

ANNEX XV
PUBLIC

[REDACTED]

From: [REDACTED]
Sent: 25 November 2019 13:21
To: Trial Chamber IX Communications; [REDACTED]
[REDACTED]
Cc: OTP UGA Prosecution Team
Subject: Submission of Material(s) for D-0042

In accordance with Decision #497, the Prosecution requests the submission into evidence of the following material used in the examination of D-0042:

UGA-OTP-0287-0063 (Prosecution tab 13)

All other materials used during the examination have already been submitted.

[REDACTED]

Dévouement - Intégrité - Respect
Dedication - Integrity - Respect

From: [REDACTED]
Sent: 25 November 2019 14:48
To: Trial Chamber IX Communications; [REDACTED]
Subject: Defence Submission of Materials through UGA-D26-P-0042

Dear Trial Chamber IX,

In accordance with paragraph 28 of 'Initial Directions on the Conduct of the Proceedings' (ICC-02/04-01/15-497), the Defence requests the formal submission of the following items concerning the examination of the Defence Expert Witness D-0042:

'Binder 1'

Tab	ERN	Title
3	UGA-D26-0015-0856	CV of D-042
3.1	UGA-D26-0015-1472	Bio Sketch of D-42
5	UGA-D26-0015-1035	Terms of Reference for D-41 and D-42 [TOR for Second Report]
6	UGA-D26-0015-0154	Brief Medical Report (9 Feb 2016)
7	UGA-D26-0015-0004	First Psychiatric Report (6 Dec 2016)
8	UGA-D26-0015-0948	Second Psychiatric Report (28 June 2018)
9	ICC-02/04-01/15-1506-Conf-AnxA (UGA-D26-0015-1219)	Supplemental Report (25 Jan 2019)
24	UGA-D26-0015-0779	ICD-11 Trauma Questionnaires for PTSD and Complex PTSD: Validation among Civilians and Former Abducted Children in Northern Uganda

The Defence notes that Trial Chamber IX recognised that items in tabs 6, 7, 8 and 9 fulfilled the requirements under rule 68(3) of the Rules of Procedure and Evidence (Transcript of hearing T-250, pages 7-8).

Furthermore, items in tabs 3.1 and 24 are not on the Defence list of evidence. Therefore, the Defence respectfully requests that the Chamber, on an exceptional basis, permit the Defence to add both items to its list of evidence and recognise them as formally submitted. Both items are relevant to the testimony of D-0042 and their addition causes no prejudice to the parties and participants. Counsel Lyons referred to tab 3.1 (D-0042's short bio) when discussing D-0042's background (T-250, pages 8-15). Item 24 was discussed on pages 23-25 (T-250).

'Binder 2'

Tab	ERN	Title
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Regards,

[REDACTED]

[REDACTED]

[REDACTED]

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From: [REDACTED]
Sent: 02 December 2019 15:20
To: Trial Chamber IX Communications
Cc: [REDACTED]
Subject: Defence formal submission of items for D-0042's rejoinder evidence

Dear Trial Chamber IX,

In accordance with paragraph 28 of 'Initial Directions on the Conduct of the Proceedings' (ICC-02/04-01/15-497), the Defence requests the formal submission of the following items concerning the rejoinder examination of the Defence Expert Witness D-0042:

Tab	ERN	Title
1	UGA-D26-0015-1574	Expert Report
2.1	UGA-D26-0015-1589	Defence Table of Testimonial Excerpts
5	UGA-D26-0015-1582	Use of the Manual / Cautionary Statement for Forensic Use of DSM-5

Trial Chamber IX recognised that the Expert Report in **tab 1** fulfils the requirements under rule 68(3) of the Rules of Procedure and Evidence (T-254-CONF-ENG ET, pp 4-5).

Item in tab **2.1** is a defence table of transcripts excerpts that was used by Counsel Lyons during the examination of D-0042 (T-255-CONF-ENG ET, pp 6-10). The Defence understands that the table is not on the Defence list of evidence and that it contains sections of witness testimonies that are already part of the *Ongwen* case record. However, for the completeness and clarity when referring back to the November 2019 expert witness testimonies and the materials used, the Defence requests, on an exceptional basis, that the Chamber permit the Defence to add the table to its list of evidence and recognise it as formally submitted.

In respect to the submission of item in **tab 5**, the Defence reiterates Mr Obhof's email of 27 November 2019 (Subject: Defence Submission of Material through Rebuttal Witness P-0447), in which he argued that 'this item, while not being on its list of materials for P-0447, was used during the Defence's examination of P-0447. It is also noted that the Prosecution had a physical copy of the DSM-5 in its possession. It is the Defence's position that the Prosecution was [not] disadvantaged by the use of the material in this item, and that for the completeness of the record, the Defence requests its submission into evidence'. Counsel Lyons used the item during the examination of P-0447 on 26 November 2019 (T-253-CONF-ENG ET, pp 96-97).

Regards,

[REDACTED]
[REDACTED]

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[REDACTED]

From: Trial Chamber IX Communications
Sent: 06 December 2019 16:32
To: [REDACTED]
 [REDACTED] Trial Chamber IX Communications; [REDACTED]
Subject: Decision on Submitted Materials for D-0042
Attachments: Submission of Material(s) for D-0042; Defence Submission of Materials through UGA-D26-P-0042; Defence formal submission of items for D-0042's rejoinder evidence

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Hearings

Dear Counsel and Registry:

For D-0042, the Prosecution submits 1 item for formal recognition (Email from the Prosecution, 25 November 2019, at 13:21).

The Defence requests that 12 items be recognised as formally submitted in relation to D-0042 (Email from the Defence, 25 November December 2019, at 14:48 and email from 2 December 2019, at 15:20).

The Chamber notes that five of the items submitted by the Defence were also submitted (and recognised as formally submitted) for D-0041. Accordingly, a second recognition as formally submitted is not necessary.

Further, as has been the case with D-0041, the Defence requests that two items be exceptionally submitted while not being on its List of Evidence.

The Chamber notes that one of the items identified by the Defence (UGA-D26-0015-0779) is actually on its list of evidence. Further, another item not identified by the Defence (UGA-D26-0015-1395) is actually not on its list of evidence.

The Chamber notes that one of the items (UGA-D26-0015-1472) is a short biography of the witness in question. The other item falls in the category as the one discussed during the testimony of D-0041 (transcript of hearing on 18 November 2019, T-248, pg 18, l.24 – pg 20, l.12). Further, there is no objection to the submission of these items. Accordingly, the Chamber also accepts these items on an exceptional basis.

The Chamber further confirms that the witness's report is introduced by virtue of the procedural prerequisites of Rule 68(3) of the Rules being satisfied.

Consequently, it all recognises all items as formally submitted (except the ones which have already been previously recognised).

The Registry is directed to proceed in accordance with paragraph 28(v) of the Initial Directions on the Conduct of the Proceedings, ICC-02/04-01/15-497.

Kind regards,

Trial Chamber IX