

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 9 October 2015

PRE-TRIAL CHAMBER II

Before: Judge Cuno Tarfusser, 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, B, C,
D, E and F, and Confidential Annex G**

**Prosecution's Submission Concerning Redactions to Documents in the Record of
the Case in Compliance with Order ICC-02/04-01/15-245**

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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Mr James Stewart
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Mr Krispus Ayena Odongo

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

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Introduction

1. The Office of the Prosecutor (“Prosecution”) provides herewith its submission with applied redactions pursuant to rule 81 of the Rules of Procedure and Evidence (“Rules”) to documents in the case record.

Procedural Background

2. On 16 July 2015, in compliance with the Single Judge’s “Order reclassifying documents in the record of the case” (“11 June 2015 Order”),¹ the Prosecution filed its further submission on the level of classification pursuant to regulation 23*bis* of the Regulations of the Court and redactions to documents in the case record pursuant to rule 81 of the Rules (“Submission of 16 July 2015”).²
3. The Prosecution addressed the seven documents identified in the operative part of the 11 June 2015 Order,³ as well as the documents mentioned in paragraphs 5 and 8 of the 11 June 2015 Order.⁴ Depending on the nature of the information contained in each of the filings, as specified in Annex A to the Submission of 16 July 2015,⁵ the Prosecution suggested that three of these documents should be made available to the public in unredacted form.⁶ While the Prosecution noted that the rest of the documents should remain redacted, it observed that the majority of these filings⁷ should be submitted with lesser redactions than those

¹ ICC-02/04-01/15-245.

² ICC-02/04-01/15-272.

³ ICC-02/04-01/15-14-US-Exp, ICC-02/04-01/15-14-US-Exp-AnxA, ICC-02/04-01/15-14-US-Exp-AnxB, ICC-02/04-01/15-18-US-Exp, ICC-02/04-01/15-27-US-Exp, ICC-02/04-01/15-55-US-Exp and ICC-02/04-01/15-58-US-Exp-AnxA.

⁴ ICC-02/04-01/15-9-Conf-Exp, ICC-02/04-01/15-16-Conf-Exp, ICC-02/04-01/15-49-Conf-Exp, ICC-02/04-01/15-3-US-Exp.

⁵ ICC-02/04-01/15-272-Conf-Exp-AnxA.

⁶ ICC-02/04-01/15-14-US-Exp, ICC-02/04-01/15-18-US-Exp and ICC-02/04-01/15-27-US-Exp.

⁷ ICC-02/04-01/15-14-US-Exp-AnxB, ICC-02/04-01/15-55-US-Exp, ICC-02/04-01/15-58-US-Exp, ICC-02/04-01/15-16-Conf-Exp, ICC-02/04-01/15-49-Conf-Exp.

initially proposed. The Prosecution submitted that it would provide lesser redacted versions of these documents to the Single Judge in due course.⁸

Submissions

4. For reasons set out in the confidential, *ex parte*, Prosecution only, Annex A to the Submission of 16 July 2015,⁹ the Prosecution has retained redactions in documents ICC-02/04-01/15-14-US-Exp-AnxB, ICC-02/04-01/15-55-US-Exp, ICC-02/04-01/15-58-US-Exp-AnxA, ICC-02/04-01/15-16-Conf-Exp, ICC-02/04-01/15-49-Conf-Exp concerning information within the scope of rule 81 of the Rules. At the same time, the Prosecution has lifted redactions concerning information that is already overtaken by history.¹⁰
5. In compliance with the 11 June 2015 Order, the Prosecution has now applied the redactions to document ICC-02/04-01/15-14-US-Exp-AnxA, which were previously proposed to the Single Judge for consideration in the Prosecution's submission of 10 June 2015.¹¹ For the same reasons, the Prosecution has applied redactions that it deems necessary to the documents referred to in paragraph 4 above.
6. The Prosecution has also revisited the confidential redacted version of document ICC-02/04-01/15-3-US-Exp, namely ICC-02/04-01/15-3-Conf-Red2. A new version of this document, containing fewer redactions than either, forms part of Annex G to the present submission.

⁸ See ICC-02/04-01/15-272-Conf-Exp-AnxA, p. 5, pp. 7-10.

⁹ ICC-02/04-01/15-272-Conf-Exp-AnxA.

¹⁰ *Ibid.*

¹¹ ICC-02/04-01/15-244, "Prosecution's Submission Concerning Redactions to ICC-02/04-01/15-14-US-Exp-AnxA".

Annex A

7. Annex A contains document ICC-02/04-01/15-14-US-Exp-AnxA with lesser applied redactions *vis-à-vis* the public.

Annex B

8. Annex B contains document ICC-02/04-01/15-14-US-Exp-AnxB with lesser applied redactions *vis-à-vis* the public.

Annex C

9. Annex C contains document ICC-02/04-01/15-55-US-Exp with lesser applied redactions *vis-à-vis* the public.

Annex D

10. Annex D contains document ICC-02/04-01/15-58-US-Exp-AnxA with lesser applied redactions *vis-à-vis* the public.

Annex E

11. Annex E contains document ICC-02/04-01/15-16-Conf-Exp with lesser applied redactions *vis-à-vis* the public.

Annex F

12. Annex F contains document ICC-02/04-01/15-49-Conf-Exp with lesser applied redactions *vis-à-vis* the Defence than the redactions previously applied.

Annex G

13. Annex G contains document ICC-02/04-01/15-3-Conf-Red2 with lesser applied redactions *vis-à-vis* the Defence than the redactions previously applied.

Confidentiality level of Annexes A, B, C, D, E and F

14. The Prosecution notes that original documents ICC-02/04-01/15-14-US-Exp-AnxA, ICC-02/04-01/15-14-US-Exp-AnxB, ICC-02/04-01/15-55-US-Exp, ICC-02/04-01/15-58-US-Exp-AnxA are reclassified as “confidential, *ex parte*, only available to the Prosecution” by virtue of the 11 June 2015 Order.¹² In view of this fact and in accordance with regulation 23*bis* of the Regulations of the Court, the Prosecution requests that Annexes A, B, C, D, E and F to this filing be received by the Single Judge as “confidential, *ex parte*, only available to the Prosecution”.

Confidentiality level of Annex G

15. Pursuant to regulation 23*bis* of the Regulations of the Court the Prosecution requests that Annex G to this filing be received by the Single Judge as “confidential” due to the level of confidentiality of the document contained therein.

¹² See the operative part of ICC-02/04-01/15-245.

Orders requested

16. The Prosecution requests the Single Judge to order that the documents contained in Annexes A, B, C, D and E be made available to the public in their redacted form.
17. The Prosecution requests the Single Judge to order that the documents contained in Annexes F and G be made available to the Defence in their redacted form.



Fatou Bensouda,
Prosecutor

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