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TRIAL CHAMBER IX

Before: Judge Bertram Schmitt, Presiding Judge
Judge Péter Kovács
Judge Raul C. Pangalangan

SITUATION IN UGANDA

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

**Public
With
1183 confidential annexes *EX PARTE* only available to the Registry and the
Prosecutor
1183 confidential redacted annexes
and one confidential annex**

Third Report on Applications to Participate in the Proceedings

Source: Registry

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

The Office of the Prosecutor

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Mr. James Stewart
Mr. Benjamin Gumpert

Counsel for the Defence

Mr. Krispus Ayena Odongo

Legal Representatives of Victims

Mr. Joseph Akwenyu Manoba and
Mr. Francisco Cox

Legal Representatives of Applicants

Ms. Paolina Massidda

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
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**Victims Participation and Reparations
Section**

Ms. Isabelle Guibal

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I. Introduction

1. The Registry hereby submits to Trial Chamber IX (“Chamber”) its third report on victims’ applications to participate in the proceedings in the case *The Prosecutor v. Dominic Ongwen* (“Ongwen case”), together with annexes containing 1183 applications.

II. Procedural history

2. From 18 September to 7 December 2015, during the pre-trial stage of the proceedings in the *Ongwen* case, the Registry transmitted to Pre-Trial Chamber II and to the parties four separate reports on applications to participate in the proceedings,¹ following which 2,026 victims were admitted to participate at the confirmation of charges hearing.²
3. On 4 and 23 May 2016, the Single Judge of Trial Chamber IX (“Single Judge”) ordered that the victim application procedure for participation adopted at the pre-trial stage of the *Ongwen* case remain in place at the trial stage of the proceedings (“Single Judge’s Order”).³
4. On 30 May 2016, the Chamber set a deadline of 6 October 2016 for the transmission of all victims applications for participation in the proceedings.⁴

¹ Registry, “[...] Report on Applications to Participate in the Proceedings”, dated 18 September 2015, 26 October 2015, 18 November 2015 and 7 December 2015, respectively ICC-02/04-01/15-303 and ICC-02/04-01/15-304 and annexes; ICC-02/04-01/15-327 and annexes; ICC-02/04-01/15-344 and annexes; and ICC-02/04-01/15-365 and annexes.

² Pre-Trial Chamber II, “Decision on contested victims’ applications for participation, legal representation of victims and their procedural rights”, dated 27 November 2015, ICC-02/04-01/15-350 and Pre-Trial Chamber II, “Second decision on contested victims’ applications for participation and legal representation of victims”, dated 24 December 2015, ICC-02/04-01/15-384.

³ Trial Chamber IX, “Order Scheduling First Status Conference and Other Matters”, dated 4 May 2016, ICC-02/04-01/15-432, para. 4, and Oral Order issued during the status conference of 23 May 2016, ICC-02/04-01/15-T-25-ENG (ET WT), p. 29, lines 23-24.

⁴ Trial Chamber IX, “Decision Setting the Commencement Date of the Trial”, dated 30 May 2016, ICC-02/04-01/15-449, p.7.

5. Between July and September 2016, the Registry has collected 2,101 applications for participation⁵ and additional information in relation to 6 applications collected in 2015 which were not transmitted during the pre-trial stage of proceedings as they were assessed by the Registry as incomplete.
6. On 2 and 26 September 2016, the Registry has transmitted to the Trial Chamber and the parties a first batch of 300 applications and a second batch of 610 applications respectively, assessed by the Registry to be complete and linked to the *Ongwen* case, together with two reports thereon ("First report" and "Second report").⁶
7. The Registry has prepared for transmission to the Trial Chamber and the parties the remaining 1183 applications, out of which 1176 were assessed by the Registry as complete and linked to the *Ongwen* case and 7 were assessed as unclear pending additional information ("Applications"). 13 applications filed in the present transmission fall within the group "Attack on the Abok IDP camp", 434 applications fall within the group "Attack on the Odek⁷ IDP camp", 671 applications fall within the group "Attack on the Pajule-Lapul IDP camp", 40 applications fall within the group "Attack on the Lukodi IDP camp", 13 applications fall within the group "Conscription and use of child soldiers" and 5 applications fall within the group "Sexual and gender based crimes".⁸ The 7 applications assessed as unclear were added to the group "Unclear".

⁵ This figure includes 17 duplicate applications received, out of which 13 forms are related to 2015 applications that have been already granted victim status at the pre-trial stage of proceedings. The remaining 4 application forms are part of the present transmission.

⁶ Registry, "First Report on Applications to Participate in the Proceedings", dated 2 September 2016, notified on 5 September 2016, ICC-02/04-01/15-530 and "Second Report on Applications to Participate in the Proceedings", dated 26 September 2016, notified on 27 September 2016, ICC-02/04-01/15-544.

⁷ As from 1 July 2016 Odek is no longer part of Gulu district, but a sub-county in the newly created Omoro district.

⁸ Pursuant to the practice followed at the pre-trial stage of the proceedings (see Pre-Trial Chamber II, "Decision Establishing Principles on the Victims' Application Process", dated 4 March 2015, ICC-02/04-01/15-205, para. 29), all applications are grouped according to the main incidents laid out in Pre-Trial Chamber II's "Decision on the confirmation of charges against Dominic Ongwen", dated 23

8. The Registry hereby transmits its third report on applications to participate in the proceedings, along with confidential Annexes 1 to 1183 *EX PARTE* only available to the Registry and the Prosecutor, which contain unredacted versions of the Applications; confidential Annexes 1 to 1183, which contain redacted versions of the Applications; and confidential Annex 1184 which contains the Registry's assessment of the Applications against the requirement of rule 85 of the Rules of Procedure and Evidence ("Rules").

III. Classification

9. Pursuant to regulation 23*bis*(1) of the Regulations of the Court ("RoC"), the annexes to this document, which include the Registry's assessment of the Applications against the requirements of rule 85 of the Rules, as well as both redacted and unredacted versions of the Applications, are respectively classified as "Confidential" and "Confidential *EX PARTE*, only available to the Registry and the Prosecutor" since they contain sensitive information which may lead to the identification of the applicants.⁹

March 2016, ICC-02/04-01/15-422-Red ("Decision Confirming the Charges"). These include the attacks on, respectively, Pajule IDP camp, Odek IDP camp, Lukodi IDP camp, Abok IDP camp. There are also two groups corresponding to categories of alleged thematic crimes as separately outlined in the Decision: sexual and gender based crimes, and conscription and use of child soldiers. Applications that may fall within two groups because they refer to both crimes committed inside one of the IDP camps as well as thematic crime(s) have been grouped in the group pertaining to the relevant IDP camp. Out of the 1158 applications grouped in the IDP camps transmitted in the present report, 48 applicants also allege having suffered harm as a result of sexual and gender based crimes, 19 applicants also refer to the crimes of conscription and use of child soldiers and 2 applicants claim to have also suffered harm both as a result of sexual and gender based crimes and the crimes of conscription and use of child soldiers. Applications that may fall within both groups corresponding to categories of alleged thematic crimes have been added into the "Conscription and use of child soldiers" group considering the particularities of this group of victims.

⁹ Trial Chamber IX, "Decision on Disclosure of Victims' Identities", dated 17 June 2016, ICC-02/04-01/15-471, para. 12; Pre-Trial Chamber II, "Decision concerning the procedure for admission of victims to participate in the proceedings in the present case", dated 3 September 2015, ICC-02/04-01/15-299, para. 6.

IV. Applicable Law

10. The Registry submits the present report in accordance with article 68(1) and (3) of the Rome Statute ("Statute"), rules 16, 85 and 89(1) of the Rules, regulation 86 of the RoC and regulations 105 to 109 and 123(1) of the Regulations of the Registry ("RoR"), and in accordance with the Single Judge's Order.

V. Submissions

A. Further activities carried out in the field to enable victims to apply for participation in the proceedings

11. In addition to the activities presented in its First and Second reports,¹⁰ the Registry conducted between 26 and 28 September one mission in Northern Uganda in order to collect additional information on a number of applications for participation in the proceedings.

12. The Registry takes the opportunity to inform the Chamber about security related concerns reported by community leaders as well as some of the victim applicants to the Registry staff during the application completion process in Pajule-Lapul. The Registry staff members were informed that alleged supporters of Dominic Ongwen approached potential victim applicants in order to intimidate and discourage them from participating in the proceedings before the Court, which resulted in a small number of victims coming forward to apply for participation in two of the parishes visited by the Registry staff during the application process. However, the Registry notes that despite these alleged threats, the overall majority of the Pajule-Lapul

¹⁰ Registry, "First Report on Applications to Participate in the Proceedings", dated 2 September 2016, notified on 5 September 2016, ICC-02/04-01/15-530, paras. 9-15 and "Second Report on Applications to Participate in the Proceedings", dated 26 September 2016, notified on 27 September 2016, ICC-02/04-01/15-544, paras. 11-12.

victim community expressed high interest in applying for participation in the proceedings.¹¹

13. Similarly, the Registry was informed about a security incident in relation to one community leader in Lukodi who reported that he was approached at his house by a member of the Defence team of Mr. Ongwen who requested him to facilitate meetings with victims. The incident caused panic in the community and the victims met by the Registry staff during their visit to Lukodi raised questions about the protective measures available for victims throughout the application process.

B. Explanation of the assessment criteria applied by the Registry

14. The Registry notes that 7 of the 1183 applications transmitted have been assessed as unclear either in light of the missing additional information that could not be collected given the time limitations of the current process¹² or considering the contradictory information provided in the duplicate application forms that could not be clarified by the Registry staff before the 6 October deadline.¹³
15. For an explanation of the other assessment criteria applied, the Registry refers to its previous explanation included in its First report on applications to participate in the proceedings.¹⁴

¹¹ As reported in its Second report, community leaders from Pajule-Lapul presented the Registry with a list containing the names of 4,462 potential applicants who wanted to fill in application forms, but were not able to do so at this stage of the proceedings given the deadline set up by the Chamber and the limited resources of the Registry. See "Second Report on Applications to Participate in the Proceedings", dated 26 September 2016, notified on 27 September 2016, ICC-02/04-01/15-544, para. 12.

¹² a/00118/16, a/00666/16, a/00681/16, a/00799/16 and a/01265/16.

¹³ a/06233/15 and a/06770/15.

¹⁴ Registry, "First Report on Applications to Participate in the Proceedings", dated 2 September 2016, notified on 5 September 2016, ICC-02/04-01/15-530, paras. 16-26.

C. Legal Representation

16. The Registry notes that 317 of the applicants whose Applications are transmitted with the current report nominated Mr. Joseph Manoba and/or Mr. Francisco Cox (“External Counsel”) and 4 applicants nominated the Office of the Public Counsel for Victims (“OPCV”) as legal representatives.¹⁵ The remaining 862 applicants have not appointed any counsel in their application form for participation in the proceedings.¹⁶



 Marc Dubuisson, Director, Division of Judicial Services
per delegation of Herman von Hebel, Registrar

Dated this 6 October 2016

At The Hague, The Netherlands

¹⁵ Pursuant to regulation 123(1) of the RoR, the Registry will, in due time, send to the External Counsel and the OPCV letters acknowledging receipt of the applications in which they have been designated legal representative by the victim applicants.

¹⁶ The Registry recalls the Single Judge’s decision to appoint counsel from the Office of Public Counsel for Victims as common legal representative for victims participating in the proceedings who are currently unrepresented - see Pre-Trial Chamber II’s “Decision on contested victims’ applications for participation, legal representation of victims and their procedural rights”, dated 27 November 2015, ICC-02/04-01/15-350, para. 19.