

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

No.: ICC-02/04-01/15
Date: **14 December 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
Victims' preliminary list of witnesses

Source: Legal Representatives of Victims

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

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Legal Representatives of the Applicants

Unrepresented Victims

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Other

I. INTRODUCTION

1. The Legal Representatives for Victims (“LRVs”), who represent 2598 victims in this case, submit their preliminary list of witnesses to be called following the close of the Prosecutor’s case.

II. PROCEDURAL HISTORY

2. On 13 July 2016, the Single Judge of Trial Chamber IX (the “Single Judge” and the “Chamber” respectively) issued the “Initial Directions on the Conduct of the Proceedings” where he indicated that ‘the trial will be organised into: (i) presentation of evidence by the Prosecution; (ii) any presentation of evidence by the LRVs, should leave to do so be granted, and (iii) any presentation of evidence by the Defence.’ The Single Judge further indicated that ‘[T]he Chamber’s leave must also be sought in order to present ‘rebuttal/rejoinder’ evidence or non-evidentiary ‘views and concerns’ of participating victims.’¹
3. On 13 October 2017, the Single Judge issued the “Preliminary Directions for any LRV or Defence Evidence Presentation”² (“Preliminary Directions”) wherein he, *inter alia*, directed that ‘[B]y 14 December 2017, the LRVs and the Defence must provide a preliminary list of witnesses and an estimate of how many hours of witness examination it will require.’³

III. SUBMISSIONS

A. Preliminary list of witnesses

4. The LRVs expect to present evidence from six participating victims and two expert witnesses, to be selected from the provisional list of witnesses annexed.⁴

¹ ‘Initial Directions on the Conduct of the Proceedings’, (Trial Chamber IX, Single Judge), 12 July 2016, ICC-02/04-01/15-497, para.9.

² “Preliminary Directions for any LRV or Defence Evidence Presentation” (Trial Chamber IX), 13 October 2017, ICC-02/04-01/15-1021 (“Preliminary Directions”).

³ *Ibid*, para. 3.

⁴ See confidential annex.

The LRVs will aim to ensure that those chosen will be best-placed to give evidence that will not be cumulative with what has already been presented in the case.⁵

5. The annex is filed as “confidential” pursuant to regulation 23*bis* of the Regulations of the Court. The annex contains the names of two potential expert witnesses whose engagement as expert witnesses remains provisional until further determination by the Chamber.
6. In line with the Preliminary Directions, the LRVs will present their final list of proposed witnesses and evidence by 2 February 2018, including their justifications for why leave should be granted to present evidence.⁶
7. It is anticipated that some of the participating victims may be able to provide their evidence pursuant to rule 68. The LRVs will specify in its final witness list which individuals are proposed as *viva voce* witnesses and which as rule 68 witnesses. These proposals will be made with the intention of ensuring that the victims’ case is as expeditious as possible.
8. It is estimated that each of the participating victims who appear as *viva voce* witnesses will require three hours for their evidence in chief. The two expert witnesses are estimated to require six hours and three hours respectively for their evidence in chief.⁷

B. Presentation of views and concerns in person

9. The LRVs have taken note of the Chamber’s reservations regarding the in-person presentation of “non-evidentiary views and concerns” prior to Judgment.⁸

⁵ See “Second order regarding the applications of the legal representatives of victims to present evidence and the views and concerns of victims” 21 December 2011, (Trial Chamber III), ICC-01/05-01/08-2027, paras. 12-15.

⁶ See Preliminary Directions, para. 4.

⁷ See confidential annex.

⁸ See Preliminary Directions, para.2 (ii).

10. During the course of the LRVs' work it has become clear that a number of victims are eager to present their views and concerns to the Chamber in person. The LRVs believe that the presentation of some of these views and concerns may prove beneficial not only for the victims themselves, but also for the public and the indeed the Chamber.
11. However, the LRVs take note of the Chamber's reservations regarding the appropriate timing for the presentation of views and concerns in person by victims. Bearing this in mind, the LRVs are in the process of considering their position on this question. In the event that the LRVs believe for any reason that the views and concerns of any of victims should be presented in person at the same time as the presentation of evidence, a reasoned request will be made in the 2 February submission. If such a request is made the LRVs will ensure that it would not, if granted, significantly impact on the overall duration of their proposed case.

C. Coordination among victims' representatives

12. The LRVs would like to inform the Chamber that consultations have been held with the OPCV in order to address the risk of duplication in the proposed lists of witnesses. Further consultations will continue to take place prior to the finalisation of our respective lists of proposed witnesses.

D. Timing of the victims' case

13. The LRVs note that while their case is significantly smaller in scale than that of the Prosecution, its preparation nonetheless requires considerable planning and coordination to be undertaken by a small team.
14. In order to ensure that the LRVs are well-placed to undertake all necessary preparations, it would be greatly beneficial to have as much notice as possible of the likely timing of the victims' case. In this respect, the LRVs respectfully request

the Chamber's guidance regarding the likely timeframe for the victims' case, in order that they may make all appropriate preparations in a timely manner.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Manoba', with a stylized flourish at the end.

Joseph A. Manoba
Legal Representatives for Victims

A handwritten signature in blue ink, appearing to read 'Francisco Cox', with a stylized flourish at the end.

Francisco Cox

Dated this 14th day of December 2017
At Kampala, Uganda and at Santiago, Chile