



Original: English

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

Date: 14 March 2016

PRE-TRIAL CHAMBER II

Before: Judge Cuno Tarfusser, Presiding Judge
Judge Marc Perrin de Brichambaut
Judge Chang-ho Chung

SITUATION IN UGANDA

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

Public

**Prosecution Response to “Defence Submissions for Review of the Continued
Detention of Mr Dominic Ongwen”**

Source: The Office of the Prosecutor

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

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Introduction

1. The Defence request¹ that Mr Ongwen be released in order to visit his immediate family in Northern Uganda should be denied.
2. The Prosecution submits that the conditions warranting Mr Ongwen's continued detention under article 58(1) of the Rome Statute persist.
3. There are no changed circumstances in the Defence request that require modification of this Chamber's previous decision ordering his detention.² Rather, in light of the Chamber's pending decision on the confirmation of charges, circumstances are now such that there is even greater necessity for his continued detention.

Submissions

4. A Chamber carrying out a periodic review of a ruling on detention under article 60(3) of the Statute must satisfy itself that the conditions under article 58(1), as required by article 60(2), continue to be met.³
5. In conducting this review, the Chamber must revert to the ruling on detention to determine whether there has been a change in the circumstances underpinning this ruling, and whether there are any new circumstances that have a bearing on the conditions under article 58(1) of the Statute.⁴

¹ ICC-02/04-01/15-416.

² ICC-02/04-01/15-349-Conf.

³ ICC-01/05-01/08-1019 (OA 4), para 47.

⁴ ICC-01/05-01/08-1019 (OA 4), para 52.

6. Changed circumstances have been found to exist where there is a “change in some or all of the facts underlying a previous decision on detention, or a new fact satisfying a Chamber that a modification of its prior ruling is necessary.”⁵ Where no changed circumstances are found to exist, “the Chamber is not required to further review the ruling on release or detention.”⁶
7. The fact that Mr Ongwen’s family is not in a position to visit him in detention, while unfortunate, does not represent a change in circumstances, as such was true at the time of the first ruling on interim release.⁷ It cannot warrant interim release.
8. Furthermore, the pending article 61(7) decision on the confirmation of charges militates strongly in favour of continued detention to secure appearance at trial and to ensure that there are no obstructions to the Prosecution’s investigation and prosecution of the case at trial.

Conclusion

9. As there are no changes in circumstances, the Defence request should be dismissed.



Fatou Bensouda,
Prosecutor

Dated this 14th day of March 2016
At The Hague, The Netherlands

⁵ ICC-01/05-01/08-1019 (OA 4), para 51.

⁶ ICC-02/11-01/11-548-Red (OA 4), para. 40.

⁷ ICC-02/04-01/15-349-Conf.