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

Date: 6 June 2016

TRIAL CHAMBER IX

Before: Judge Bertram Schmitt, Single Judge

SITUATION IN UGANDA

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

Public

Decision on the Prosecution request for variation of the time limit to provide its provisional list of witnesses and summaries of their anticipated testimony

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

The Office of the Prosecutor

Fatou Bensouda
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Counsel for the Defence

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Legal Representatives of the Victims

Joseph Akwenyu Manoba and Francisco
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Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

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

States Representatives

Amicus Curiae

REGISTRY

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Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Judge Bertram Schmitt, acting as Single Judge on behalf of Trial Chamber IX ('Single Judge' and 'Chamber', respectively) of the International Criminal Court, having regard to Regulation 35 of the Regulations of the Court, issues the following 'Decision on the Prosecution request for variation of the time limit to provide its provisional list of witnesses and summaries of their anticipated testimony'.

1. On 30 May 2016, the Chamber, *inter alia*, set 1 July 2016 as the time limit for the Office of the Prosecutor ('Prosecution') to provide the Chamber, the Defence and the legal representatives of the participating victims with a provisional list of witnesses it intends to call to testify at trial, with summaries of their anticipated testimony and estimated length of their testimony.¹
2. On 1 June 2016, the Prosecution filed the 'Request for variation of time limit', seeking that this time limit be varied and that, rather than providing a provisional list of witnesses with summaries of their anticipated testimony on 1 July 2016, the Prosecution be permitted to: (i) serve a provisional list of its witnesses on Tuesday, 7 June 2016; (ii) disclose summaries of the anticipated testimony of its witnesses on a rolling weekly basis starting on Tuesday, 7 June 2016, with the totality of the summaries (as known by the Prosecution at that time) no later than Tuesday, 9 August 2016; and (iii) update the provisional list of witnesses to include the summaries of anticipated testimony following each weekly disclosure of summaries up to Tuesday, 9 August 2016 ('Request').² The Prosecution submits that a variation of time limit is warranted because it has not yet embarked in the task to prepare 'brief but considered' summaries of the 63 witnesses whom it currently intends to call to give live testimony at trial,³ and that the proposed time limit would not prejudice the Defence, the legal

¹ Decision Setting the Commencement Date of the Trial, ICC-02/04-01/15-449.

² ICC-02/04-01/15-452.

³ Request, ICC-02/04-01/15-452, para. 5.

representatives of the victims or the Chamber, but would instead be more efficient than the system currently envisaged.⁴

3. The Defence and the legal representatives of the victims have indicated, by way of email communication, that they do not object to the Request.⁵
4. The Single Judge recalls that the time limit of 1 July 2016 was set in order to 'facilitate the Chamber's understanding of the Prosecution's upcoming evidence preparation and the Defence's preparation'.⁶ The Single Judge observes that the participants, and notably the Defence, do not object that this time limit be varied as requested by the Prosecution. Further, as per the Request, the Prosecution would submit the provisional list of witnesses on 7 June 2016, and a substantial amount of summaries of the anticipated testimony of these witnesses would be provided before the date originally envisaged by the Chamber. Moreover, the Request concerns only the provisional list of witnesses which, as indicated by the Chamber,⁷ may be substantially amended by the Prosecution without leave of the Chamber. Lastly, the Single Judge is satisfied that the Chamber would in any case be able to exercise its trial management powers and obtain a sufficient understanding of the Prosecution's intended presentation of evidence at trial even if a number of summaries of anticipated witnesses' testimony are received after the originally envisaged time limit of 1 July 2016. In these circumstances, the Single Judge considers that the Request can be granted.

⁴ Request, ICC-02/04-01/15-452, paras 6-10.

⁵ Email to the Chamber from the Defence on 1 June 2016 at 16.25; from the common legal representative of victims on 2 June 2016 at 8.22; and from the legal representatives of victims on 2 June at 18.45.

⁶ Decision Setting the Commencement Date of the Trial, 30 May 2016, ICC-02/04-01/15-449, para. 3.

⁷ See Decision Setting the Commencement Date of the Trial, 30 May 2016, ICC-02/04-01/15-449, paras 3-4.

FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY

GRANTS the Request.

Done in both English and French, the English version being authoritative.

A handwritten signature in black ink, appearing to read 'BSchmitt', is written over a horizontal line.

**Judge Bertram Schmitt
Single Judge**

Dated 6 June 2016

At The Hague, The Netherlands