

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 29 December 2015

PRE-TRIAL CHAMBER II

Before: Judge Cuno Tarfusser, Single Judge

SITUATION IN UGANDA

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

Confidential

Defence Response to the Prosecution's Request for Protective Measures

Source: Defence for Dominic Ongwen

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

The Office of the Prosecutor
Fatou Bensouda, Prosecutor
Benjamin Gumpert, QC

Counsel for the Defence
Krispus Ayena Odongo

Legal Representatives of the Victims
Paolina Massidda
Joseph Akwenyu Manoba
Francisco Cox

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

The Office of Public Counsel for the Victims
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The Office of Public Counsel for the Defence
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Amicus Curiae

REGISTRY

Registrar
Herman Von Hebel

Counsel Support Section

Victims and Witnesses Unit
Nigel Verrill

Detention Section

Victims Participation and Reparations Section **Other**

I. OBSERVATIONS

1. The Defence for Dominic Ongwen ('Defence') hereby responds to the "Prosecution's request for protective measures"¹ for the eight persons which testified pursuant to two Article 56 orders from His Honour, Judge Tarfusser. At this time, since these counts are not confirmed, the Defence has no objection to allowing protective measures for the purpose of the Confirmation of Charges Hearing only.
2. Should this case, and any of these counts, proceed past the Confirmation of Charges Hearing, the Defence will argue that continued protective measures such as this would violate Mr Ongwen's right to a fair and public trial.²
3. The Defence would like to remind the Prosecution that in situations like this, it continues to avail itself of *inter partes* communications as expressed via telephone and email on this topic on 3 December 2015.³

II. CONFIDENTIALITY LEVEL

4. Pursuant to Regulation 23*bis* of the Regulations of the Court. The Defence files this response as confidential because it responds to a document filed as such.

III. CONCLUSION

5. The Defence does not object to the proposed redactions for the purpose of the Confirmation of Charges Hearing.

¹ ICC-02/04-01/15-381-Conf.

² See Article 64(7) and 67(1) of the Rome Statute.

³ Email of 3 December 2015 at 12h31 to the Prosecution from the Defence about the public redacted version of the DCC. The email confirmed the telephone conversation between the Prosecution and the Defence earlier on that date.

Respectfully submitted,



.....
Hon. Krispus Ayena Odongo

On behalf of Dominic Ongwen

Dated this 29th day of December 2015

At Kampala, Uganda