

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: **14 March 2016**

PRE-TRIAL CHAMBER II

Before: Judge Cuno Tarfusser, Single Judge

SITUATION IN UGANDA

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

Public

Submissions for Review of the Continued Detention of Mr Dominic Ongwen

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
Francisco Cox
Joseph Akwenu Manoba
Paolina Massidda

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

The Office of Public Counsel for the Victims

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

Detention Section
Patrick Craig

Victims Participation and Reparations Section **Other**

I. INTRODUCTION

1. Pursuant to Rule 118(2) of the Rules of Procedure and Evidence, His Honour, Judge Cuno Tarfusser, requested that any observations about the continued detention of Mr Dominic Ongwen be submitted by 14 March 2016. The Defence Team for Dominic Ongwen ('Defence') hereby submits the following observations on the continued detention of Mr Ongwen.
2. The Defence insists that the passage of time, compounded by the fact that Mr Ongwen has been *de facto* denied his fundamental right to see family members, requires that Mr Ongwen be released from the International Criminal Court Detention Centre ('ICC-DC') so that his rights to maintain family links is restored.

II. SUBMISSIONS

3. The International Criminal Court and the Assembly of States Parties has recognised that persons under detention at the ICC-DC have the fundamental right to have family visits.¹ Mr Ongwen's family lives in Northern Uganda. They are subsistence farmers. They cannot under any reasonable terms be expected to afford tickets to the Netherlands plus the attendant hotel, food and transportation costs.
4. Mr Ongwen has requested to be placed on the list maintained by the Registrar for assistance in bringing some family members to see him in The Hague. Mr Ongwen has been at the ICC-DC since 21 January 2015, and has not seen any family member, *de facto* violating his rights to maintain family links. The fact that the ICC-DC has proper facilities for Mr Ongwen to meet with his brothers, cousins, aunts or uncles is futile because his family has absolutely no way of

¹ ICC-RoR217-02/08-8, *see also* Resolution ICC-ASP/8/Res.4.

paying for it. The fact that a principle is enshrined in law (*de jure*) is meaningless if in practice it is impossible to implement (*de facto*).

5. Mr Ongwen has not seen his immediate family since late 1987. In January 2015, he was flown a continent away to the ICC-DC. Mr Ongwen's family cannot afford to send even one person to visit Dominic. By keeping him in The Hague, he is being deprived *de facto* of his right to family visits.
6. As a result of this, the Defence feels that Mr Ongwen should be released, even if temporarily, to visit his immediate family in Northern Uganda.

IV. RELIEF

7. The Defence respectfully requests that Mr Ongwen should be released so that his rights to see his family is restored.

Respectfully submitted,



.....
Hon. Krispus Ayena Odongo
On behalf of Dominic Ongwen

Dated this 14th day of March, 2016

At The Hague, Netherlands