

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

No.: **ICC-02/04-01/15**
Date: **5 February 2020**

TRIAL CHAMBER IX

Before: Judge Bertram Schmitt, Single Judge

SITUATION IN UGANDA

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

Public

Decision on Defence Request to Extend the Deadline for the Filing of the Closing Briefs

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

The Office of the Prosecutor

Fatou Bensouda
James Stewart
Benjamin Gumpert

Counsel for the Defence

Krispus Ayena Odongo

Legal Representatives of the Victims

Joseph Akwenyu Manoba
Francisco Cox
Paolina Massidda

Legal Representatives of the 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**

Other

Judge Bertram Schmitt, acting as Single Judge on behalf of Trial Chamber IX of the International Criminal Court, in the case of *The Prosecutor v. Dominic Ongwen*, having regard to Regulation 35 of the Regulations of the Court (the ‘Regulations’), issues the following ‘Decision on Defence Request to Extend the Deadline for the Filing of the Closing Briefs’.

I. Procedural history and submissions

1. On 23 October 2019, the Presiding Judge issued an order setting, *inter alia*, the date for the filing of the closing briefs for 26 February 2020.¹
2. On 4 December 2019, the Presiding Judge rendered a decision on a Defence request² to change the date of the closing statements.³ Therein, he advanced the filing deadline for the closing briefs by one week, to 19 February 2020, in order to address the concerns raised by the Defence.⁴
3. On 31 January 2020, the Defence filed a motion requesting a slight postponement of the deadline of the closing briefs for all parties and participants (the ‘Request’).⁵ The Defence seeks an extension of the deadline to 24 February 2020.⁶ It submits that, firstly, the Court’s remote access system was shut down for approximately 72 hours from 17 January 2020 to 20 January 2020 and, secondly, the ICCEPN Remote Webmail Access was inoperable from at least 14 January 2020 to 21 January 2020.⁷
4. On 3 February 2020, the Common Legal Representative for Victims⁸ and the Legal Representatives of the Victims⁹ indicated via email that they do not oppose the Request.

¹ Modification of Deadline Regarding Closing Briefs and Setting of Dates for Closing Statements, ICC-02/04-01/15-1645.

² Defence Request to Change the Date of the Closing Statements, ICC-02/04-01/15-1668.

³ Decision on Defence Request to Reconsider the Date of the Closing Statements, ICC-02/04-01/15-1691.

⁴ Decision on Defence Request to Reconsider the Date of the Closing Statements, ICC-02/04-01/15-1691, para. 14.

⁵ Defence Request for an extension of time to file the Closing Briefs, ICC-02/04-01/15-1713, with three confidential annexes A-C.

⁶ Request, ICC-02/04-01/15-1713, para. 1.

⁷ Request, ICC-02/04-01/15-1713, para. 2.

⁸ Email to Trial Chamber IX Communications, at 11:02.

⁹ Email to Trial Chamber IX Communications, at 13:18.

On the same day, the Office of the Prosecutor also sent an email stating that it takes no position on the Request.¹⁰

II. Analysis

5. The Single Judge recalls that, pursuant to Regulation 35(2) of the Regulations, good cause needs to be shown in order to extend a time limit. He also recalls the prior jurisprudence of this Court that the requirement of ‘good cause’ is satisfied, *inter alia*, if a delay is caused by an unforeseeable occurrence.¹¹
6. The Single Judge notes that the Information Management Services Section suspended the Court’s remote access system on 17 January 2020 and resumed service on 20 January 2020.¹² This shutdown was not foreseeable for the Defence and beyond their control. As a result of the shutdown the Defence was unable to access the Court’s system remotely and work from outside of the Court’s headquarters. Therefore, the Single Judge finds that the requested extension of the deadline is justified.¹³
7. He further notes that none of the other parties have opposed the Request¹⁴ and consequently grants the Request. Accordingly, the new date for the filing of all closing briefs is 24 February 2020. The Single Judge confirms that the date of the closing statements will not be affected by this decision.

¹⁰ Email to Trial Chamber IX Communications, at 11:05.

¹¹ *See only*, Appeals Chamber, *The Prosecutor v. Thomas Lubanga Dyilo*, Reasons for the ‘Decision of the Appeals Chamber on the request of counsel to Mr. Thomas Lubanga Dyilo for modification of the time limit pursuant to regulation 35 of the Regulations of the Court of 7 February 2007’ issued on 16 February 2007, 21 February 2007, ICC-01/04-01/06-834, OA8, para. 7.

¹² The Chamber verified the information provided by the Defence with the Registry.

¹³ With regard to the ICCEPN Webmail Access the Single Judge notes that this issue also occurred, even if not to the extent as described by the Defence. However, the disruption of the Court’s remote access system alone justifies an extension of time in the current case.

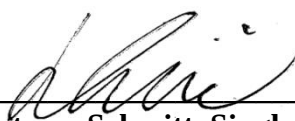
¹⁴ *See* para. 4, n. 10-12.

FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY

GRANTS the Request; and

DECIDES that all closing briefs must be filed by 24 February 2020.

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



Judge Bertram Schmitt, Single Judge

Dated 5 February 2020

At The Hague, The Netherlands