

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 6 January 2016

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 Annex A

**Defence Submission of its List of Evidence and Request Pursuant to Regulation
35(2) of the Regulations of the Court**

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
Joseph Manoba
Francisco Cox

Legal Representatives of the Applicants

Unrepresented Applicants
(Participation/Reparation)

The Office of Public Counsel for the Victims
Paolina Massidda

The Office of Public Counsel for the Defence
Xavier-Jean Keïta

States' Representatives

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. INTRODUCTION

1. The Defence for Dominic Ongwen ('Defence') files its List of Evidence for the Confirmation of Charges Hearing currently scheduled to commence on 21 January 2015. The Defence also requests that the List of Evidence be accepted as pursuant to Regulation 35(2) of the Regulations of the Court ('RoC') as it is filed approximately three hours after close of business for court filings.

II. CLASSIFICATION

2. Pursuant to Regulation 23*bis* of the Regulations read together with Regulation 24 of the Regulations of the Registry, the Defence submits the Annex as confidential, as is the normal practice involving list of evidence.

III. PROCEDURAL HISTORY

3. The date for the Confirmation Hearing had originally been set for 24 August 2015¹ but was later postponed to 21 January 2016.² Accordingly, the deadline for the Defence's transmission of a list of the evidence it intends to rely on at the Confirmation Hearing was set for 6 January 2016.
4. On 6 January 2016, the Defence gave the Office of the Prosecutor its final Rule 78 disclosure package. Due to technical errors with the CD, the Defence re-issued the disclosure package around 19h00 CET.

¹ ICC-02/04-01/05-T-10-ENG ET, p. 14, lns. 7-8.

² ICC-02/04-01/15-197.

IV. SUBMISSIONS

5. The Defence submits its List of Evidence without prejudice to its pending request to postpone the Confirmation of Charges Hearing.
6. Attached as Confidential Annex A is the Defence's List of Evidence for the Confirmation of Charges Hearing.
7. Furthermore, pursuant to Regulation 35(2) of the RoC, the Defence request an extension of time for this filing due to extenuating circumstances. The Defence's case manager, Roy Ayena was stranded in Jomo Kenyatta International Airport last night after the change of flight costs which were to be \$180 USD changed to \$380 USD.³ He is on a flight back to The Hague tomorrow. Both Assistant to Counsels have malaria, one at the end stages and the other diagnosed today. The small difference does not prejudice the Prosecution in any way as it received disclosure today.

IV. RELIEF

8. The Defence hereby requests that the Single Judge grant the Defence's request pursuant to Regulation 35(2) of the RoC and accept its List of Evidence as being served on time.

³ The issues stems from the fact that no defence team members have been paid for the month of November 2015.

Respectfully submitted,



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Hon. Krispus Ayena Odongo
On behalf of Dominic Ongwen

Dated this 6th day of January 2016

At Kampala, Uganda