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

Date: 25 May 2016

TRIAL CHAMBER IX

Before: Judge Bertram Schmitt, Presiding Judge
Judge Peter Kovacs
Judge Raul C. Pangalangan

SITUATION IN UGANDA

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

Public

**with Annex A - Confidential *EX PARTE* - only available to the Prosecution and
VWU**

**Public redacted version of "Prosecution's urgent request for authorisation of non-
standard redactions to a psycho-social assessment report (UGA-OTP-0236-0518)", 21
December 2015, ICC-02/04-01/15-374-Conf-Exp**

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

Ms Fatou Bensouda
Mr James Stewart
Mr Benjamin Gumpert

Counsel for Dominic Ongwen

Mr Krispus Ayena Odongo
Mr Charles Taku

Legal Representatives of Victims

Mr Joseph Akwenyu Manoba
Mr Francisco Cox
Ms Paolina Massidda

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda

**The Office of Public Counsel for the
Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Section

Detention Section

**Victims Participation and Reparations Other
Section**

1. The Prosecution requests authorisation to apply non-standard redactions to a psycho-social assessment report regarding Witness P-0198 bearing ERN UGA-OTP-0236-0518 ("Report", appended as Annex A) prior to disclosure. The Report details a psycho-social assessment of P-0198 carried out on [REDACTED] 2015. The Prosecution intends to disclose the Report pursuant to rule 77 as being material to the preparation of the Defence. The proposed redactions are two brief segments in the Report, where the psycho-social expert states that the Witness had, in the past, [REDACTED]. The precise text to be redacted is highlighted in yellow in Annex A.

2. The proposed redactions are justified in law. The Chamber "...has a general power to provide for the [...] privacy of victims and witnesses where necessary, pursuant to article 57 (3) (c) of the Statute".¹ Additionally, article 68(1) provides that the Court "shall take appropriate measures to protect the [...] psychological well-being, dignity and privacy of victims and witnesses."² In so doing, the Court "shall have regard to all relevant factors, including age, gender [...] and health, and the nature of the crime, in particular, [...] where the crime involves sexual or gender violence".³ The information to be redacted, i.e. the fact that witness P-0198 [REDACTED] at one point, is extremely personal and intimate in nature. Disclosure of the same would impact on her psychological well-being, dignity and privacy, especially since she is a [REDACTED]. More generally, a practice of disclosing of such information would also deter future witnesses from being as forthcoming in their statements.

3. While the redactions relate to information that is marginally case-relevant, the un-redacted portions of the report already provide a comprehensive description of P-0198's mental condition. The description of the assessment procedure, the

¹ ICC-01/04-01/07-776 OA7, para. 95.

² Article 68(1).

³ Article 68(1).

Witnesses' medical history, behaviour during the assessment and during an interview and the Witness's level of functioning remains entirely un-redacted. The vast majority of the observations of the psycho-social expert and the results of the assessment also remain un-redacted.

4. This submission and Annex A are classified as Confidential, *ex parte*, only available to the Prosecution and VWU since both documents make reference to the information for which redactions are sought. Disclosure of this information would render the proposed redactions ineffective.⁴ A confidential redacted version of this submission will be filed shortly.
5. In light of the foregoing, the Prosecution requests that the Chamber authorise the proposed redactions.



Fatou Bensouda,
Prosecutor

Dated this 25th day of May 2016
At The Hague, The Netherlands

⁴ Regulation 23bis of the Regulations of the Court.