

**Cour
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**International
Criminal
Court**



Original: English

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

Date: 11 March 2024

THE APPEALS CHAMBER

Before: Judge Luz del Carmen Ibáñez Carranza, Presiding Judge
Judge Piotr Hofmański
Judge Marc Pierre Perrin de Brichambaut
Judge Solomy Balungi Bossa
Judge Gocha Lordkipanidze

SITUATION IN UGANDA

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

Confidential

Legal Representatives of Victims Joint Response to the "Defence request for a suspension of its notice of its intent to appeal Trial Chamber IX's Reparations Order pursuant to Rule 150(2) of the Rules of Procedure and Evidence"

Source: Office of Public Counsel for Victims
Legal Representatives of Victims

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

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I. INTRODUCTION

1. The Common Legal Representative of Victims (the "CLR") and the Legal Representatives of Victims (the "LRVs", together the "Counsel") hereby file their joint response to the "Defence request for a suspension of its notice of its intent to appeal Trial Chamber IX's Reparations Order pursuant to Rule 150(2) of the Rules of Procedure and Evidence" (the "Defence's Request" or the "Request").¹

2. Counsel wish firstly to emphasise that any postponement should be carefully weighed against the victims' rights to the expeditious conduct of the proceedings, particularly at the reparations stage. In this specific instance, Counsel do not oppose the Defence's Request, given the limited character of the extension sought (from the 2nd of April to the 29th of April). Should the Request be granted, the same timeline should apply to Counsel as a matter of procedural fairness, in case they will decide to file a notice of appeal. This may also facilitate an adequate timeframe to carry comprehensive consultations with the participating victims.

II. PROCEDURAL HISTORY

3. On 4 February 2021, Trial Chamber IX (the "Trial Chamber") issued its Judgment, finding Mr Ongwen guilty of 61 charges of war crimes and crimes against humanity.²

¹ See the "Defence request for a suspension of its notice of its intent to appeal Trial Chamber IX's Reparations Order pursuant to Rule 150(2) of the Rules of Procedure and Evidence", [No. ICC-02/04-01/15-2075-Conf A A3](#), 1 March 2024. A public redacted version was filed on 4 March 2024, [No. ICC-02/04-01/15-2075-Red A A3](#) (the "Defence's Request" or the "Request").

² See the "Trial Judgment" (Trial Chamber IX), [No. ICC-02/04-01/15-1762-Conf and No. ICC-02/04-01/15-1762-Red](#), 4 February 2021 (the "Judgment").

4. On 6 May 2021, the Trial Chamber sentenced Mr Ongwen to 25 years of imprisonment.³ The same day, the Trial Chamber issued an Order setting the calendar of submissions in relation to the reparations proceedings.⁴

5. On 15 December 2022, the Appeals Chamber confirmed both the Judgment⁵ and the Sentence.⁶

6. On 27 February 2024, the Defence contacted the Registry's Language Services Section (the "LSS") about the procedure to request an Acholi translation of the reparations order to be issued on 28 February 2024. Like for the Judgment and Sentence, LSS asked the Defence to identify which sections of the ruling it prefers to have translated as a priority.⁷

7. On 28 February 2024, the Trial Chamber issued the Reparations Order.⁸

8. On 1 March 2024, the Defence filed the Request.⁹

9. On 4 March 2024, the Appeals Chamber issued a decision appointing Judge Ibáñez Carranza as Presiding Judge in any appeal arising from the Reparations Order.¹⁰

³ See the "Sentence" (Trial Chamber IX), [No. ICC-02/04-01/15-1819-Conf](#) and [No. ICC-02/04-01/15-1819-Red](#), 6 May 2021, as well as the "Partly Dissenting Opinion of Judge Raul C. Pangalangan", [No. ICC-02/04-01/15-1819-Anx.](#)

⁴ See the "Order for Submissions on Reparations" (Trial Chamber IX), [No. ICC-02/04-01/15-1820](#), 6 May 2021.

⁵ See the "Judgment on the appeal of Mr Ongwen against the decision of Trial Chamber IX of 4 February 2021 entitled 'Trial Judgment'" (Appeals Chamber), [No. ICC-02/04-01/15-2022-Red](#), 15 December 2022.

⁶ See the "Judgment on the appeal of Mr Dominic Ongwen against the decision of Trial Chamber IX of 6 May 2021 entitled 'Sentence'" (Appeals Chamber), [No. ICC-02/04-01/15-2023](#), and "ANNEX 1: Partly Dissenting Opinion of Judge Luz del Carmen Ibáñez Carranza", No. ICC-02/04-01/15-2023-Anx1, 15 December 2022.

⁷ See the Defence's Request, *supra* note 1, para. 18.

⁸ See the "Reparations Order" (Trial Chamber IX), [No. ICC-02/04-01/15-2074](#), with Annexes I, II and III, 28 February 2024.

⁹ See the Defence's Request, *supra* note 1.

¹⁰ See the "Decision on the Presiding Judge of the Appeals Chamber" (Appeals Chamber), [No. ICC-02/04-01/15-2076 A A3](#), 4 March 2024.

10. The same day, the Appeals Chamber issued an Order instructing Victims to respond to the Defence's Request by 11 March 2024.¹¹

III. LEVEL OF CLASSIFICATION

11. In accordance with regulation 23*bis* (2) of the Regulations of the Court, the present submission is filed confidential following the classification chosen by the Defence. However, Counsel indicate that the Response does not contain any confidential information and can be re-classified as public.

IV. SUBMISSIONS

12. At the outset, Counsel underline that a total of 4,095 participating victims have been waiting for recognition and reparations for more than twenty years. Thus, Victims wish that reparations proceedings be conducted and concluded as expeditiously as possible.

13. Nonetheless, in the present instance, Counsel do not oppose the time extension requested by the Defence to file a notice of appeal. Its limited nature mitigates the potential delays in the proceedings. In addition, granting the extension sought would allow Counsel to carry out more comprehensive consultations with their clients in order to evaluate whether or not to file a notice of appeal.

14. The Defence further requests to file additional points of facts or law to its notice of appeal 21 days from Mr Ongwen receipt of an Acholi translation of the operative sections of the Reparations Order. In this regard, the Defence does not seek to postpone the statutory time-limit of 60 days for filing its Appeal Brief (which will then be due on 1 July 2024). Accordingly, Counsel do not oppose the Defence further request.

¹¹ See the "Order concerning the time limit for responses to the 'Defence request for a suspension of its notice of its intent to appeal Trial Chamber IX's Reparations Order pursuant to Rule 150(2) of the Rules of Procedure and Evidence'" (Appeals Chamber), [No. ICC-02/04-01/15-2077 A A3](#), 4 March 2024.

15. Despite the fact that Mr Ongwen was found to be indigent, the Reparations Order represents an essential procedural document that the convicted person ought to fully understand.¹² This is not only because it sets Mr Ongwen's liability, but also because reparations can promote reconciliation between the convicted person, the victims of the crimes and the affected communities. Mr Ongwen may, now, be willing to play a role in rehabilitation's processes, for instance, by presenting apologies and seeking forgiveness.

16. Counsel, however, refute the arguments put forward by the Defence as to the number of victims and of counts justifying the requested extension, as these elements do not impact the legal aspects of the Reparations Order for Mr Ongwen.¹³ They also disagree with the Defence's contention that further discussion with Mr Ongwen on sentencing matters would justify the extension sought. In this regard, Counsel underline that the sole focus of the Order at hand is the reparations for the victims of his crimes.¹⁴ Lastly, Counsel recall that, despite the Defence's repeated allegations, the Trial Chamber explicitly rejected the Defence's contention that Mr Ongwen is a mentally ill person.¹⁵ This finding was confirmed on appeal.¹⁶ Counsel therefore also posit that said arguments should not be considered in assessing the requested extension.

17. The Defence's limited request for extension of time is reasonable as it stands, but should not be renewed at a later date nor be lengthier. Although Mr Ongwen has yet to receive a full translation of the operative parts of the Order, the summary of the Reparations Order was simultaneously interpreted in Acholi during the hearing held on 28 February 2024. Consequently, Mr Ongwen was able to understand its main

¹² See the Defence's Request, *supra* note 1, paras. 29-30, 32.

¹³ *Idem*, para. 31.

¹⁴ *Idem*, para. 33.

¹⁵ See the Judgment, *supra* note 2, paras. 108-109.

¹⁶ See the "Judgment on the appeal of Mr Ongwen against the decision of Trial Chamber IX of 4 February 2021 entitled 'Trial Judgment'", *supra* note 5, paras. 220, 438, 449, 450; and the "Judgment on the appeal of Mr Dominic Ongwen against the decision of Trial Chamber IX of 6 May 2021 entitled 'Sentence'", *supra* note 6, paras. 74, 263-271.

content, and to discuss with his defence team the important aspects of the ruling in the language he fully understands and speaks.

18. In order to avoid any further delays, either *in lieu* of or in addition to the translation of the operative parts of the Reparations Order, Mr Ongwen could be provided with a translation of the Trial Chamber's summary in Acholi. In the alternative, he could request another authoritative summary, containing the elements the Defence deems the most crucial, to be translated into Acholi. This will ensure that Mr Ongwen's fair rights are safeguarded, while guaranteeing that the victims' rights are preserved too, on an equal footing at this stage of the proceedings.

19. Lastly, should the Chamber be minded to grant the extension requested by the Defence to file its notice of appeal, Counsel request that the Legal Representatives of the Victims are granted the same extension, as a matter of procedural fairness.

FOR THE FOREGOING REASONS, Counsel do not oppose the Defence's Request and respectfully request, should the Appeals Chamber decide to grant it, that the same extension be awarded to them for the filing of their notices of appeal.



Paolina Massidda



Joseph Manoba



Francisco Cox

Dated this 11th day of March 2024

At The Hague (The Netherlands), Kampala (Uganda) and Santiago (Chile)