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N°: ICC-02/04-01/15

Date: 23 July 2018

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 I to XXII

**Registry's Report filing in the Record of the Case Decisions issued by way of
email from October 2017 to March 2018**

Source: Registry

To be notified, in accordance with Regulation 31 of the Regulations of the Court, to:

The Office of the Prosecutor

Ms Fatou Bensouda

Mr James Stewart

Mr Benjamin Gumpert

Counsel for Dominic Ongwen

Mr Krispus Ayena Odongo

Mr Charles Achaleke Taku

Legal Representatives of the Victims

Mr Joseph Akwenu Manoba

Mr Francisco Cox

Ms Paolina Massidda

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda

Ms Caroline Walter

Mr Orchlon Narantsetseg

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I. Introduction

1. The Registry hereby submits the present report and its twenty-two 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 directing 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 Decision (“Registry’s Report”),⁶ which included the additional guidelines that

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

² *Ibid.*, para. 4.

³ *Idem.*, Anx A, footnote 1.

⁴ Trial Chamber IX, “Decision on Publicity of Case Record”, 7 February 2017, ICC-02/04-01/15-700, para. 4.

⁵ *Ibid.*, para. 5.

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

were provided by the Chamber and the procedure that was followed to enable the participants to suggest specific additional redactions.⁷

6. On 17 October 2017, the Registry filed its Monthly Report covering the email decisions issued in September 2017.⁸
7. On 17 April 2018, the Chamber provided the email decisions relevant to the period from October 2017 to March 2018.⁹

III. Applicable law

8. For the purpose of the present submission, the Registry has considered Articles 64(7), 64(10) and 67(1) of the Rome Statute and Rule 137 of the Rules of Procedure and Evidence.

IV. Submission

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

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.¹⁰

10. 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,

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 September 2017", ICC-02/04-01/15-1022, 17 October 2017.

⁹ E-mail from Trial Chamber IX to the Registry on 17 April 2018 at 15:32.

¹⁰ 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.

- the names of Registry staff members and team members of the parties and participants, except for the Counsel and the Senior Trial Lawyer.¹¹

11. 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.¹² Redaction proposals were received and considered.¹³

12. Accordingly, the Registry applied redactions to emails set forth in the following twenty two annexes:

- **Annex I:** email sent on 26 October 2017, "General Guideline on Additional Redactions in Transcripts" at 16:52;
- **Annex II:** email sent on 30 October 2017, "Decision Shortening Response Deadline to ICC-02/04-01/15-1029" at 13:04;
- **Annex III:** email sent on 17 November 2017, "RE: The Prosecutor v. Dominic Ongwen: ICC-02/04-01/15-1074 - Decision on Defence Observations on the Preliminary Directions for any LRV or Defence Evidence Presentation and Request for Guidance on Procedure for No-Case-to-Answer Motion" at 17:28;
- **Annex IV:** email sent on 20 November 2017, "changed sitting schedule for this week for the Ongwen Trial" at 18:22;
- **Annex V:** email sent on 13 December 2017, "RE: Urgent Request for Reclassification (Filing 1099, Annex B)" at 14:57;

¹¹ Registry, "Registry's Report implementing the "Decision on Publicity of Case Record", 22 March 2017, ICC-02/04-01/15-780, para. 9.

¹² Emails sent by the Registry Court Officer on 6 July 2018 at 16:24.

¹³ The Registry received answers from the Prosecution on 6 July 2018 at 19:10; from the Defence on 9 July 2018 at 10:11; and from the Legal Representative of Victims on 10 July 2018 at 18:15.

- **Annex VI:** email sent on 15 December 2017, “Decision Shortening Response Deadline to ICC-02/04-01/15-1109-Conf” at 16:10;
- **Annex VII:** email sent on 21 December 2017, “Decision on Prosecution Unopposed Request to Add One item to Prosecution LOE” at 18:52;
- **Annex VIII:** email sent on 22 December 2017, “[Ongwen] Reclassification of Filing 1113-Conf” at 17:41;
- **Annex IX:** email sent on 29 December 2017, “RE: The Prosecutor v. Dominic Ongwen: ICC-02/04-01/15-1123 and Conf Anxs 1-23- Prosecution’s second submission of proposed public redacted versions of testimonies introduced under rules 68(2)(b) and (c) of the Rules of Procedure and Evidence” at 10:41;
- **Annex X:** email sent on 29 December 2017, “RE: The Prosecutor v. Dominic Ongwen: ICC-02/04-01/15-1123 and Conf Anxs 1-23- Prosecution’s second submission of proposed public redacted versions of testimonies introduced under rules 68(2)(b) and (c) of the Rules of Procedure and Evidence” at 11:10;
- **Annex XI:** email sent on 04 January 2018, “RE: [Ongwen] Reclassification of Filing 1113-Conf” at 11:18;
- **Annex XII:** email sent on 08 January 2018, “Question by the Chamber in Relation to Request 1127” at 16:57;
- **Annex XIII:** email sent on the 09 January 2018, “Decision on Request for CLR to Follow Testimony of Three Dual Status Witnesses from Video-Link Location” at 15:25;
- **Annex XIV:** email sent on 09 January 2018, “RE: ICC-02/04-01/15: change in witness order for next week (P-250 and P-145)” at 16:36;
- **Annex XV:** sent on 24 January 2018, “Decision on Rule 74 Assurances for P-372” at 14:17;

- **Annex XVI:** email sent on 29 January 2018, “Shortening of response deadline of ICC-02/04-01/15-1154-Conf” at 11:37;
- **Annex XVII:** email sent on 05 February 2018, “Decision on Reclassification of ICC-02/04-01/15-1142” at 17:22;
- **Annex XVIII:** email sent on 06 March 2018, “shortening of response deadline for filing ICC-02/04-01/15-1198” at 11:08;
- **Annex XIX:** email sent on 13 March 2018, “shortening of response deadline for ICC-02/04-01/15-1203” at 11:58;
- **Annex XX:** email sent on 14 March 2018, “New Deadline for LRVs to Provide Information Set Out in Preliminary Directions_Corrected Citation” at 09:40;
- **Annex XXI:** email sent on 22 March 2018, “Decision on Request for Extension of Deadline Set in Decision 1207” at 11:18 and,
- **Annex XXII:** email sent on 29 March 2018, “FW: shortening of response deadline for ICC-02/04-01/15-1214” at 12:08.



p.p. Marc Dubuisson, Director, Division of Judicial Services

on behalf of Peter Lewis, Registrar

Dated this 23 July 2018

At The Hague, The Netherlands