

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

No.: ICC-02/04-01/15
Date: 19 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 Redacted version of
Common Legal Representative
Preliminary List of Witnesses Provided Pursuant to the
“Preliminary Directions for any LRV or Defence Evidence Presentation”
(ICC-02/04-01/15-1105-Conf)

Source: Office of Public Counsel for Victims

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

The Office of the Prosecutor

Ms Fatou Bensouda
Mr Benjamin Gumpert

Counsel for the Defence

Mr Krispus Ayena Odongo
Mr Chief Charles Achaleke Taku

Legal Representatives of the Victims

Ms Paolina Massidda
Ms Jane Adong
Mr Joseph Akwenyu Manoba
Mr Francisco Cox

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda
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Ms Caroline Walter

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I. PROCEDURAL BACKGROUND

1. On 13 July 2016, the Single Judge of Trial Chamber IX (respectively, the “Single Judge” and the “Chamber”) issued the “Initial Directions on the Conduct of the Proceedings”.¹

2. On 13 October 2017, the Single Judge issued the “Preliminary Directions for any LRV or Defence Evidence Presentation” (the “Preliminary Directions”) requesting the Legal Representatives and the Defence to provide – for informational purposes – a preliminary list of witnesses and an estimate of how many hours of witness examination they will require by 14 December 2017.²

3. In compliance with the Preliminary Directions, the Common Legal Representative³ hereby provides the information requested by the Chamber. Pursuant to regulation 23*bis*(1) of the Regulations of the Court, this document is filed confidential since it refers to information not to be known by the public at the present stage considering its preliminary nature.

¹ See the “Initial Directions on the Conduct of the Proceedings” (Trial Chamber IX, Single Judge), No. ICC-02/04-01/15-497, 13 July 2016.

² See the “Preliminary Directions for any LRV or Defence Evidence Presentation” (Trial Chamber IX, Single Judge), No. ICC-02/04-01/15-1021, 13 October 2017, para. 3 (the “Preliminary Directions”).

³ See the “Decision on contested victims’ applications for participation, legal representation of victims and their procedural rights” (Pre-Trial Chamber II, Single Judge), No. ICC-02/04-01/15-350, 27 November 2015, p. 19; the “Decision on issues concerning victims’ participation” (Pre-Trial Chamber II, Single Judge), No. ICC-02/04-01/15-369, 15 December 2015, pp. 10-11; the “Second decision on contested victims’ applications for participation and legal representation of victims” (Pre-Trial Chamber II, Single Judge), No. ICC-02/04-01/15-384, 24 December 2015, pp. 20-22; and the “Decision on the ‘Request for a determination concerning legal aid’ submitted by the legal representatives of victims” (Trial Chamber IX, Single Judge), No. ICC-02/04-01/15-445, 26 May 2016, para. 13.

II. SUBMISSIONS

4. Preliminarily, the Common Legal Representative informs the Chamber that Counsel for victims have consulted in the matter. Counsel will further consult before the filing of the submissions due on 2 February 2018 to ensure that the presentation of evidence – while taking into account the distinct interests of the two groups of victims – will not be duplicative or repetitive and ensure that said evidence – if authorised – will be presented in the most efficient way.

5. The Common Legal Representative acknowledges the assertion by the Single Judge in the Preliminary Directions according to which, in order to give effect to the spirit and intention of article 68(3) of the Rome Statute in the context of the trial proceedings, Counsel for victims may present evidence after the Prosecution with leave from the Chamber.⁴

6. The Common Legal Representative furthers notes the Single Judge indication that the Chamber is not provisionally inclined to hear victims “*unsworn, non-evidentiary ‘views and concerns’ before its Judgement*”.⁵ In this regard, the Common Legal Representative wishes to underline that the presentation of views and concerns by the victims themselves is an essential component of the trial proceedings in light of the importance for victims to be able to express themselves before the Chamber and to share their experience with the Judges. However, in the specific instance, the Common Legal Representative informs the Chamber that she does not intend to call victims to present their views and concerns. Indeed, she considers that said views and concerns were already directly expressed by some of the victims in the video played during her opening statements and that views and concerns of her clients were also presented – and will continue to be presented – to the Judges through the questioning of dual status individuals during the trial hearings.

⁴ See the “Preliminary Directions”, *supra* note 2, para. 2(i).

⁵ *Idem*.

7. As far as the presentation of evidence is concerned, the Common Legal Representative intends to concentrate mainly on the specific victimisation suffered by different categories of victims of the various crimes allegedly committed by the Accused.

8. Accordingly, the Common Legal Representative informs the Chamber that she intends to call four (4) experts on the following areas: (i) trauma; (ii) child soldiers; (iii) rape and sexual and gender-based crimes; and (iv) Acholi culture.

9. Because the contracts are in the process of being finalised, the Common Legal Representatives will only be able to provide the names of the chosen experts in her submission due on 2 February 2018. The Common Legal Representative estimates that she will require 3 hours of examination for each of the four experts she intends to call.

10. The Common Legal Representative also intends to call three (3) witnesses on the role and services provided in the centres where former abductees were welcomed upon their return from captivity. In this regard, she informs the Chamber that she is currently contacting potential [REDACTED]. The Common Legal Representative estimates that she will require 2 hours of examination for each of the three witnesses she intends to call.

Respectfully submitted.

A handwritten signature in black ink, reading "Paolina Massidda". The signature is written in a cursive style with a horizontal line underneath the name.

Paolina Massidda

Dated this 19 day of December, 2017

At The Hague (The Netherlands)