



Original: English

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

Date: 8 June 2015

PRE-TRIAL CHAMBER II

Before: Judge Cuno Tarfusser, Single Judge

SITUATION IN UGANDA

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

Public

**Order concerning a request by the Prosecutor under regulation 101(2) of the
Regulations of the Court**

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

The Office of the Prosecutor

Fatou Bensouda

James Stewart

Benjamin Gumpert

Counsel for the Defence

Krispus Ayena Odongo

Legal Representatives of the Victims

Legal Representatives of the 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

Registrar

Herman von Hebel

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Judge Cuno Tarfusser, Single Judge exercising the functions of the Chamber in the present case, issues this order concerning a request by the Prosecutor under regulation 101(2) of the Regulations of the Court.

1. On 5 June 2015 at 16.45 hours, the Senior Trial Lawyer from the Office of the Prosecutor informed the Single Judge of an impending urgent request to restrict Dominic Ongwen's use of the telephone in the detention centre to calls to and from his counsel and prohibit all other telephone communications. Upon receipt, at 17.45 hours, of a courtesy copy of the request following its submission to the Registrar for registration in the record of the case, the Single Judge, at 18.11 hours, orally, having considered it necessary and proportionate on the basis of the information provided *ex parte* by the Prosecutor, instructed the Registrar to put in place said restriction *ad interim*, as provided for by regulation 101(3). The oral order was implemented immediately.

2. On 8 June 2015, the Prosecutor's request was formally notified (ICC-02/04-01/15-241-Conf-Exp and -Conf-Exp-AnxA). The Single Judge notes that in addition to the restrictions of Dominic Ongwen's communications, the Prosecutor also requests an order that the telephone data and voice recordings held by the Detention Unit be provided to the parties, and a public hearing "for the purpose of reminding Dominic Ongwen and third parties in the most straightforward fashion that actions which may influence potential witnesses or result in interference with the collection of evidence may amount to criminal offences under article 70 of the Statute and in most domestic jurisdictions".

3. First, on the basis of a request received from the Defence by way of email on 7 June 2015, the Single Judge considers it appropriate to modify the interim restriction of Dominic Ongwen's communications to the extent that in

addition to contact with lead counsel, contact with Thomas Obhof, assistant to counsel, shall be permitted. Conversely, the Single Judge does not deem it appropriate at this time to make an exception for “continued visits from spiritual leaders”, on which clarification was requested by the Defence.

4. Second, an interim measure having been ordered on the basis of the submissions received from the Prosecutor, it is necessary at present to make available to the Defence the Prosecutor’s request, in order give it an opportunity to be heard as provided by regulation 101(3). As proposed by the Prosecutor, the request itself shall be reclassified as “public”. As to the annex, the Single Judge has been informed by the Prosecutor by way of email that, contrary to what has been submitted in the request, it cannot be reclassified without redactions. The Single Judge accepts that the redaction of the name of an investigator who is active in the field is permissible, and instructs the Prosecutor to immediately file a confidential redacted version of the annex.

5. The Defence will have five days to make its submissions, running from the notification of the request and its annex. Thereafter, the Single Judge will issue a comprehensive decision on the matter.

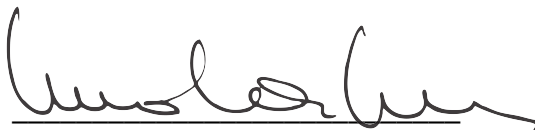
FOR THESE REASONS, THE SINGLE JUDGE

DECIDES that the oral order to the Registrar to prohibit “all communication from Dominic Ongwen to the outside world, except for communications with his lead counsel” continues to remain in force, with the further exception of communications with Thomas Obhof (assistant to counsel);

ORDERS the Registrar to reclassify as “public” document ICC-02/04-01/15-241-Conf-Exp;

ORDERS the Prosecutor to immediately file in the record of the case a confidential redacted version of document ICC-02/04-01/15-241-Conf-Exp-AnxA.

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

A handwritten signature in dark ink, appearing to read 'Cuno Tarfusser', written over a horizontal line.

Judge Cuno Tarfusser
Single Judge

Dated this 8 June 2015

At The Hague, The Netherlands