

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: ICC-02/04-01/15
Date: 3 December 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

**Public Redacted Version of "Prosecution's Response to 'Defence Request for Redactions to Rule 68(2)(b) Statements'", 14 November 2019,
ICC-02/04-01/15-1669-Conf**

Source: The Office of the Prosecutor

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

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Introduction

1. The Defence proposes redactions to statements of Witnesses D-0020 and D-0034 that have been introduced into evidence under rule 68(2)(b) of the Rules of Procedure and Evidence.¹ The Prosecution agrees to redactions of:

- a. the current place of the witnesses' residence;
- b. the name of the interpreter; and
- c. the name of resource persons working for the Defence.

2. The Prosecution opposes all other redactions, because they are unnecessary and contrary to the Chamber's Decision on Request for Redactions to Witness Statements ("Decision") relating to redactions of rule 68(2)(b) witnesses.² They are also contrary to the Chamber's ruling that "the written record of introduced prior recorded testimony [...] shall be public to the extent possible."³

Confidentiality

3. The Prosecution files this response confidentially pursuant to regulation 23*bis* of the Regulations of the Court because it responds to a confidential filing of the Defence. The Prosecution requests that the Chamber reclassify this filing as public.

Submissions

4. In accordance with paragraphs 9 and 10 of the Chamber's Decision,⁴ the Prosecution agrees to the redaction of the current place of resident of D-0020 and D-0034 and the names of the interpreter and resource person.

¹ ICC-02/04-01/15-1664-Conf+Conf-Anxs.

² ICC-02/04-01/15-1498, paras. 9-10.

³ ICC-02/04-01/15-596-Conf, para. 223.

⁴ ICC-02/04-01/15-1498, paras. 9-10.

5. However, there is no basis to redact other information such as their place or date of birth or the names of their spouse or other relatives. This is because redaction of these details is usually imposed for the purpose of preventing witnesses from being identified.⁵ This does not apply in this case. Both D-0020 and D-0034 have consented to their identity and statements being made public.

6. The Prosecution also opposes redaction of information which the Defence claims may show that D-0020 and D-0034 participated in battles in [REDACTED] or [REDACTED]. As the Defence itself concedes, the proposed redactions are “vague”.⁶ They neither detail the role that either D-0020 or D-0034 played in any such battles nor do they implicate the witnesses in any crimes. The Defence’s speculation as to what material may or may not exist in the public domain or what inferences could be drawn does not change this.

Conclusion

7. For the reasons set out above, the Prosecution agrees to some but not all of the proposed redactions to statements from D-0020 and D-0034 submitted under rule 68(2)(b).



Fatou Bensouda, Prosecutor

Dated this 3rd day of December 2019
At The Hague, the Netherlands

⁵ ICC-02/04-01/15-1498, para. 9.

⁶ ICC-02/04-01/15-1664-Conf+Conf-Anxs, paras. 9 and 12.