



Original: English

No.: ICC-02/04-01/15  
Date: 17 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  
Annex A**

**Prosecution's Further 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:**

**The Office of the Prosecutor**

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**Legal Representatives of Victims**

**Legal Representatives of Applicants**

**Unrepresented Victims**

**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**

Mr Herman von Hebel

**Counsel Support Section**

**Victims and Witnesses Section**

**Detention Section**

**Victims Participation and Reparations Section**

**Other**

## I. Introduction

1. In accordance with the direction of the Single Judge,<sup>1</sup> the Office of the Prosecutor ("Prosecution") submits a further filing concerned with the lifting of redactions currently applied to the "Prosecution's Application for a Warrant of Arrest under Article 58" ("Article 58 Application").
2. These redactions appeared to the Prosecution to be of sensitive material which should not be revealed to the Defence. Redactions were ordered by the Chamber accordingly in its decision of 12 November 2008.<sup>2</sup>
3. In order to assist the Single Judge to make her decision to lift some and to maintain other redactions as proposed, the Prosecution has annexed to this filing a copy of the confidential redacted version of its Article 58 Application as filed on 14 November 2008,<sup>3</sup> and highlighted the redactions in two colours<sup>4</sup> indicating the prosecution's current proposals either to lift or to maintain those redactions.<sup>5</sup>

## II. Request for confidentiality

4. Pursuant to regulation 23*bis* of the Regulations of the Court, the Prosecution requests that Annex A 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.

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<sup>1</sup> The direction was conveyed to the Prosecution in a telephone call on 13 February 2015.

<sup>2</sup> ICC-02/04-01/05-345.

<sup>3</sup> Confidential, *ex parte*, only available to the Prosecution Annex A ("Annex A").

<sup>4</sup> Pink highlights indicate the redactions that should be maintained and yellow highlights indicate the redactions that in the Prosecution's view can now be lifted.

<sup>5</sup> The Defence was notified of the confidential redacted version (ICC-02/04-01/05-347-Conf-Exp-AnxA) of the Article 58 Application on 14 November 2008.

### III. Submissions

5. The Prosecution has reviewed the redactions currently applied to the Article 58 Application to ensure that Mr Ongwen has the fullest possible information concerning the reasons the Warrant for his Arrest was issued. The Prosecution considers that the vast majority of the redactions ordered in 2008 are no longer necessary and requests that the Chamber order that all those passages which were formerly redacted and are now highlighted in Annex A in yellow should be made known to the accused and those representing him. The Prosecution's request is based on the following reasons:

- The general security situation in Northern Uganda has improved in the last few years and the Lord's Resistance Army has moved away from Uganda;
- Much of the information currently redacted is important for Mr Ongwen who now is in the Court's custody to understand fully the charges against him. This is in accordance with the accused's right under article 67(1)(a) of the Rome Statute to be informed promptly and in detail of the nature, cause and content of the charges against him;
- Some of the Prosecution's witnesses have died.<sup>6</sup>

6. Further, as outlined in its filing of 9 February 2015,<sup>7</sup> the Prosecution submits that the remaining limited redactions which are highlighted in Annex A in pink, remain necessary for the present time.

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<sup>6</sup> The witnesses UGA-OTP-P-0010 and UGA-OTP-P-0066 have been reported dead. The information relevant to UGA-OTP-P-0010 is at paras. 72 (second bullet point), 81, 82, 87 (third bullet point), 120, 121, 163 (fourth bullet point), 481, 503, 537-540, 589 and at fn. 23 of the Article 58 Application. The information relevant to UGA-OTP-P-0066 is at paras. 357-363 and 379.

#### IV. Conclusion

7. In light of the foregoing, the Prosecution requests the Single Judge to i) order that all those passages which were formerly redacted but are now proposed for the lifting of redactions should be made available to the Defence and ii) authorise the proposed continuing redactions as previously submitted.



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Fatou Bensouda,  
Prosecutor

Dated this 17<sup>th</sup> day of February 2015  
At The Hague, The Netherlands

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<sup>7</sup> ICC-01/04-02/15-195.