

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-02/04-01/15**

Date: **23 August 2019**

TRIAL CHAMBER IX

Before: Judge Bertram Schmitt, Single Judge

SITUATION IN UGANDA

IN THE CASE OF *THE PROSECUTOR* v. *DOMINIC ONGWEN*

Public

Clarification on Order Setting a Deadline for Evidence Related Requests

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

The Office of the Prosecutor

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Legal Representatives of Victims

Joseph Akwenyu Manoba
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Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

The Office of Public Counsel for the Defence

States Representatives

Amicus Curiae

REGISTRY

Registrar

Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Others

Judge Bertram Schmitt, acting as Single Judge on behalf of Trial Chamber IX (‘Single Judge’ and ‘Chamber’, respectively) of the International Criminal Court, in the case of *The Prosecutor v. Dominic Ongwen*, having regard to Article 64(2) of the Rome Statute (‘Statute’), issues the following ‘Clarification on Order Setting a Deadline for Evidence Related Requests’.

I. Procedural history and submissions

1. On 13 July 2016, the Presiding Judge issued the Initial Directions on the Conduct of the Proceedings (‘Initial Directions’), where it was decided that the trial will be organised into: (i) presentation of evidence by the Office of the Prosecutor (‘Prosecution’); (ii) any presentation of evidence by the Legal Representatives of Victims (‘LRVs’); and (iii) any presentation of evidence by the Defence.¹
2. On 4 June 2018, upon order by the Chamber,² the Defence filed, *inter alia*, its final lists of witnesses and evidence for its evidence presentation.³
3. On 21 August 2019, the Single Judge issued an order for evidence related requests (‘Order’).⁴ The Order set the deadline of 30 September 2019 for any motions concerning ‘new requests related to the introduction of evidence or any other matter concerning evidence at this stage of the proceedings’.⁵
4. On 23 August 2019, the Defence filed a request for clarification (‘Request’).⁶ Therein, it enquires whether requests for leave to add new items to its list of evidence, new witnesses to its list of witnesses, ‘bar table motions’ or requests under Rule 68(2)(b) of the Rules of Procedure and Evidence fall under the Order.⁷

¹ Initial Directions on the Conduct of the Proceedings, ICC-02/04-01/15-497, para. 9.

² Preliminary Directions for any LRV or Defence Evidence Presentation, 13 October 2017, ICC-02/04-01/15-1021, para. 7. The deadline was subsequently amended by the Chamber to 4 June 2019.

³ Public Redacted Version of ‘Defence notification of List of Witnesses and Evidence in compliance with ICC-02/04-01/15-1021 and Request for Leave to Add Witnesses its List of Witnesses and Materials to its List of Evidence’, ICC-02/04-01/15-1272-Red2. The list of witnesses is contained in confidential annex A, ICC-02/04-01/15-1272-Conf-AnxA. The list of evidence is contained in confidential annex B, ICC-02/04-01/15-1272-Conf-AnxB.

⁴ Order Setting a Deadline for Evidence Related Requests, ICC-02/04-01/15-1570.

⁵ Order, ICC-02/04-01/15-1570, paras 6-7.

⁶ Motion for Clarification Regarding Trial Chamber IX’s ‘Order Setting a Deadline for Evidence Related Requests’, ICC-02/04-01/15-1571.

⁷ Request, ICC-02/04-01/15-1571, para. 3.

5. The Single Judge notes that all examples cited by the Defence concern the introduction of new evidence. Therefore they are, naturally, encompassed by the Order. The Single Judge further clarifies that the original deadline for the Defence to file its final list of witnesses and list of evidence passed over a year ago. As previously stated,⁸ the deadline set in the Order merely aimed at facilitating the fair and expeditious conduct of the proceedings by streamlining the filing of exceptional, justified requests. It is not to be understood as indicating that any request that is filed by this point in time will automatically be granted.
6. The Single Judge notes that the Defence makes additional statements in its Request.⁹ Since these comments do not contain any request for further explanation there is no need to address them.

**FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY
PROVIDES** the clarifications in paragraph 5 above.

Done in both English and French, the English version being authoritative.



Judge Bertram Schmitt, Single Judge

Dated 23 August 2019
At The Hague, The Netherlands

⁸ Order, ICC-02/04-01/15-1570, para. 6.

⁹ Request, ICC-02/04-01/15-1571, paras 4 and 5.