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N°: ICC-02/04-01/15

Date: 22 March 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 Annexes 1 to 43

Registry's Report implementing the "Decision on Publicity of Case Record", ICC-02/04-01/15-700

Source: Registry

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

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Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

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Section**

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Other

I. Introduction

1. The Registry submits the present report and its forty-three annexes consisting of email decisions (“Report”) pursuant to the “Decision on Publicity of Case Record” (“Decision”),¹ issued on 7 February 2017 by Trial Chamber IX (“Chamber”).

II. Procedural history

2. On 2 May 2016, the Presidency referred *The Prosecutor v. Dominic Ongwen* case (“Case”) to the Chamber.² Since then, the Chamber issued a number of decisions by way of email.³
3. On 7 February 2017, the Single Judge issued the Decision, by which it directed the Registry to file in the record all email decisions issued by the Chamber, as listed in Annex A to the Decision.⁴ The Chamber provided criteria for the application of redactions to the email decisions.⁵
4. On 16 February 2017, the Chamber provided the email decisions listed in Annex A.⁶

III. Applicable law

5. For the purpose of the present submission, the Registry considered articles 64(7), 64(10) and 67(1) of the Rome Statute and rules 15 and 137(1) and (2) of the Rules of Procedure and Evidence.

¹ Trial Chamber IX, Decision on Publicity of Case Record, ICC-02/04-01/15-700, 7 February 2017.

² 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.

³ ICC-02/04-01/15-700, para. 1.

⁴ ICC-02/04-01/15-700, para. 3.

⁵ ICC-02/04-01/15-700, para. 3.

⁶ Email from the Chamber’s Associate Legal Officer to the Court Management Section (“CMS”) on 16 February 2017 at 15:49.

IV. Submissions

6. Following its Decision, the Chamber provided the Registry with guidance as to the application of redactions, where applicable:

“The name of the staff member sending the email on behalf of the Chamber shall be redacted from the body of the email. Further, any private email address shall be redacted. When a decision concludes a chain of emails, these emails shall also be filed in the record of the case. Should the participants wish that specific redactions be applied thereto it shall indicate them to the Chamber and the Registry in a timely manner”.⁷

7. The Chamber also identified the need to redact the name of the Defence’s expert that was mentioned in five of the email decisions.⁸
8. In order to enable the participants to suggest specific additional redactions, the Registry liaised with the Defence, the Office of the Prosecutor (“Prosecution”), the Office of Public Counsel for victims (“OPCV”) and the Legal Representatives of Victims (“LRV”) by email, separately.⁹ Redaction proposals were received¹⁰ and considered.
9. The Chamber then provided additional guidelines and further redactions were implemented on:
- the “from”, “to” and “cc” lines of the email headings, except for the reference to the email address “Trial Chamber IX communications”; and
 - the names of Registry staff members and team members of the parties and participants, except for the Counsel and the Senior Trial Lawyer.

⁷ ICC-02/04-01/15-700-AnxA, 7 February 2017, footnote 1.

⁸ ICC-02/04-01/15-700-AnxA, footnotes 2 to 6. The Chamber also indicated that, should the Defence wish that any additional information be redacted, it shall indicate it to the Registry in a timely manner.

⁹ Emails from the Registry Court Officer to the Defence, the Prosecution, the LRV and to the OPCV on 8th March 2017.

¹⁰ CMS received on 8 March 2017 the relevant email responses from the Prosecution at 12:05 and 12:16; the Defence at 17:03, 17:06 and 17:13; and the LRV at 17:25. The OPCV sent its email response on 9 March 2017 at 10:55.

10. Accordingly, the Registry applied redactions to emails set forth in the following forty-three annexes:

- **Annex 1:** email sent on 14/05/2016, "Decision setting deadline for response to ICC-02/0401/15-434" at 15:52;
- **Annex 2:** email sent on 17/05/2016, "Decision shortening deadline for response to ICC-02/04-01/15-435" at 10:17;
- **Annex 3:** email sent on 23/05/2016, "Decision granting Defence's request for extension of page for submissions on continued detention" at 13:18;
- **Annex 4:** email sent on 23/05/2016, "Decision setting deadline for submissions on protocols" at 18:17;
- **Annex 5:** email sent on 25/05/2016, "Decision instructing the Registry to reclassify ICC-02/04-01/15-321-Conf as 'Public'" at 10:35;
- **Annex 6:** email sent on 26/05/2016, "Decision instructing the Registry to reclassify ICC-02/04-01/15-333-Conf and ICC-02/04-01/15-381-Conf as 'Public'" at 12:05;
- **Annex 7:** email sent on 27/05/2016, "Decision granting extension of time to comply with decision ICC-02/04-01/15-420" at 09:17;
- **Annex 8:** email sent on 31/05/2016, "Decision instructing the Registry to reclassify ICC-02/04-01/15-288-Conf-Anx2 as 'Public'" at 08:39;
- **Annex 9:** email sent on 31/05/2016, "Decision rejecting the Defence's request for reconsideration of decision ICC-02/04-01/15-450-Red" at 15:06;
- **Annex 10:** email sent on 01/06/2016, "Decision setting deadline for response to ICC-02/04-01/15-452" at 17:32;
- **Annex 11:** email sent on 15/06/2016, "Decision reiterating conditions for visits set forth in decision ICC-02/04-01/15-450-Conf-Exp" at 12:32;
- **Annex 12:** email sent on 20/06/2016, "Decision instructing the Registry to reclassify ICC-02/04-01/15-465-Conf-AnxA-Corr and ICC-02/04-01/15-465-Conf-AnxB as 'Public'";
- **Annex 13:** email sent on 24/06/2016, "Decision clarifying that the 5 days' time limit for filing of response does not apply anymore" at 13:14;

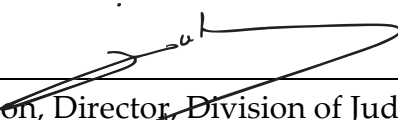
- **Annex 14:** email sent on 27/06/2016, "Decision shortening deadline for response to ICC02/04-01/15-482-Conf" at 10:35;
- **Annex 15:** email sent on 08/07/2016, "Decision shortening deadline for response to ICC02/04-01/15-487" at 10:22;
- **Annex 16:** email sent on 22/08/2016, "Decision ordering the reclassification of ICC-02/0401/15-509-Conf-Exp-Corr as 'Confidential'" at 10:34;
- **Annex 17:** email sent on 24/08/2016, "Decision ordering the Registry to reclassify ICC-02/04-01/15-439-Conf-Exp and ICC-02/04-01/15-513-Conf-Exp as 'Confidential'" at 11:20;
- **Annex 18:** email sent on 01/09/2016, "Decision granting extension of page limit for filing of the Prosecution's list of evidence, final list of witnesses and final summaries of anticipated testimony" at 12:24;
- **Annex 19:** email sent on 05/09/2016, "Decision ordering the Registry to reclassify ICC-02/04-01/15-505-Conf as "Public"" at 09:53;
- **Annex 20:** email sent on 07/09/2016, "Decision directing Prosecution to file an updated list of witnesses, complying with decision ICC-02/04-01/15-497" at 12:43;
- **Annex 21:** email sent on 08/09/2016, "Decision granting Prosecution's request to file an updated list of witnesses containing additional information" at 09:49;
- **Annex 22:** email sent on 14/09/2016, "Decision reiterating conditions for visits set forth indecision ICC-02/04-01/15-450-Conf-Exp" at 14:25;
- **Annex 23:** email sent on 21/09/2016, "Decision setting deadline for response to ICC-02/04-01/15-538-Conf" at 15:13;
- **Annex 24:** email sent on 10/10/2016, "Decision directing the Registry to reclassify ICC-02/04-01/15-538-Conf-AnxA as 'Public'" at 16:43;
- **Annex 25:** email sent on 10/10/2016, "Decision setting the commencement of the presentation of evidence on 16 January 2017" at 16:53;
- **Annex 26:** email sent on 17/10/2016, "Decision extending deadline for response to ICC-02/04-01/15-567" at 15:15;
- **Annex 27:** email sent on 24/10/2016, "Decision granting Prosecution's request for extension of pages for upcoming 'Prosecution request to submit intercept evidence'" at 10:12;

- **Annex 28:** email sent on 27/10/2016, "Decision setting deadline for responses to ICC-02/04-01/15-578-Conf" at 11:05;
- **Annex 29:** email sent on 31/10/2016, "Decision setting deadline for response to ICC-02/0401/15-579-Conf" at 10:49;
- **Annex 30:** email sent on 04/11/2016, "Decision setting deadline for response to ICC-02/0401/15-585" at 16:28;
- **Annex 31:** email sent on 17/11/2016, "Decision reiterating conditions for visits set forth in decision ICC-02/04-01/15-450-Conf-Exp" at 12:58;
- **Annex 32:** email sent on 17/11/2016, "Decision instructing the Registry to reclassify ICC-02/04-01/15-589-Conf as 'Public'" at 13:11;
- **Annex 33:** email sent on 23/11/2016, "Decision setting the deadline for response to ICC-02/04-01/15-604" at 17:43;
- **Annex 34:** email sent on 02/12/2016, "Decision directing OPCV and LRVs to clarify the status of legal representation a/05499/15, a/05713/15, a/06250/15 and a/06910/15 by 9 December 2016" at 12:28;
- **Annex 35:** email sent on 05/12/2016, "Decision directing the Registry to reclassify the victim application forms of dual status individuals as confidential" at 11:33;
- **Annex 36:** email sent on 08/12/2016, "Decision ordering the CLR and the LRs to review the applications of dual status individuals by Friday, 9 December 2016" at 16:24;
- **Annex 37:** email sent on 09/12/2016, "Decision reiterating conditions for visits set forth in decision ICC-02/04-01/15-450-Conf-Exp" at 13:59;
- **Annex 38:** email sent on 04/01/2017, "Decision ordering the Registry to reclassify ICC-02/04-01/15-593-Conf as public" at 14:35;
- **Annex 39:** email sent on 17/01/2017, "Directions on manner of referencing documents in court during hearings" at 09:25;
- **Annex 40:** email sent on 17/01/2017, "Decision granting an extension of time for response to Prosecution's request ICC-02/04-01/15-654" at 18:28;

- **Annex 41:** email sent on 23/01/2017, "Decision directing the Registry to file confidential redacted version of victims' applications of dual status individuals" at 18:51;
- **Annex 42:** email sent on 26/01/2017, "Direction on anticipated testimony identified as requiring private or closed session" 12:11; and
- **Annex 43:** email sent on 31/01/2017, "Direction on anticipated need for rule 74 assurances to appear on the list of witnesses" at 09:07.

11. In implementing the Decision, it became clear that the email redaction process would be facilitated if, to the extent possible, names are not mentioned in the emails including those of staff members and members of the different teams.

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



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

Dated this 22 March 2017

At The Hague, The Netherlands