

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

N°: ICC-02/04-01/15
Date: 04 February 2020

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 XX**

**Registry's Report Filing in the Record of the Case Decisions issued by way of
email from June 2019 to January 2020**

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

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I. Introduction

1. The Registry hereby submits the present report and its 20 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
5. On 21 March 2017, the Registry filed its report on the implementation of the

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.

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 31 October 2019, the Registry filed its report covering the email decisions issued from January 2019 to June 2019.⁸
7. On 17 January 2020, the Registry compiled email decisions issued by the Chamber⁹ following the report filed in October.¹⁰

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.

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

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 January 2019 to June 2019”, ICC-02/04-01/15-1651, 31 October 2019.

⁹ Emails sent by the Registry Courtroom Officer on 17 January 2019 at 14:53.

¹⁰ Registry, “Registry’s Report filing in the Record of the Case Decisions issued by way of email from January 2019 to June 2019”, ICC-02/04-01/15-1651, 31 October 2019.

applied thereto it shall indicate them to the Chamber and the Registry in a timely manner.¹¹

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.¹²

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.¹³ Redaction proposals were received and considered.¹⁴

12. Accordingly, the Registry applied redactions to emails set forth in the following 45 annexes:

- **Annex I:** email sent on 28 June 2019, "RE: OTP vs Ongwen - DEF List for D-0056" at 14:25;
- **Annex II:** email sent on 15 July 2019, "hearing schedule for the remainder of 2019" at 18:16;

¹¹ 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.

¹² Registry, "Registry's Report implementing the "Decision on Publicity of Case Record", 22 March 2017, ICC-02/04-01/15-780, para. 9.

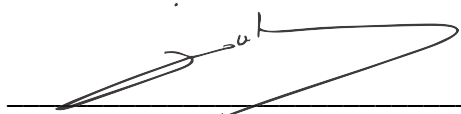
¹³ Email sent by the Registry Court Officer on 17 January 2020 at 14:53 containing annexes I to XX.

¹⁴ The Registry received response from the OTP on 17 January 2020 at 15:50 and OPCV on 17 January 2020 at 16:34 with no proposals for further redactions.

The Registry received proposals for further redactions from the Defence in relation to Annexes VII, X, XVI and XX on 20 January 2020 at 11:02.

- **Annex III:** email sent on 19 August 2019, "RE: Request for extension of time" at 17:21;
- **Annex IV:** email sent on 27 August 2019, "Shortening of Response Deadline for ICC-02/04-01/15-1574-Conf" at 17:37;
- **Annex V:** email sent on 17 September 2019, "Shortening of Response Deadline for filing ICC-02/04-01/15-1595-Conf" at 09:12;
- **Annex VI:** email sent on 17 September 2019, "shortening of response time for filings ICC-02/04-01/15-1596 and ICC-02/04-01/15-1598 " at 19:12;
- **Annex VII:** email sent on 22 September 2019, "RE: In-court protective measures for UGA-D26-P-0049" at 20:32;
- **Annex VIII:** email sent on 24 September 2019, "reclassification of 18 filings to 'confidential'" at 18:21;
- **Annex IX:** email sent on 01 October 2019, "Shortening of response time to filing ICC-02/04-01/15-1619-Conf" at 09:02;
- **Annex X:** email sent on 29 October 2019, "Decision on disputed redactions in 'Decision on Submitted Materials for D-81'" at 16:31;
- **Annex XI:** email sent on 04 November 2019, "Shortening of response time to filing ICC-02/04-01/15-1654" at 12:44;
- **Annex XII:** email sent on 08 November 2019, "Shortening of response deadline to filing ICC-02/04-01/15-1659" at 17:30;
- **Annex XIII:** email sent on 13 November 2019, "RE: Defence request regarding D-0042's private and unmonitored visit" at 13:58;
- **Annex XIV:** email sent on 15 November 2019, "RE: Material for Defence Experts" at 11:21;
- **Annex XV:** email sent on 15 November 2019, "RE: Material for Defence Experts" at 15:21;
- **Annex XVI:** email sent on 18 November 2019, "RE: Redaction Request - T-248" at 14:50;

- **Annex XVII:** email sent on 29 November 2019, “instruction to the Defence to file a formal notice of closure of the evidence into the case record” at 11:16;
- **Annex XVIII:** email sent on 06 December 2019, “Shortening of response deadline to filing ICC-02/04-01/15-1692-Conf” at 12:17;
- **Annex XIX:** email sent on 06 December 2019, “RE: Defence request for the correction of the transcript T-45” at 15:03 and;
- **Annex XX:** email sent on 09 January 2020, “Decision on proposed redactions in 'Decision on Submitted Materials for D-0013' and 'Decision on Submitted Materials for D-0134’ at 13:52.

A handwritten signature in dark ink, appearing to read 'u h', is written over a horizontal line.

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

Dated this 04 February 2020

At The Hague, The Netherlands