

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/04-01/15
Date: 2 September 2019

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

**Prosecution's Response to "Defence Request for Variation of the 30 September
Deadline" (ICC-02/04-01/15-1576)**

Source: The Office of the Prosecutor

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

The Office of the Prosecutor

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**Unrepresented Applicants for
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Counsel Support Section

Victims and Witnesses Section

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**Victims Participation and Reparations
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Other

1. The Prosecution submits that the “Defence Request for Variation of the 30 September Deadline”¹ is unnecessary. The Chamber imposed the deadline with the explicit caveat that the obligation it imposed on the parties was to be complied with “[t]o the extent possible”.²

2. The Prosecution agrees with some of the submissions in the Defence Request in respect of evidence in rebuttal and rejoinder.³ The parties can (and it is respectfully submitted that they should) indicate as early as possible where they consider that an application to introduce evidence in rebuttal or rejoinder evidence is likely; but certainty (and the precise form and extent of the proposed evidence in rebuttal or rejoinder) cannot be achieved until the testimony which requires rebuttal or rejoinder has been given.

3. The Prosecution submits that evidence which is to be submitted under rule 68(2) should all have been the subject of application long ago. The Prosecution formally undertakes that, for its part, it will raise no objection to the formal submission of evidence where such applications have already been made, if the formal process of certification has not been possible until after the deadline.

4. The Defence Request speaks in non-specific terms about other material which it may, or may not, wish to submit into evidence. It asks the Chamber to make an order now to cope with possible future eventualities.

5. The Prosecution submits that the Defence should proceed, as envisioned by the Chamber,⁴ on a case by case basis. If there is material remaining after the expiry of the deadline, which it later concludes it wishes to submit, it should file a request

¹ ICC-02/04-01/15-1576 (“Defence Request”).

² ICC-02/04-01/15-1570, para. 7.

³ Defence Request, paras. 3 and 4.

⁴ ICC-02/04-01/15-1570, para. 7.

to do so as soon as possible thereafter, with an explanation as to why it has not been possible to do so any earlier.

6. For the reasons stated, the Prosecution opposes the Defence Request.



Fatou Bensouda, Prosecutor

Dated this 2nd day of September 2019
At The Hague, the Netherlands