

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

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

Date: **30 March 2017**

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 confidential Annex A

**Prosecution Reply to Defence Response to the Prosecution Request
for Non-Standard Redactions of Item UGA-OTP-0159-0119**

Source: Office of the Prosecutor

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

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Amicus Curiae

REGISTRY

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Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations Others
Section**

1. The Prosecution sought leave by email this morning, 30 March 2017, to file this reply. The Trial Chamber granted leave this same day, requiring that the reply be filed by 16:00h today.
2. The very limited redactions to item UGA-OTP-0159-0119 requested by the Prosecution in ICC-02/04-01/15-792 are justified under articles 54(3)(f), 64(6)(c) and 68 of the Rome Statute and rules 81 and 82 of the Rules of Procedure and Evidence. As shown in confidential Annex A to this filing, these minimal redactions were requested by the United Nations on the basis of that organisation's confidentiality obligations *vis-à-vis* third parties. This limited request by the United Nations is eminently reasonable, protects that organisation's institutional interests and relationships, and results in no prejudice to the Defence.
3. The Prosecution notes in this regard that it has not placed item UGA-OTP-0159-0119 on its list of evidence and has no intention of relying on the item in this case. It has been disclosed solely on the basis of the Defence Request (ICC-02/04-01/15-759).
4. Unfortunately, while objecting to the proposed redactions, the Defence engages in unfounded and inaccurate speculation. In particular, the Defence suggests that item UGA-OTP-0159-0119 was previously withheld by the Prosecution on the basis of article 54(3)(e) of the Statute, and that permission to disclose the item was obtained only after the Prosecution received the Defence Request. Both suggestions are inaccurate. As shown in Annex A, the United Nations consented to the disclosure of item UGA-OTP-0159-0119 on 13 January 2016, subject to the limited redactions requested by the Prosecution in ICC-02/04-01/15-792. This item, like the other 14 items disclosed this week in response to the Defence Request, was not disclosed earlier because the Prosecution did not consider it potentially

exculpatory, material to the preparation of the Defence, or otherwise subject to disclosure under the Statute and Rules.

5. For the reasons set forth above and in ICC-02/04-01/15-792, the Trial Chamber should grant the Prosecution's request for leave to make the very limited redactions requested by the United Nations and specified in paragraph 5 and Annex A of ICC-02/04-01/15-792.



Fatou Bensouda, Prosecutor

Dated this 30th day of March 2017
At The Hague, The Netherlands