

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **13 March 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 for Leave to Reply to the Prosecution Response
concerning a Request for Remedies in Light of Disclosure Violations**

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 Victims

Joseph Akwenyu Manoba
Francisco Cox
Paolina Massidda

Legal Representatives of 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**

Others

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 Regulations 23bis(3) and 24(5) of the Regulations of the Court, issues the following ‘Decision on Defence Request for Leave to Reply to the Prosecution Response concerning a Request for Remedies in Light of Disclosure Violations’.

1. On 12 February 2020, the Defence filed a request for various rulings by the Chamber (the ‘Request’).¹ The Defence first requests that the Chamber confirm alleged disclosure violations by the Office of the Prosecutor (the ‘Prosecution’). It further requests a number of different remedies, among them that the Chamber issue a temporary stay of proceedings or order any remedy that it deems appropriate.
2. On 28 February 2020, the Prosecution filed its response to the Request (the ‘Response’) admitting some of the alleged disclosure violations while denying another, offering disclosure of the material as far as violations are admitted, and subsequently requesting that the Chamber not order any further remedies.²
3. On 04 March 2019, the Defence filed a request for leave to reply to the Response (the ‘Request for Leave to Reply’).³
4. As a preliminary matter, the Single Judge notes that the Defence indicates that the Request for Leave to Reply can be made public.⁴ Accordingly, the Single Judge instructs the Registry to re-classify the motion as public.
5. At the outset, the Single Judge notes that the Request for Leave to Reply does not state why the Defence considers the issue it wishes to address to be a new issue raised by the Prosecution nor explain why this issue could not have reasonably been anticipated.
6. However, the Single Judge further notes that the Request for Leave to Reply is unopposed.

¹ Defence Request for Remedies in Light of Prosecution Disclosure Violations, ICC-02/04-01/15-1718-Conf. A public redacted version was filed on 6 March 2020, ICC-02/04-01/15-1718-Red.

² Prosecution’s Response to the “Defence Request for Remedies in Light of Prosecution Disclosure Violations”, ICC-02/04-01/15-1723-Conf.

³ Defence Request for Leave to Reply to Prosecution filing ICC-02/04-01/15-1723-Conf, ICC-02/04-01-15-1726-Conf.

⁴ Request for Leave to Reply, ICC-02/04-01/15-1726-Conf, para. 1.

7. The Single Judge considers that a reply by the Defence to the Response would be beneficial to the resolution of the Request. Considering that the Defence identified only one issue it wishes to reply to,⁵ the Single Judge finds that a relatively short deadline for the reply is appropriate. Therefore, the Single Judge orders the Defence to file its reply by 20 March 2020.

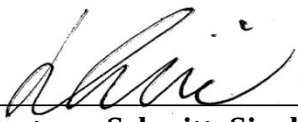
FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY

ORDERS the Registry to re-classify filing ICC-02/04-01/15-1726-Conf as ‘public’;

GRANTS the Defence Request to Reply; and

ORDERS the Defence to file the reply by 20 March 2020.

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



Judge Bertram Schmitt, Single Judge

Dated 13 March 2020

At The Hague, The Netherlands

⁵ Request for Leave to Reply, ICC-02/04-01/15-1726-Conf, para. 1.