



Original: English

No.: ICC-02/04-01/15
Date: 9 February 2015

PRE-TRIAL CHAMBER II

Before: Judge Ekaterina Trendafilova, Single Judge

SITUATION IN UGANDA

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

Public

**With Confidential, *EX PARTE*, only available to the Prosecution
Annexes A and B**

**Prosecution's Application to Maintain the Redactions in the "Prosecutor's
Amended Application for Warrants of Arrest Under Article 58"**

Source: The Office of the Prosecutor

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

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Counsel Support Section

Victims and Witnesses Section

Detention Section

Victims Participation and Reparations Section

Other

I. Introduction

1. On 29 January 2015, the Senior Legal Advisor of the Chambers, on behalf of the Single Judge, directed the Office of the Prosecutor (“Prosecution”) to submit a proposal for a lesser redacted version of the “Prosecutor’s Amended Application for Warrants of Arrest Under Article 58” (“Article 58 Application”) by 9 February 2015.¹
2. The Prosecution has previously filed a redacted version of the Article 58 Application on 14 November 2008.²
3. In compliance with the direction of 29 January 2015, the Prosecution proposes the lifting of the large majority of the previous redactions and today submits its application (“Application”) for the Single Judge’s authorisation, pursuant to article 68 of the Rome Statute (“Statute”) and rules 81(2) and (4) of the Rules of Procedure and Evidence (“Rules”), to maintain the remaining redactions in the Article 58 Application.³ The redactions requested are consistent with the Prosecution’s ongoing obligation to protect the safety of witnesses, victims, and innocent third parties.
4. Pursuant to rule 81(4), the Prosecution seeks authorisation to redact potentially identifying information concerning Prosecution witnesses and their family members. The Prosecution informs the Chamber that in Annex A it has used witness codes to replace the names of the witnesses. Pursuant to rules 81(2) and (4), the Prosecution also seeks authorisation to redact potentially identifying information concerning innocent third parties.

¹ Single Judge’s direction was sent by e-mail on 29 January 2015, at 11:39.

² ICC-02/04/-01/05-347-Conf-Exp-AnxA.

³ Confidential, *Ex Parte*, only available to the Prosecution Annex A (“Annex A”).

5. Annex A to this filing is the Prosecution's proposal for the document which should be made available to the Defence.
6. Annex B to this filing is the Article 58 Application marked so as to reveal to the Chamber those parts of that document which the Prosecution now proposes should remain redacted.

II. Request for confidentiality

7. Pursuant to regulation 23*bis* of the Regulations of the Court, the Prosecution requests that Annexes A and B to this Application be received by the Single Judge as "confidential, *ex parte*, only available to the Prosecution" because it contains information for which redactions are sought, the disclosure of which would defeat the purpose for which the redactions are requested. No alternative procedures exist to deal with this request.

III. Submissions

Legal basis for redactions

8. The Prosecution incorporates by reference paragraphs 6 and 7 of its filing of 2 February 2015 "Prosecution's Application for Redactions to the Document submitted at the 28 January 2015 Status Conference and to its Transcript".⁴

Information the Prosecution seeks to redact

9. The Prosecution has reviewed the redactions, as requested, and submits that they fall into two categories: i) potentially identifying information concerning the Prosecution witnesses and their family members; and ii) potentially identifying information concerning innocent third parties.

⁴ ICC-02/04-01/05-422-Red.

10. The Prosecution seeks the Single Judge's authorisation to redact information concerning its witnesses and their family members pursuant to rule 81(4). The Prosecution, at this stage, has not been able to contact its witnesses or to assess their security situation. It would create unnecessary risks to disclose information that might endanger witnesses and their family members prior to the completion of this process. The Prosecution expects that the witnesses' security assessment process will be completed in the coming months. Further, the redactions requested do not materially affect the Defence's ability to understand the Article 58 Application.
11. The Prosecution seeks the Single Judge's authorisation to redact the identifying information of innocent third parties pursuant to rules 81(2) and (4). At this stage, for similar reasons as those outlined above it would be inappropriate to disclose their identifying information.
12. The Prosecution will revisit the redactions requested once it has gathered the security information referred to above, or at the Single Judge's order.

IV. Conclusion

13. In light of the foregoing, the Prosecution requests the Single Judge to authorise the proposed redactions as submitted in this Application and accompanying Annexes.



Fatou Bensouda,
Prosecutor

Dated this 9th day of February 2015
At The Hague, The Netherlands