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N°: ICC-02/04-01/15

Date: 15 March 2019

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 XLII and XLIV to XLIX,
And Confidential Annex XLIII**

**Registry's Report filing in the Record of the Case Decisions issued by way of
email from January 2018 to January 2019**

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 Kripus 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 49 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

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

² *Ibid.*, par. 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.*, par. 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 were provided by the Chamber and the procedure that was followed to enable the participants to suggest specific additional redactions.⁷
6. On 23 July 2018, the Registry filed its report covering the email decisions issued between October 2017 and March 2018 (“July Report”).⁸
7. On 9 January 2019, the Registry compiled email decisions issued by the Chamber following the July Report. For completeness of the record, the Chamber directed the Registry to include additional email decisions that were issued between October 2017 and March 2018 that had not been reported in the July Report.⁹

III. Applicable law

8. 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.

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 Report filing in the Record of the Case Decisions issued by way of email from October 2017 to March 2018”, ICC-02/04-01/15-1312, 23 July 2018.

⁹ E-mail from Trial Chamber IX to the Registry Courtroom Officer on 9 January at 14:41.

IV. Submission

9. In the Decision, the Single Judge provided the Registry with guidance as to the application of 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,
- 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 the 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 Defence, the Office of Public Counsel for Victims ("OPCV") and the Legal Representatives of Victims ("LRV") by email.¹² Redaction proposals were received and considered.¹³

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.

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 Two emails were sent by the Registry Court Officer on 10 January 2019 at 14:54 due to size limitations of the attachments.

¹³ The Registry received answers in relation to the first batch of Annexes from the Defence on 10 January at 18:33 in which they had no further proposals for redactions. The Registry received answers in relation to all annexes from the OPCV, OTP and LRV on 11 January at 08:49, 09:15 and 09:55 respectively. The Registry received proposals for further redactions from the Defence in relation to

12. Accordingly, the Registry applied redactions to emails set forth in the following 49 annexes:

- **Annex I** : email sent on 10 January 2018, "Direction Regarding Redaction Orders" at 10:04;
- **Annex II** : email sent on 05 February 2018, "Decision on Reclassification of ICC-02/04-01/15-1142" at 17:22;
- **Annex III** : email sent on 08 February 2018, "Decision on Disputed Redactions to T-125" at 17:38;
- **Annex IV** : email sent on 20 February 2018, "Amended sitting schedule for tomorrow, 21 February 2018" at 16:21;
- **Annex V** : email sent on 23 February 2018, "Decision Reclassifying ICC-02/04-01/15-1191-Conf-Exp" at 14:49;
- **Annex VI** : email sent on 06 March 2018, "Decision on Disputed Redactions to T-134" at 10:37;
- **Annex VII** : email sent on 14 March 2018, "New Deadline for LRVs to Provide Information Set Out in Preliminary Directions_Corrected Citation" at 09:40;
- **Annex VIII** : email sent on 21 March 2018, "redacted versions of the Defence's request to adjourn the proceedings and the Chamber's response thereto" at 14:28;
- **Annex IX** : email sent on 22 March 2018, "Decision on Request for Extension of Deadline Set in Decision 1207" at 11:18;
- **Annex X** : email sent on 27 March 2018, "Hearing Schedule for LRV Evidence" at 15:28;
- **Annex XI** : email sent on 16 April 2018, "Shortening of response deadline for ICC-02/04-01/15-1228" at 16:01;

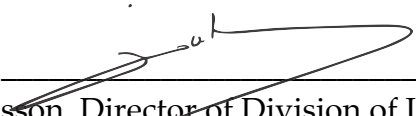
public Annexes XXXV, XLIV, XLVIII and XLIX on 16 January at 16:31 and confidential Annex XLIII on 16 January at 18:16.

- **Annex XII** : email sent on 24 April 2018, "RE: Shortening of Response Deadline for ICC-02/04-01/15-1239" at 17:34;
- **Annex XIII** : email sent on 25 April 2018, "RE: Shortening of Response Deadline for ICC-02/04-01/15-1239" at 13:05;
- **Annex XIV** : email sent on 04 May 2018, "Directions in Response to Defence Clarification Requests Regarding its List of Evidence" at 12:30;
- **Annex XV** : email sent on 09 May 2018, "RE: Request to Reclassify Prosecution Filing 1243-Conf" at 12:23;
- **Annex XVI** : email sent on 24 May 2018, "RE: Defence Request for a Two Day Extension for the 31 May 2018 Deadline" at 09:58;
- **Annex XVII** : email sent on 29 May 2018, "shortening of response deadline for filing ICC-02/04-01/15-1264-Red" at 16:46;
- **Annex XVIII** : email sent on 05 June 2018, "Shortening of Response Deadline for ICC-02/04-01/15-1270-Conf and ICC-02/04-01/15-1271-Conf" at 12:30;
- **Annex XIX** : email sent on 08 June 2018, "FW: Extension of Response Deadline for ICC-02/04-01/15-1271-Conf" at 16:39;
- **Annex XX** : email sent on 13 June 2018, "Direction to Provide Clarification on Defence Witness Information Forms" at 16:20;
- **Annex XXI** : email sent on 14 June 2018, "Further Order in Relation to Defence Witness Information Forms" at 15:07;
- **Annex XXII** : email sent on 19 June 2018, "Reclassification of ICC-02/04-01/15-877-Conf and its Annex" at 15:13;
- **Annex XXIII** : email sent on 21 June 2018, "Decision on Defence Request to Reclassify or Maintain Confidentiality of Certain Transcripts" at 17:18;
- **Annex XXIV** : email sent on 21 June 2018, "Decision on Additional Redactions to T-173" at 18:19;
- **Annex XXV** : email sent on 22 June 2018, "Order approving site visit report" at 15:57;

- **Annex XXVI** : email sent on 05 July 2018, "Shortening of Response Deadline for ICC-02/04-01/15-1300" at 16:18;
- **Annex XXVII** : email sent on 06 July 2018, "Reclassification of filing ICC-02/04-01/15-1283-Conf" at 08:57;
- **Annex XXVIII** : email sent on 06 July 2018, "RE: Decision on Defence Request to Reclassify or Maintain Confidentiality of Certain Transcripts" at 09:04;
- **Annex XXIX** : email sent on 06 July 2018, "Reclassification of Filing ICC-02/04-01/15-1286-Conf" at 12:07;
- **Annex XXX** : email sent on 09 July 2018, "Modification of Order 1275" at 10:11;
- **Annex XXXI** : email sent on 10 July 2018, "observations to ICC-02/04-01/15-1302-Conf-Exp" at 14:53;
- **Annex XXXII** : email sent on 11 July 2018, "Decision on Prosecution's Proposal for Additional Redactions to Decision on Submitted Materials for P-200" at 11:03;
- **Annex XXXIII** : email sent on 27 July 2018, "Reclassification of ICC-02/04-01/15-1315-Conf-Exp and corresponding annex" at 17:36;
- **Annex XXXIV** : email sent on 31 July 2018, "Decision on Disputed Redactions to T-144" at 11:34;
- **Annex XXXV** : email sent on 20 August 2018, "Decision on Disputed Redactions to T-158" at 17:01;
- **Annex XXXVI** : email sent on 29 August 2018, "Shortening of response deadline for ICC-02/04-01/15-1326-Conf" at 16:45;
- **Annex XXXVII** : email sent on 17 September 2018, "RE: Request for extension of time" at 10:33;
- **Annex XXXVIII** : email sent on 18 September 2018, "Shortening of response deadline for ICC-02/04-01/15-1339-Conf-Red" at 08:57;
- **Annex XXXIX** : email sent on 02 October 2018, "RE: D-0028 Request to meet with Mr Ongwen after testimony" at 09:06;

- **Annex XL** : email sent on 08 October 2018, “re-classification of ICC-02/04-01/15-1345-Conf” at 17:08;
- **Annex XLI** : email sent on 18 October 2018, “RE: Disclosure of a lesser redacted version of a victim application” at 09:39;
- **Annex XLII** : email sent on 23 October 2018, “RE: Request from D26-0074” at 12:32;
- **Annex XLIII** : email sent on 24 October 2018 “Decision relating to two Defence requests for clarification related to sitting schedule [EX PARTE, Defence and Registry only]” at 10:20;
- **Annex XLIV** : email sent on 31 October 2018, “Decision on Disputed Redactions to T-99” at 15:38;
- **Annex XLV** : email sent on 07 November 2018, “Request concerning telephone call of 29 October between the accused and D-6” at 16:17;
- **Annex XLVI** : email sent on 07 November 2018, “Reclassification of ICC-02/04-01/15-1392-Conf-Exp-AnxI” at 16:19;
- **Annex XLVII** : email sent on 08 November 2018, “Reclassification of Filing 1394-Conf-Exp” at 11:49;

- **Annex XLVIII** : email sent on 12 December 2018, “Decision on Contested Redaction in T-182” at 12:47; and
- **Annex XLIX**: email sent on 08 January 2019, “Decision on Defence Requests for Communications with Mental Health Experts [EXPARTE, Defence and Registry only]” at 11:41.



Marc Dubuisson, Director of Division of Judicial Services
On behalf of Peter Lewis, Registrar

Dated this 15 March 2019

At The Hague, The Netherlands