

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 14 January 2020

TRIAL CHAMBER IX

Before: Judge Bertram Schmitt, Presiding Judge
Judge Péter Kovács
Judge Raul Cano Pangalangan

SITUATION IN UGANDA

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

Public Document

**CLRV Response to Defence “Motion for Immediate Ruling on the Request for
Dismissal of the Charge of Enslavement”**

Source: Office of Public Counsel for Victims

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

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I. PROCEDURAL BACKGROUND

1. On 23 October 2019, the Presiding Judge of Trial Chamber IX (the “Chamber”) issued the Decision modifying the deadline regarding closing briefs and closing statements ruling that any closing briefs have to be filed by 26 February 2020 and that the closing statements will commence on 10 March 2020.¹

2. On 4 December 2019, following a Defence’s Request to reconsider and postpone the date of the closing statements,² the Chamber preponed the deadline for the submission of the closing briefs to 19 February 2020.³

3. On 12 December 2019, the Chamber declared the closing of the submission of evidence in the case.⁴

4. On 10 January 2020, the Defence filed its Motion for an immediate ruling for the dismissal of the charge of enslavement (the “Motion”).⁵

II. SUBMISSIONS

5. In the Motion, the Defence seeks an immediate ruling by the Chamber dismissing the charge of enslavement arguing it is subsumed in the crime of sexual slavery.⁶

¹ See the “Modification of Deadline Regarding Closing Briefs and Setting of Dates for Closing Statements” (Trial Chamber IX, Presiding Judge), No. [ICC-02/04-01/15-1645](#), 23 October 2019.

² See the “Defence Request to Change the Start Date of the Closing Statements”, No. [ICC-02/04-01/15-1668](#), 14 November 2019.

³ See the “Decision on Defence Request to Reconsider the Date of the Closing Statements” (Trial Chamber IX, Presiding Judge), No. [ICC-02/04-01/15-1691](#), 4 December 2019.

⁴ See the “Declaration on the Closure of the Submission of Evidence” (Trial Chamber IX), No. [ICC-02/04-01/15-1699](#), 12 December 2019.

⁵ See the “Motion for Immediate Ruling on the Request for Dismissal of the Charge of Enslavement”, No. [ICC-02/04-01/15-1708](#), 10 January 2020 (the “Motion”).

⁶ See the Motion, *inter alia*, paras. 8, 16, 42-52.

6. The CLRV submits that the Motion is untimely and is filed without providing a proper justification as to why the Chamber should suddenly issue an immediate ruling on the matter, instead of addressing the relevant issues as part of its assessment of the evidence for the purpose of articles 74 and 76 Judgments.

7. In this regard, the CLRV recalls her submissions in response to the Defence's motion on multiple charging and conviction.⁷ As already entertained by the Chamber in relation to previous Defence's requests: "[...] *motions challenging the formulation of the charges must be brought in a timely manner after they arise. Rule 134(2) of the Rules requires that motions alleging defects in the confirmation decision may not, as a general rule, be brought after the commencement of trial. The Defence files its challenges on the formulation of the charges after the commencement of trial, the Prosecution's evidence presentation and part of the Defence's evidence presentation. It does so without sufficient justification for the timing of its motions. As such, the Chamber dismiss[e] these arguments in limine. [...] The Chamber will decide upon the proper legal interpretation of the charged crimes and modes of liability in the applicable law of its judgment.*"⁸

8. The CLRV submits that the Motion is yet again not different from the Defence's previous requests with regard to the formulation of the charges and thus should have been filed at the beginning of the trial, or, at the very least, at any time before the start of the presentation of the Defence's evidence.

9. In this regard, the CLRV posits that the Motion should not be entertained by the Chamber at this juncture of the proceedings because it relates to a matter of law which the Defence can address in its closing brief and arguments and that the Chamber will adjudicate in its Judgement. In fact, the Defence itself "*reserves the right*

⁷ See the "CLR Response to Defence "Motion for Immediate Ruling on Standard to Assess Multiple Charging and Convictions", No. [ICC-02/04-01/15-1705](#), 20 December 2019, para. 11.

⁸ See the "Decision on Defence Motions Alleging Defects in the Confirmation Decision" (Trial Chamber IX), No. [ICC-02/04-01/15-1476](#), 7 March 2019, paras. 36-37.

to make submissions on the proper legal interpretation of the charged crimes and modes of liability in his defence”⁹, including on the issue at stake.¹⁰

III. CONCLUSION

10. For the foregoing reasons, the Common Legal Representative of the Victims respectfully requests the Chamber to reject the Motion *in limine*.

A handwritten signature in black ink, reading "Paolina Massidda", with a horizontal line underneath the name.

Paolina Massidda
Principal Counsel

Dated this 14th day of January 2020

At The Hague, The Netherlands

⁹ See the Motion, *supra* note 5, para. 6.

¹⁰ *Idem*, para. 7.