



Original: English

No.: ICC-02/04-01/15
Date: 7 February 2017

TRIAL CHAMBER IX

Before: Judge Bertram Schmitt, Single Judge

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

**Public
(with public annex)**

Decision on Publicity of Case Record

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

The Office of the Prosecutor

Fatou Bensouda
James Stewart
Benjamin Gumpert

Counsel for the Defence

Krispus Ayena Odongo

Legal Representatives of the Victims

Joseph Akwenyu Manoba
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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

Registrar

Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Philipp Ambach

Other

Judge Bertram Schmitt, acting as Single Judge on behalf of Trial Chamber IX ('Single Judge' and 'Chamber', respectively) of the International Criminal Court ('Court') in the case of *The Prosecutor v. Dominic Ongwen* (Ongwen case), having regard to Articles 64(7) and 67(1) of the Rome Statute ('Statute') and Regulation 23 *bis* of the Regulations of the Court, issues the following 'Decision on Publicity of Case Record'.

1. On 2 May 2016, the Presidency referred the Ongwen case to the Chamber.¹ Since then, the Chamber has issued a number of decisions by way of email.
2. The Single Judge is mindful of the principle of publicity as set forth in Articles 64(7) and 67(1) of the Statute. Accordingly, the Chamber always endeavours to issue public decisions or, when necessary and possible, redacted versions of its confidential decisions. The Single Judge emphasises that the parties and participants shall endeavour to do so as well and are instructed to file public redacted versions of their confidential filings as soon as practicable.
3. The Single Judge also notes that certain decisions have been issued by way of email to expedite decisions on minor procedural matters or react to exigent circumstances. In order to ensure that the principle of fairness is respected despite the less formal nature of email decisions, these decisions are typically furnished to all parties and participants and subsequently placed on the record by way of reference in formally issued Chamber decisions. In order to further advance the principle of publicity, the Single Judge directs the Registry to file in the record all the email decisions issued so far, as listed in the Annex to the present decision. Redactions shall be applied in accordance with footnote 1 of the Annex.
4. To ensure that the case record is as public as possible at all times going forward the Registry shall file a monthly report containing all decisions issued by

¹ Presidency, Decision constituting Trial Chamber VIII and IX and referring to them the cases of *The Prosecutor v. Ahmad Al Faqi Al Mahdi* and *Dominic Ongwen*, ICC-02/04-01/15-430.

way of email ('Monthly Report'). Parties and participants shall endeavour to frame their requests made by email in a way that make their publicity possible. When specific redactions are required to certain portions of the emails, the parties and participants shall indicate them to the Registry sufficiently in advance of the filing of the Monthly Reports. In exceptional cases, when emails cannot be made public at all, the party or participant sending the email shall indicate this in the email.

5. The Single Judge clarifies that emails related to the submission of evidence should not be part of the Monthly Reports and shall continue to be made public in accordance with the procedure set out in the Initial Directions on the Conduct of the Proceedings.²

FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY

DIRECTS the Registry to file a report appending all decisions issued by way of email, and identified in Annex A, in the record of the case as soon as practicable; and

DIRECTS the Registry to file Monthly Reports, in accordance with paragraphs four and five above.

² 13 July 2016, ICC-02/04-01/15-497, para. 28.

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

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

Judge Bertram Schmitt
Single Judge

Dated 7 February 2017

At The Hague, The Netherlands