

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **28 July 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 Annexes 1-17**

**Prosecution's first submission of proposed public redacted versions of testimonies
introduced under rule 68(2)(b) of the Rules of Procedure and Evidence**

Source: The Office of the Prosecutor

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

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Introduction

1. Pursuant to the Chamber's order¹ and articles 54, 64(2), 64(7), 67(1), 68, and 72 of the Statute, the Prosecution files proposed public redacted versions of prior recorded testimonies of 17 witnesses introduced under rule 68(2)(b) of the Rules of Procedure and Evidence.
2. The proposed public redacted testimonies are attached as annexes 1-17.

Background

3. On 14 June, 21 September and 28 October 2016, the Prosecution requested the Chamber to introduce into evidence prior recorded testimonies of trial witnesses under rule 68(2)(b) of the Rules.²
4. On 18 and 22 November 2016, the Chamber granted the Prosecution's request in relation to 39 witnesses subject to the receipt of their declarations under rule 68(2)(b) of the Rules.³ The Chamber further ordered the Prosecution to file proposed public redacted versions of their testimonies within 21 days of the filing of witness declarations in the case record.⁴
5. On 7 July 2017, the Registry filed the declarations of the first 17 witnesses.⁵

Submissions

6. The 17 witnesses, whose declarations were filed under rule 68(2)(b) of the Rules, are government officials. Witnesses P-0017, P-0036, and P-0084 were involved in the domestic investigation of alleged LRA crimes. Witnesses P-0027, P-0029, P-0032, P-0126, P-0291, P-0301, P-0303, P-0337, P-0370, P-0384, P-0385, P-0386, P-0400, and P-0404 were associated with the LRA radio interception activities.

¹ ICC-02/04-01/15-596-Conf, p. 111.

² ICC-02/04-01/15-465-Conf; ICC-02/04-01/15-538-Conf; ICC-02/04-01/15-579-Conf.

³ ICC-02/04-01/15-596-Conf; ICC-02/04-01/15-600.

⁴ ICC-02/04-01/15-596-Conf, p. 111.

⁵ ICC-02/04-01/15-909-Conf.

7. Mindful that “the written record of introduced prior recorded testimony [...] shall be public to the extent possible”,⁶ the Prosecution proposes discrete redactions to their testimonies. The proposed redactions are necessary to protect national security information of the Republic of Uganda under article 72 of the Statute, safety of witnesses and victims under article 68 of the Statute, and current and future investigative activities of the Prosecution under article 54 of the Statute.

Protection of national security information under article 72 of the Statute

8. The Prosecution proposes to redact information relating to the national security interests of Uganda in the testimonies of Witnesses P-0027, P-0029, P-0032, P-0084, P-0126, P-0291, P-0301, P-0303, P-0337, P-0370, P-0384, P-0385, P-0386, P-0400, and P-0404. This includes witnesses’ names, signatures and other identifying information (including education, training and employment details), names of their colleagues, and current operational activities related to national security.

9. The proposed redactions are based on the ISO and UPDF requests to withhold national security information in above testimonies from the public.⁷ They also mirror the in-court protective measures of Witnesses P-0003, P-0059, and P-0339.⁸

Protection of witnesses and victims under article 68 of the Statute

10. The Prosecution proposes to redact identifying information of Witness P-0017 and certain victims in testimonies of Witnesses P-0017 and P-0036 to protect their personal safety and well-being. This includes P-0017’s name, signature and other identifying information, names of his colleagues, and names of former LRA fighters victimised at a young age.

11. The proposed redactions are based on P-0017’s concerns about his safety after his upcoming return to his home in northern Uganda, such as possible reprisals from Ongwen’s community and Kony’s sympathisers, and unpredictable political

⁶ ICC-02/04-01/15-596-Conf, para. 223.

⁷ UGA-OTP-0276-4123; UGA-OTP-0276-4142.

⁸ ICC-02/04-01/15-642-Red; ICC-02/04-01/15-651; ICC-02/04-01/15-T-42-Red-ENG, pp. 2-4.

situation in the region, which he expressed during a recent witness management meeting with the Prosecution.⁹

Protection of current and future investigations under article 54 of the Statute

12. The Prosecution proposes redactions to its operational information, the disclosure of which may jeopardise its current and future investigative activities in all cases and situations, in particular with unstable security environment. This includes names and signatures of investigators and analysts, as well as interview locations.

Conclusion

13. The Prosecution requests the Chamber's approval of the proposed public redacted versions of prior recorded testimonies of 17 rule 68(2)(b) witnesses in annexes 1-17 further to the Chamber's order and pursuant to articles 54, 64(2), 64(7), 67(1), 68, and 72 of the Statute.



Fatou Bensouda, Prosecutor

Dated this 28th day of July 2017
At The Hague, The Netherlands

⁹ UGA-OTP-0278-0523.