

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

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

Date: **2 June 2022**

TRIAL CHAMBER IX

Before: Judge Bertram Schmitt, Presiding Judge
Judge Péter Kovács
Judge Chang-ho Chung

SITUATION IN UGANDA

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

Public

Decision on the Request to Withdraw as Counsel for Dominic Ongwen

To be notified, in accordance with Regulation 31 of the *Regulations of the Court*, to:**The Office of the Prosecutor**

Mr Karim A. A. Khan
Mr Colin Black

Counsel for the Defence

Mr Krispus Ayena Odongo
Mr Charles Achaleke Taku
Ms Beth Lyons

Legal Representatives of Victims

Mr Joseph Akwenyu Manoba
Mr Francisco Cox

The Office of Public Counsel for Victims

Ms Paolina Massidda

Others

Appeals Chamber

Trust Fund for Victims

Mr Pieter de Baan

REGISTRY**Registrar**

Mr Peter Lewis

Others

Appeals Chamber

Victims and Witnesses Unit

Mr Nigel Verrill

Victims Participation and Reparations Section

Mr Philipp Ambach

Counsel Support Section

Mr Pieter Vanaverbeke

Trial Chamber IX of the International Criminal Court (the ‘ICC’ or the ‘Court’), in the case of *The Prosecutor v. Dominic Ongwen* (the ‘Ongwen case’), having regard to articles 64(2) and 67(l)(d) of the Rome Statute (‘Statute’), rules 20 to 22 of the Rules of Procedure and Evidence (‘Rules’), regulation 78(1) of the Regulations of the Court (‘Regulations’), and articles 8, 15, 17 to 19 of the Code of Professional Conduct for counsel (‘Code of Conduct’), issues the following Decision on the Request to Withdraw as Counsel for Dominic Ongwen (‘Decision’).

I. PROCEDURAL HISTORY

1. On 27 May 2022, the Chamber, Counsel for Mr Dominic Ongwen (‘Mr Ongwen’), Mr Krispus Charles Ayena Odongo (‘Mr Ayena Odongo’), submitted a request to withdraw as Counsel for Mr Ongwen in his proceedings before the Court (‘Request’).¹

2. On 31 May 2022, the current Co-Counsel for Mr Ongwen, Mr Charles Achaleke Taku (‘Mr Taku’), informed the Chamber that Mr Ongwen has agreed to appoint Mr Taku as Counsel for the remainder of the proceedings before the Court. Mr Taku also informs the Chamber that the rest of the legal team currently representing Mr Ongwen will continue working and assisting the Defence in the proceedings before the Court.²

3. The Chamber notes that ‘any leave to withdraw by counsel from a case must be considered in light of the fact that effective representation of the suspect or accused is still ensured and withdrawal is not prejudicial to the ongoing proceedings.’³ In the case at hand, the Chamber hereby grants the Request taking into account: (i) Mr Ayena Odongo’s wish to withdraw as Counsel; and (ii) that Mr Ayena Odongo’s withdrawal will not have an impact on the course of the ongoing proceedings, as Mr Ongwen has agreed to appoint Mr Taku as Counsel and the rest of the legal team will continue assisting the Defence. The Chamber reminds Mr Ayena Odongo that he remains subject to Articles 8, 15, and 17 to 19 of the Code of Conduct.

4. The Chamber further notes that, pending appeals against the conviction and sentence before the Appeals Chamber, ‘Counsel must also seek and receive permission to withdraw from

¹ Request to Withdraw as Counsel for Dominic Ongwen, 27 May 2022, ICC-02/04-01/15-1995-Conf (public redacted version filed on 31 May 2022, notified on 1 June 2022, [ICC-02/04-01/15-1995-Red](#)).

² Notification to Trial Chamber IX, 31 May 2022, ICC-02/04-01/15-1996-Conf (public redacted version filed on the same date, [ICC-02/04-01/15-1996-Red](#), both notified on 1 June 2022).

³ Pre-Trial Chamber II, *The Prosecutor v. Jean-Pierre Bemba Gombo*, Decision on the Requests for Withdrawal of Counsel, 17 September 2009, [ICC-01/05-01/08-524](#), para. 14.

the Appeals Chamber before the withdrawal can become effective'.⁴ Accordingly, the withdrawal will only become effective when also granted by the Appeals Chamber.⁵

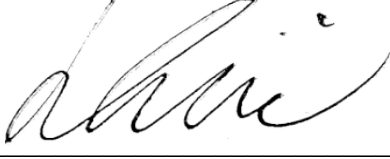
5. Lastly, having regard to Article 67(l)(d) of the Statute, the Chamber directs the Registry to take the necessary steps, in accordance with Rules 20 to 22 of the Rules, to ensure continuous legal representation of Mr Ongwen in order to protect his rights. To this end, the withdrawal of Mr Ayena Odongo as Counsel shall only take effect once the new defence Counsel, Mr Taku, has been properly appointed.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

GRANTS the Request, subject to paragraphs 4 and 5 above; and

DIRECTS the Registry to take all the necessary steps to promptly facilitate the appointment of Mr Taku as the new defence Counsel for Mr Ongwen.

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

 Judge Péter Kovács	 Judge Bertram Schmitt, Presiding Judge	 Judge Chang-ho Chung
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Dated this Thursday, 2 June 2022

At The Hague, The Netherlands

⁴ Trial Chamber VII, *The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido*, Decision on Kilolo Defence Counsel's Request to Withdraw, 21 November 2016, [ICC-01/05-01/13-2039](#), para. 3.

⁵ The Chamber notes that a Request to withdraw and the relevant information about the composition of the Defence team have been filed before the Appeals Chamber on 1 June 2022, *see* ICC-02/04-01/15-1997-Red and ICC-02/04-01/15-1998-Red.