(b) Decision').

<sup>10</sup> Rule 68(2)(b) Decision, ICC-02/04-01/15-596-Red, para. 12.

<sup>11</sup> Rule 68(2)(b) Decision, ICC-02/04-01/15-596-Red, para. 13.

the Chamber will not consider any such reference to establish the acts and conduct of the accused for the purposes of the final judgment.<sup>12</sup>

### III. Analysis

6. The Chamber will proceed to conduct its analysis of the prior recorded testimonies sought by the Defence to be introduced into evidence pursuant to Rule 68(2)(b) of the Rules. At this stage, any such introduction is subject to the filing in the case record of the declarations required under Rule 68(2)(b)(ii) and (iii) of the Rules.

#### A. Prior recorded testimony of witnesses D-8 and D-12

7. The written statements of witnesses D-8 and D-12 discuss Mr Ongwen's childhood and subsequent abduction.<sup>13</sup> The Chamber is satisfied that the statements do not go to proof of Mr Ongwen's acts and conduct as defined above, and are corroborative of D-6 and D-7's anticipated testimonies.<sup>14</sup> It is also noted that the Prosecution does not object to the introduction of the statements into evidence.<sup>15</sup> The Chamber therefore, allows the introduction under Rule 68(2)(b) of the Rules of the prior recorded testimony of witnesses D-8 and D-12.
8. The Defence also seeks to introduce into evidence an associated document (i.e. a photograph) related to, and assumingly of, D-8.<sup>16</sup> The Chamber is of the view that since the photograph has not been annexed to, used or explained in D-8's statement, it cannot be introduced pursuant to Rule 68(2)(b) of the Rules.

<sup>12</sup> Rule 68(2)(b) Decision, ICC-02/04-01/15-596-Red, para. 13.

<sup>13</sup> Supplement, ICC-02/04-01/15-1277, paras 4-5 (UGA-D26-0010-0307 and UGA-D26-0010-0336).

<sup>14</sup> Annex C to the Defence notification of List of Witnesses and Evidence in compliance with ICC-02/04-01/15-1021 and Request for Leave to Add Witnesses to its List of Witnesses and Materials to its List of Evidence, 4 June 2018, ICC-02/04-01/15-1272-Conf-AnxC, pages 2 and 8 ('Annex C to the Defence Notification').

<sup>15</sup> Response, ICC-02/04-01/15-1282-Red, para. 6

<sup>16</sup> Supplement, ICC-02/04-01/15-1277, para. 4 (UGA-D26-0004-0003).

However, the Chamber notes that the Defence can submit the photograph *via* a written 'bar table' application.<sup>17</sup>

### **B. Prior recorded testimony of witness D-20**

9. Witness D-20's written statement discusses his time with the Lord's Resistance Army ('LRA') (he spent four years with the LRA prior to 2002) and Joseph Kony's influence,<sup>18</sup> which is corroborative of the expected testimony of D-18.<sup>19</sup> The statement also comments on D-20's relationship with and his impression of Mr Ongwen.<sup>20</sup> However, given the general nature of these comments, the Chamber is satisfied that this does not go to proof of Mr Ongwen's acts and conduct. The Prosecution does not object to the introduction of the statement into evidence.<sup>21</sup> The Chamber therefore, allows the introduction under Rule 68(2)(b) of the Rules of the prior written testimony of witness D-20.
10. The Defence also requests the introduction into evidence of an associated document in the form of a page bearing D-20's signature, the date of the statement and his initials.<sup>22</sup> The signature (and other details) is exactly the same as the one that appears on the written statement.<sup>23</sup> The additional signature page is not integral to the testimony and instead serves only to duplicate information already introduced into evidence. Therefore, the Chamber rejects the introduction of the associated document pursuant to Rule 68(2)(b) of the Rules.

### **C. Prior recorded testimony of witness D-34**

11. Witness D-34 is a former member of the LRA. His statement describes, *inter alia*, the punishments for infractions, the use of ranks and distribution of women

<sup>17</sup> Initial Directions on the Conduct of the Proceedings, 13 July 2016, ICC-02/04-01/15-497, paras 24-27.

<sup>18</sup> Supplement, ICC-02/04-01/15-1277, para. 7 (UGA-D26-0010-0382).

<sup>19</sup> Annex C to the Defence Notification, ICC-02/04-01/15-1272-Conf-AnxC, pages 13-19.

<sup>20</sup> UGA-D26-0010-0382, pages 0394-0396 (paras 32-37).

<sup>21</sup> Response, ICC-02/04-01/15-1282-Red, para. 6

<sup>22</sup> Supplement, ICC-02/04-01/15-1277, para. 7 (UGA-D26-0010-0380).

<sup>23</sup> UGA-D26-0010-0382, page 0396.

within the LRA.<sup>24</sup> However, the witness also suggests that Mr Ongwen would only attack military installations as it was not 'his way or in his nature' to kill civilians or issue orders to this effect.<sup>25</sup> The Chamber considers that these references to Mr Ongwen's personal actions are of limited significance, particularly given that the witness admits he 'did not serve with Dominic in Uganda, and never went on any operation' commanded or attended by Mr Ongwen.<sup>26</sup> Additionally, the Defence in its Request alleges that the testimony does not go to Mr Ongwen's acts and conduct,<sup>27</sup> which the Chamber will deem as an indication of the fact that the Defence does not intend to rely on these limited references.

12. In light of the above and taking into account that: (i) D-34's statement, with this limited exception, does not go to proof of matters concerning (and is not relied upon with respect to) Mr Ongwen's acts and conduct; and (ii) the Prosecution does not object to the introduction of the statement,<sup>28</sup> the Chamber allows the introduction under Rule 68(2)(b) of the Rules of the prior recorded testimony of witness D-34. The Chamber will not rely on the information contained in paragraph 53 of the statement in order to establish Mr Ongwen's acts and conduct.
13. The Defence also seeks to introduce into evidence two associated documents namely, a national ID card and photograph of D-34.<sup>29</sup> The national ID card is discussed by the witness in his written statement<sup>30</sup> and is therefore introduced into evidence pursuant to Rule 68(2)(b) of the Rules. However, introduction of the photograph is rejected for the same reasons stipulated in paragraph 8 above.

<sup>24</sup> Supplement, ICC-02/04-01/15-1277, para. 8 (UGA-D26-0022-0385).

<sup>25</sup> UGA-D26-0022-0385, page 0398 (para. 53).

<sup>26</sup> UGA-D26-0022-0385, page 0394 (para. 33).

<sup>27</sup> Request, ICC-02/04-01/15-1271-Red, para. 18.

<sup>28</sup> Response, ICC-02/04-01/15-1282-Red, para. 6

<sup>29</sup> Supplement, ICC-02/04-01/15-1277, para. 8 (UGA-D26-0023-0048 and UGA-D26-0023-0049)

<sup>30</sup> UGA-D26-0022-0385, page 0389 (para. 2).

#### D. Prior recorded testimony of witness D-77

14. Witness D-77's written statement<sup>31</sup> provides details of his abduction and movements with the LRA following the attack on the Pajule Internally Displaced Persons camp. The Chamber is satisfied that the statement does not go to proof of Mr Ongwen's acts and conduct. It is also noted that the Prosecution does not object to the introduction of the statement into evidence.<sup>32</sup> The Chamber therefore, allows the introduction under Rule 68(2)(b) of the Rules of the prior recorded testimony of witness D-77.

#### E. Prior recorded testimony of witness P-28

15. Witness P-28 is a former LRA member who served as an advisor to Joseph Kony. His written statements provide information, *inter alia*, about the persecutory policy of the LRA, the system of discipline and control enforced by Joseph Kony, the use of radios and the rules surrounding women.<sup>33</sup> The Chamber is satisfied that the witness does not discuss issues that concern Mr Ongwen's acts and conduct; the written statements make no mention of Mr Ongwen.

16. The Chamber had previously decided in the Rule 68(2)(b) Decision that P-28 should testify *viva voce* following a Defence objection to introducing his statement pursuant to Rule 68(2)(b) of the Rules.<sup>34</sup> However, it is noted that: (i) the Prosecution subsequently did not call P-28 as a witness during the trial; (ii) the Defence indicates that P-28 is unwilling to testify live but does not object to his statements being submitted into evidence;<sup>35</sup> and (iii) the Prosecution does not

<sup>31</sup> Supplement, ICC-02/04-01/15-1277, para. 11 (UGA-D26-0022-0316).

<sup>32</sup> Response, ICC-02/04-01/15-1282-Red, para. 6

<sup>33</sup> Supplement, ICC-02/04-01/15-1277, para. 12 (UGA-OTP-0217-0054-R01, UGA-OTP-0217-0075-R01, UGA-OTP-0217-0100-R01, UGA-OTP-0217-0125-R01, UGA-OTP-0217-0148-R01, UGA-OTP-0217-0171-R01, UGA-OTP-0217-0192-R01, UGA-OTP-0217-0218-R01, UGA-OTP-0217-0266-R01, UGA-OTP-0217-0287-R01, UGA-OTP-0217-0305-R01, UGA-OTP-0217-0327-R01).

<sup>34</sup> Rule 68(2)(b) Decision, ICC-02/04-01/15-596-Red, para. 215.

<sup>35</sup> Request, ICC-02/04-01/15-1271-Red, para. 26.



object to the Defence request to now introduce the statements into evidence.<sup>36</sup> For these reasons, and despite the Chamber's previous findings regarding the content of the testimony,<sup>37</sup> the Chamber allows the introduction under Rule 68(2)(b) of the Rules of the prior recorded testimony of witness P-28.

17. It is noted that neither the Request nor the Supplement incorporate document UGA-OTP-0217-0241, which is a transcript of part of P-28's interview conducted on 4 October 2004. Given that the other parts of the interview conducted on the same day (including portions preceding and succeeding this specific part) are included in the Supplement,<sup>38</sup> this appears to be a mere oversight. The Chamber therefore, incorporates UGA-OTP-0217-0241 in its decision to allow introduction under Rule 68(2)(b) of the Rules of the prior recorded testimony of witness P-28.

#### **F. Prior recorded testimony of D-19**

18. Witness D-19's written statement provides the details of his involvement with the LRA.<sup>39</sup> The Prosecution objects to the introduction of the statement and the associated document into evidence as parts of the statement relate to the 'personal actions and omissions of the accused', are directly related to Mr Ongwen's position of authority during the period of the charges and are potentially relevant to an assessment under Article 31(1)(d) of the Statute.<sup>40</sup>
19. A part of the statement refers to Mr Ongwen's operational status, position of authority and capacity during the charged period. In addition, it refers to Mr Ongwen's inability to leave the LRA. The witness states that 'a few boys' told

<sup>36</sup> Response, ICC-02/04-01/15-1282-Red, para. 6

<sup>37</sup> Rule 68(2)(b) Decision, ICC-02/04-01/15-596-Red, paras 214-215.

<sup>38</sup> Supplement, ICC-02/04-01/15-1277, para. 12 (Transcripts of interview conducted on 4 October: UGA-OTP-0217-0171-R01, UGA-OTP-0217-0192, UGA-OTP-0217-0218, UGA-OTP-0217-0266 and UGA-OTP-0217-0287).

<sup>39</sup> Supplement, ICC-02/04-01/15-1277, para. 6 (UGA-D26-0010-0352). Introduction of an associated document is also sought: UGA-D26-0010-0367.

<sup>40</sup> Response, ICC-02/04-01/15-1282-Red, paras 7-12.

him that Mr Ongwen was in the sick bay after Tabuley's death in Teso in 2003.<sup>41</sup> The witness also states that 'Ongwen was not very active as he was in the sick bay most of the time. When a commander is in sick bay, he was left with only one escort and he had to surrender his handsets and radios';<sup>42</sup> the witness adds that 'even if [Ongwen] had wanted to escape, he never had the chance to escape'.<sup>43</sup>

20. The Chamber is of the view that D-19's statement goes to proof of matters relating to Mr Ongwen's acts and conduct which are of significance to the case, particularly Mr Ongwen's capabilities and whereabouts during the charged period. Rule 68(2)(b) of the Rules therefore precludes its introduction under this rule. The Chamber considers that it is more appropriate in this instance that the witness testifies *viva voce* so that the materially disputed issues can be fully explored through questioning by the participants and, as warranted, the Chamber itself. For these reasons, the Chamber decides not to allow the introduction of witness D-19's prior recorded testimony under Rule 68(2)(b) of the Rules.

### **G. Prior recorded testimony of witnesses D-49 and D-50**

21. Witnesses D-49 and D-50 are former forced conjugal partners of Joseph Kony.<sup>44</sup> In relation to witness D-49, the Defence has not yet provided her statement to the parties or the Chamber. The Defence in its Request gives notice that it will seek leave to introduce her statement once it is ready.<sup>45</sup> The Prosecution seeks a rejection of the request pertaining to D-49, as it is deemed premature and unsubstantiated.<sup>46</sup> Given the circumstances, the Chamber dismisses *in limine* the

<sup>41</sup> UGA-D26-0010-0352, page 0362 (para. 29).

<sup>42</sup> UGA-D26-0010-0352, page 0363 (para. 31).

<sup>43</sup> UGA-D26-0010-0352, page 0364 (para. 34).

<sup>44</sup> Request, ICC-02/04-01/15-1271-Red, para. 19.

<sup>45</sup> Request, ICC-02/04-01/15-1271-Red, para. 20.

<sup>46</sup> Response, ICC-02/04-01/15-1282-Red, para. 13.

Defence request to introduce into evidence the prior recorded testimony of D-49 pursuant to Rule 68(2)(b) of the Rules.<sup>47</sup>

22. In relation to witness D-50, the Defence seeks the introduction into evidence of two documents: (i) a transcript of an interview conducted by the Defence in April 2018;<sup>48</sup> and (ii) a statement taken by the Prosecution in February 2005.<sup>49</sup>
23. The Prosecution highlights that other interviews were also conducted,<sup>50</sup> which are not sought to be introduced into evidence *via* the Request. The Prosecution indicates that this is of importance as there exists a contradiction as to whether the witness ever encountered Mr Ongwen:<sup>51</sup> the interview transcript of April 2018 (which the Defence seeks to introduce into evidence)<sup>52</sup> claims that she did,<sup>53</sup> whereas in the interview conducted in July 2006 (not sought to be introduced into evidence) the witness alleges that she never saw Mr Ongwen.<sup>54</sup> The Prosecution therefore submits that the witness should be called to testify *viva voce*.<sup>55</sup> It is noted that the Defence did not request leave to reply to the Prosecution's Response in relation to this issue.<sup>56</sup>
24. The Chamber takes note of the apparent contradiction contained in D-50's statements and is of the view that it would be inappropriate to introduce into evidence only the two documents sought by the Defence. However, the

<sup>47</sup> *In the same vein*, see Decision on Requests Following Final Defence Witness and Evidence Lists, 21 June 2018, ICC-02/04-01/15-1289, para. 7.

<sup>48</sup> Supplement, ICC-02/04-01/15-1277, para. 10 (UGA-D26-0025-0097). It is noted that paragraph 10 erroneously refers to 'UGA-OTP-0025-0097'.

<sup>49</sup> Supplement, ICC-02/04-01/15-1277, para. 10 (UGA-OTP-0131-0002-R01).

<sup>50</sup> In January and February 2005, as well as July 2006: See Response, ICC-02/04-01/15-1282-Red, para. 14 (UGA-OTP-0228-1469-R01, UGA-OTP-0228-1506-R01, UGA-OTP-0228-1528-R01, UGA-OTP-0228-2452-R01, UGA-OTP-0228-2509-R01, UGA-OTP-0228-2545-R01, UGA-OTP-0228-2585-R01, UGA-OTP-0228-2623-R01, UGA-OTP-0228-2660-R01, UGA-OTP-0228-2720-R01, UGA-OTP-0228-2783-R01, UGA-OTP-0229-0230-R01, UGA-OTP-0229-0263-R01).

<sup>51</sup> Response, ICC-02/04-01/15-1282-Red, para. 15.

<sup>52</sup> See Supplement, ICC-02/04-01/15-1277, para. 10 (UGA-D26-0025-0097).

<sup>53</sup> UGA-D26-0025-0097, page 0102 (para. 18).

<sup>54</sup> UGA-OTP-0228-1469-R01, page 1475-R01 (lines 186-193).

<sup>55</sup> Response, ICC-02/04-01/15-1282-Red, para. 15.

<sup>56</sup> Regulation 24(5) and 34(c) of the Regulations of the Court.

Chamber is satisfied that the issue is not of such significance that it demands calling the witness to testify *viva voce* — particularly given that the prior recorded testimony is predominantly focused on the circumstances of D-50's abduction and subsequent experiences in the bush and does not go to proof of Mr Ongwen's acts and conduct.

25. For these reasons, the Chamber considers it in the interests of justice to allow introduction under Rule 68(2)(b) of the Rules of all prior recorded testimony (including the additional interview transcripts noted by the Prosecution in its Response) of witness D-50. This is subject to the filing in the case record of a declaration by D-50 that the 'contents of [all her] prior recorded testimony are true and correct to the best of her knowledge and belief'.<sup>57</sup> In this regard, it is noted that a witness may correct or clarify certain matters when signing declarations without this necessarily qualifying as prohibited 'new information' under Rule 68(2)(b)(ii) of the Rules.<sup>58</sup>

**FOR THE FOREGOING REASONS, THE CHAMBER HEREBY**

**DECIDES** that, subject to the receipt of the declarations required under Rule 68(2)(b)(ii) and (iii) of the Rules, the prior recorded testimonies of the following witnesses are introduced into evidence pursuant to Rule 68(2)(b) of the Rules:

- **Witness D-8** (UGA-D26-0010-0307);
- **Witness D-12** (UGA-D26-0010-0336);
- **Witness D-20** (UGA-D26-0010-0382);
- **Witness D-34** (UGA-D26-0022-0385), with the clarification at paragraph 12 above; together with its associated document (UGA-D26-0023-0048);

<sup>57</sup> Rule 68(2)(b)(ii) of the Rules.

<sup>58</sup> Trial Chamber VII, *The Prosecutor v. Jean-Pierre Bemba Gombo et al.*, Corrigendum of public redacted version of Decision on Prosecution Rule 68(2) and (3) Requests, 12 November 2015, ICC-01/05-01/13-1478-Red-Corr, paras 97-100.

- **Witness D-50** (UGA-D26-0025-0097; UGA-OTP-0131-0002-R01; UGA-OTP-0228-1469-R01; UGA-OTP-0228-1506-R01; UGA-OTP-0228-1528-R01; UGA-OTP-0228-2452-R01; UGA-OTP-0228-2509-R01; UGA-OTP-0228-2545-R01; UGA-OTP-0228-2585-R01; UGA-OTP-0228-2623-R01; UGA-OTP-0228-2660-R01; UGA-OTP-0228-2720-R01; UGA-OTP-0228-2783-R01; UGA-OTP-0229-0230-R01; UGA-OTP-0229-0263-R01);
- **Witness D-77** (UGA-D26-0022-0316); and
- **Witness P-28** (UGA-OTP-0217-0054-R01; UGA-OTP-0217-0075-R01; UGA-OTP-0217-0100-R01; UGA-OTP-0217-0125-R01; UGA-OTP-0217-0148-R01; UGA-OTP-0217-0171-R01; UGA-OTP-0217-0192-R01; UGA-OTP-0217-0218-R01; UGA-OTP-0217-0241-R01; UGA-OTP-0217-0266-R01; UGA-OTP-0217-0287-R01; UGA-OTP-0217-0305-R01; UGA-OTP-0217-0327-R01).

**DISMISSES** the Defence request to introduce into evidence, pursuant to Rule 68(2)(b) of the Rules, the prior recorded testimony of Witness D-49 *in limine*;

**REJECTS** the Defence request to introduce into evidence, pursuant to Rule 68(2)(b) of the Rules, the prior recorded testimony of Witness D-19 and associated documents related to D-8, D-20 and D-34 (as stipulated in paragraphs 8, 10 and 13 respectively);

**DISMISSES** the Defence request to authorise the Registry Legal Counsel to witness declarations under Rule 68(2)(b)(iii) of the Rules, since the Chamber has already designated this role to the Registry Legal Counsel, or any other person delegated by him, in decision ICC-02/04-01/15-596-Red;

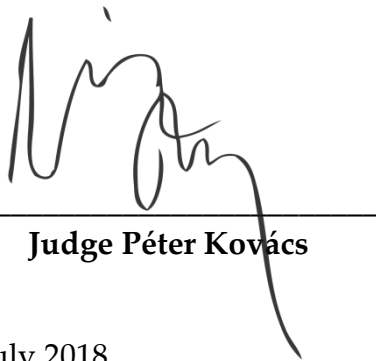
**ORDERS** the Registry, upon filing each declaration under Rule 68(2)(b) of the Rules, to reflect in the eCourt metadata the introduction of the prior recorded testimony of the corresponding witness and the associated documents as identified in the present decision;

**ORDERS** the Defence to file a proposed public redacted version of each prior recorded testimony introduced under Rule 68(2)(b) of the Rules, or indicate that it may be made public in its entirety (including the witness's identity), within 21 days of filing in the case record of the declaration of the corresponding witness, and the other participants to raise any objection to the redactions proposed by the Defence or propose additional redactions, within 21 days of receipt of the Defence's filing.

Done in both English and French, the English version being authoritative.



**Judge Bertram Schmitt, Presiding Judge**



**Judge Péter Kovács**



**Judge Raul C. Pangalangan**

Dated 2 July 2018

At The Hague, The Netherlands