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N°: ICC-02/04-01/15
Date: 27 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 5**

**Registry's Monthly 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:

The Office of the Prosecutor

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James Stewart
Benjamin Gumpert

Counsel for Dominic Ongwen

Krispus Ayena Odongo
Charles Achaleke Taku

Legal Representatives of the Victims

Joseph Akwenu Manoba
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Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
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States' Representatives

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Nigel Verrill

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Paddy Craig

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Section**

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Other

I. Introduction

1. The Registry submits the present report and its five annexes 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 7 February 2017, the Single Judge issued the Decision, by which it directed the Registry to file in the record of the case the decisions communicated through email “email decisions” listed in Annex A of the Decision.² Additionally, the Single Judge provided criteria for the application of redactions to the email decisions.³
3. The Registry has also been directed to file similar reports on a monthly basis “Monthly Reports” containing all decisions issued by way of email.⁴ The Chamber directed the parties and participants to:
 - 1) frame their requests made by email in a way that make their publicity possible;
 - 2) indicate the need for specific redactions to certain portions of the emails to the Registry sufficiently in advance of the filing of the Monthly Reports; and
 - 3) indicate in the email when emails cannot be made public at all.⁵
4. The Single Judge clarified in the Decision that emails related to the submission of evidence should not be part of the Monthly Reports.⁶

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

² *Ibid.*, para. 3.

³ *Id.*

⁴ *Ibid.*, para. 4.

⁵ *Id.*

⁶ *Ibid.*, para. 5.

5. On 6 March 2017, the Chamber provided the email decisions relevant to the time period covered by the present report and clarified that the redaction guidelines set out in footnote 1 of Annex A to the Decision should apply for purposes of the Monthly Reports.⁷
6. On 21 March 2017, the Registry filed its report on the implementation of the “Decision on Publicity of Case Record” (“Registry Report”),⁸ which included the additional guidelines that were provided by the Chamber and the procedure that was followed to enable the participants to suggest specific additional redactions.⁹

III. Applicable law

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

IV. Submissions

8. In the Decision, the Single Judge 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”.¹⁰

⁷ Email from the Chamber’s Associate Legal Officer to the Court Officer, sent on 6 March 2017, at 12:00.

⁸ Trial Chamber IX, Registry’s Report implementing the “Decision on Publicity of Case Record”, ICC-02/04-01/15-700, 22 March 2017, ICC-02/04-01/15-780.

⁹ *Ibid.*, paras 8 and 9.

¹⁰ Trial Chamber IX, Annex A to the Decision on Publicity of Case Record, ICC-02/04-01/15-700-AnxA, 7 February 2017, footnote 1.

9. The Single Judge also identified the need to redact the name of the Defence's expert that was mentioned in certain email decisions.¹¹

10. In addition, as mentioned in the Registry Report, the Chamber directed that redactions be 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.¹²

11. In order to enable the parties and the participants to suggest specific additional redactions, the Registry followed the procedure that was adopted for the purposes of the Registry Report.¹³ Hence, 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.¹⁴ Redaction proposals were received¹⁵ and considered.

12. Accordingly, the Registry applied redactions to emails set forth in the following five annexes:

- **Annex 1:** email sent on 7/02/2017, "Shortening of response time for filing ICC-02/04-01/15-699" at 17:47;
- **Annex 2:** email sent on 14/02/2017, "Heavier redactions to Transcripts related" at 17:43;
- **Annex 3:** email sent on 15/02/2017, "Request to visit to Mr Ongwen by Defence Expert" at 11:27;

¹¹ *Ibid.*, footnotes 2 to 6. It was also indicated that, should the Defence wish that any additional information be redacted, it shall indicate it to the Registry in a timely manner.

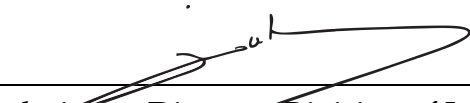
¹² ICC-02/04-01/15-780, para. 9.

¹³ *Ibid.*, 8.

¹⁴ Emails from the Registry Court Officer to the Defence, the Prosecution, the LRV and to the OPCV on 8th March 2017.

¹⁵ 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.

- **Annex 4:** email sent on 22/02/2017, “RE: Request for an Addition Visit for Defence Expert” at 15:01; and
- **Annex 5:** email sent on 23/02/2017, “RE: ICC-02/04-01/15, use of rule 68(3) witnesses to maintain efficiency of the proceedings” at 9:47.



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

Dated this 27 March 2017

At The Hague, The Netherlands