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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

Public redacted version of “Request for permission to supplement the ‘Notice of intended charges against Dominic Ongwen’ filed on 18 September 2015”, 5 October 2015, ICC-02/04-01/15-311-Conf

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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Other

Introduction

1. On 19 May 2015, the Single Judge ordered the Prosecution to give notice to Dominic Ongwen of the “intended expanded factual basis of the allegations against him” by 21 September 2015 (“the Order”).¹ On 18 September 2015, the Office of the Prosecutor (“the Prosecution”) filed the Notice of intended charges against Dominic Ongwen (“the Notice”).²
2. The Prosecution seeks to supplement the Notice to include a concise statement of the account of Witness P-236, [REDACTED], and its respective legal characterisation. The Prosecution was unable to include this information in the Notice given that P-236 was not interviewed until [REDACTED] 2015.
3. If the request is granted, the supplemental information will not substantially change the nature and scope of the Notice. In her statement, P-236 provides an account of alleged direct victimisation by Dominic Ongwen through sexual and gender based crimes (“SGBC”) which are similar in nature to those of the other seven alleged direct victims of SGBC included in the Notice. Realistically this will not prejudice the Defence’s preparation for the hearing on the confirmation of charges scheduled for 21 January 2016.

Confidentiality

4. This application should be classified as confidential given it discusses similar issues classified as confidential in filings referred to. These issues relate mainly to the identity of P-236 and the information about her alleged direct victimisation by Mr Ongwen through SGBC.

¹ ICC-02/04-01/15-T-6-ENG.

² ICC-02/04-01/15-305-Conf.

Submission

5. On 19 May 2015, the Single Judge ordered the Prosecution to file the Notice of intended charges against Dominic Ongwen by 21 September 2015.³ The Single Judge noted that the purpose would be to give the Defence and Mr Ongwen time to prepare their defence.⁴
6. The Prosecution submitted that “by the end of September... it will be able to provide with sufficient specificity to enable the Defence to investigate, to take instruction from their client and to consider how they wish to conduct the hearing on 21 January, material which will enable them to do that.”⁵
7. After filing the Notice the Prosecution interviewed P-236 from [REDACTED] 2015. Her account is similar to that of the other seven alleged direct victims of SGBC included in the Notice.⁶
8. The following is a concise statement of facts as it would appear in a supplementary notice, based on P-236’s account:⁷

[REDACTED] (relevant period: between September 2002 to January 2015)

[REDACTED] (or [REDACTED]) was abducted in September 2002 from Ogule village in Wang’yaa in Pajule, Uganda by armed LRA rebels. She was 11 years old. Later that evening she was distributed to Dominic Ongwen and remained in his household until her return home. The day after her abduction, she was forced to see the stabbing to death of two men accused of escaping from the LRA. She was threatened that if she behaved like them she would be killed. She was caned several times and was in a lot of pain because of it. She was beaten by the LRA rebels to understand that she was part of the group and under them. Soldiers also beat her on Ongwen’s orders and his presence. [REDACTED]. Ongwen exercised powers attaching to the right of ownership over [REDACTED] by imposing on her a deprivation of liberty that included the performance of forced labour. The exercise of power

³ ICC-02/04-01/15-T-6-ENG, p. 18.

⁴ ICC-02/04-01/15-T-6-ENG, p. 17.

⁵ ICC-02/04-01/15-T-6-ENG, p. 16.

⁶ ICC-02/04-01/15-305-Conf, paras. 36-46.

⁷ P-236’s statement is made available to the Defence through ICC-02/04-01/15-310-Conf-AnxC, filed on 2 October 2015.

included conduct that constituted trafficking in persons, as he received [REDACTED] after she had been abducted by means of force or threat of force, with the purpose of forced labour and servitude. Whilst under his custody and control, [REDACTED], a child of 11 years old, was beaten, forced to witness mistreatment and killings of others, [REDACTED] and threatened by death if she attempted escape. She was subjected to severe physical and mental pain and suffering.

9. If the Prosecution's request is granted, this concise statement of facts should be regarded as being incorporated in the Notice. In addition, in line with the approach taken with regard to the legal characterisation of the facts, P-236's name should be regarded as added to the legal characterisation item 62 – Enslavement as a crime against humanity, pursuant to articles 7(1)(c) and 25(3)(a) of the Statute for the period of September 2002 to January 2015; item 56 – Torture as a crime against humanity, pursuant to articles 7(1)(f) and 25(3)(a) of the Rome Statute for the period of September 2002 to January 2015; item 57 – Torture as a war crime, pursuant to articles 8(2)(c)(i) and 25(3)(a) of the Rome Statute for the period of September 2002 to December 2005 and item 63 – Outrages upon personal dignity as a war crime, pursuant to articles 8(2)(c)(ii) and 25(3)(a) of the Rome Statute for the period of September 2002 to December 2005.

10. The Defence will suffer no prejudice if this request were to be granted. The confirmation of charges is scheduled for 21 January 2016. The Defence will have adequate time, over three and a half months, to consider the proposed supplement during its preparations. In addition, the nature of the account and of the legal characterisation of the facts is similar to those of the other seven alleged direct victims of SGBC. The requested inclusion presents no substantial change to the nature and scope of the intended charges of which the Defence has already been on notice since 18 September 2015. The work undertaken by the Defence since then would not have been materially

different had [REDACTED]'s name been included in the Notice in the first place.

Relief requested

11. The Prosecution requests the Single Judge to grant the supplementation of the Notice as described in paragraphs 8-9 of this filing.



Fatou Bensouda,
Prosecutor

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