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Nº: ICC-02/04-01/15
Date: 17 October 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 3**

**Registry's monthly Report filing in the Record of the Case Decisions issued by
way of email in September 2017**

Source: Registry

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 Dominic Ongwen

Kripus Ayena Odongo

Legal Representatives of the Victims

Joseph Akwenu Manoba
Francisco Cox
Paolina Massidda

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
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Herman von Hebel

Counsel Support Section

Deputy Registrar

Victims and Witnesses Unit

Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Philipp Ambach

Other

I. Introduction

1. The Registry submits the present report and its 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 7 February 2017, the Single Judge issued the Decision, by which it directed the Registry to file in the record of the case a monthly report containing all decisions issued by way of email (‘Monthly Report’).² Additionally, the Single Judge provided criteria for the application of redactions to the email decisions.³
3. The Chamber directed the parties and participants to:
 - a. frame their requests made by email in a way that make their publicity possible;
 - b. 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,
 - c. indicate in the email when emails cannot be made public at all.⁴
4. The Single Judge clarified in the Decision that emails related to the submission of evidence should not be part of the Monthly Reports.⁵
5. On 21 March 2017, the Registry filed its report on the implementation of the

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

² *Ibid.*, para. 4.

³ Trial Chamber IX, Annex to the “Decision on Publicity of Case Record”, 7 February 2017, ICC-02/0401/15-700-AnxA, footnote 1.

⁴ ICC-02/04-01/15-700, para 4.

⁵ *Ibid.*, para. 5.

Decision (“Registry’s Report”),⁶ 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.⁷

6. On 30 August 2017, the Registry filed its Monthly Report covering the email decisions issued in July 2017.⁸
7. On 5 September 2017, the Chamber informed the Registry that there were no email decisions to submit in the record for the month of August.⁹
8. On 2 October 2017, the Chamber provided the email decisions relevant to the month of September 2017.¹⁰ The email decision in relation to P-0038 encompasses correspondence by the Defence on 28 September 2017 at 13:58¹¹ which follows that of the Prosecution at 13:54.¹²

III. Applicable law

9. 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

10. In the Decision, the Single Judge provided the Registry with guidance on redactions, where applicable:

⁶ Registry, “Registry’s Report implementing the “Decision on Publicity of Case Record””, 22 March 2017, ICC-02/04-01/15-780.

⁷*Ibid.*, paras 8 and 9.

⁸ Registry, “Registry’s Monthly Report filing in the Record of the Case Decisions issued by way of Email in July 2017”, ICC-02/04-01/15-965, 30 August 2017.

⁹ E-mail from Trial Chamber IX to the Registry on 5 September at 12:36.

¹⁰ E-mail from Trial Chamber IX to the Registry on 2 October at 12:17.

¹¹ See Annex III.

¹² Annex II, email sent on 28 September 2017 at 15:05, “RE: P-0038”.

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.¹³

11. In addition, as mentioned in the Registry's 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.¹⁴

12. In order to enable the parties and participants to suggest specific additional redactions, the Registry followed the procedure that was adopted for the purposes of the Registry's Report. Hence, the Registry liaised with the Office of the Prosecutor ("Prosecution"), the Office of Public Counsel for victims ("OPCV"), the Legal Representatives of Victims ("LRV") and the Defence, by email.¹⁵ Redaction proposals were received and considered.¹⁶

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

¹³ Trial Chamber IX, Annex A to the Decision on Publicity of Case Record, 7 February 2017, ICC-02/04-01/15-700-AnxA, footnote 1.

¹⁴ ICC-02/04-01/15-780, para 9.

¹⁵ Emails sent by the Registry Court Officer on 6 October 2017 in relation to Annex I and II at 10:19 and Annex III at 16:16.

¹⁶ The Registry received answers in relation to Annex I and II from the Defence team on 6 October 2017 at 10:31; from the Prosecution team at 10:37; from the OPCV at 10:40 and from the Legal Representative of Victims at 12:41. In relation to Annex III, the Registry received answers from the Defence team on 6 October 2017 at 16:59 and from the OPCV at 17:17; from the Prosecution team on 9 October at 14:34 and from the Legal Representative of Victims at 15:46.

- **Annex I** : email sent on 12 September 2017, “classification of filings underlying P-45” at 14:59;
- **Annex II**: email sent on 28 September 2017, “RE: P-0038” at 15:05 and,
- **Annex III**: email sent on 28 September 2017, “RE: P-0038” at 13:58.



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

Dated this 17 October 2017

At The Hague, The Netherlands