



Original: English

No.: ICC-02/04-01/15
Date: 18 November 2015

PRE-TRIAL CHAMBER II

Before: Judge Cuno Tarfusser, Single Judge

SITUATION IN UGANDA

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

PUBLIC With 663 confidential annexes <i>EX PARTE</i> only available to the Registry and the Prosecutor 663 confidential redacted annexes And one confidential annex Third Report on Applications to Participate in the Proceedings

Source: Registry

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

The Office of the Prosecutor

Ms. Fatou Bensouda, Prosecutor

Mr. James Stewart

Mr. Benjamin Gumpert

Counsel for the Defence

Mr. Krispus Ayena Odongo

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

Ms. Paolina Massidda

**The Office of Public Counsel for the
Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr. Herman von Hebel

Counsel Support Section

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Ms. Fiona McKay

Other

The Registrar of the International Criminal Court (the “Court”);

NOTING the decision of the Single Judge of Pre-Trial Chamber II notified on 4 March 2015 (the “Decision of 4 March 2015”), establishing principles on the victims’ application process in the pre-trial proceedings in the case *The Prosecutor v. Dominic Ongwen* (the “Case”);¹

NOTING the decision of the Single Judge of Pre-Trial Chamber II (the “Single Judge”), notified on 3 September 2015 (the “Decision of 3 September 2015”),² ordering the Registry to assess and transmit to the Chamber, the Prosecutor and the Defence,³ by 18 September 2015, all complete victim applications received and collected as of 3 September 2015 which have been assessed against the factual parameters of the Case as set out in the warrant of arrest for Dominic Ongwen (the “Warrant of Arrest”),⁴ and, thereafter, on a rolling basis and by 7 December 2015, all complete applications received and falling within the scope of the present Case, including in light of the Prosecutor’s concise statement of the facts underlying the crimes with which the Prosecutor intends to charge Dominic Ongwen;⁵

NOTING the Prosecutor’s Notice of intended charges against Dominic Ongwen, notified on 18 September 2015 (the “Prosecutor’s Notice”);⁶

NOTING the Registry’s First Transmission to the Single Judge and the Office of the Prosecutor,⁷ and to the Defence,⁸ of 209 applications for participation in the proceedings, notified on 18 September 2015 (the “First Transmission”), and the Registry’s Second Transmission to the Single Judge and the Parties of 336

¹ ICC-02/04-01/15-205.

² ICC-02/04-01/15-299.

³ Redacted, as appropriate.

⁴ ICC-02/04-01/05-10.

⁵ ICC-02/04-01/15-299, para. 10.

⁶ A public redacted version was notified on 25 September 2015, ICC-02/04-01/15-305-Red2.

⁷ ICC-02/04-01/15-303.

⁸ ICC-02/04-01/15-304.

applications for participation in the proceedings, notified on 26 October 2015 (the “Second Transmission”);⁹

NOTING articles 68(1) and (3) of the Rome Statute, rules 16, 85, 89 and 90 of the Rules of Procedure and Evidence (the “Rules”), and regulations 23*bis* and 86(5) of the Regulations of the Court (the “Regulations”);

CONSIDERING that to date the Registry has received in the field approximately 2050 applications for participation in the proceedings, of which 545 have been transmitted to the Single Judge and the Parties with the First and Second Transmissions, and 663 further applications which have been assessed as complete and linked to the Case are being transmitted with the present transmission (the “Applications”);

CONSIDERING that, pursuant to regulation 23*bis*(1) of the Regulations, the annexes to the present document which include the Registry’s assessment of the Applications against the requirements of rule 85 of the Rules,¹⁰ as well as both redacted and unredacted versions of these Applications, are respectively notified with the status “Confidential” and “Confidential *EX PARTE*, only available to the Registry and the Prosecutor” since they contain information which may lead to the identification of the applicants;

TRANSMITS in accordance with the Decision of 3 September 2015 the present report on 663 applications for participation in the proceedings (the “Report”) along with:

- Confidential *EX PARTE* Annexes 1 to 663 which contain unredacted versions of the Applications,
- Confidential Annexes 1 to 663 which contain redacted versions of the

⁹ ICC-02/04-01/15-327.

¹⁰ In compliance with the Single Judge’s instructions provided to the Victims Participation and Reparations Section on 19 October 2015.

Applications,¹¹

- Confidential Annex 664 which contains the Registry's assessment of the Applications against the requirements of rule 85 of the Rules.

Introduction

1. The Registry transmits to the Single Judge and the Parties 663 Applications together with the present Report, pursuant to regulation 86(5) of the Regulations. The Applications filed with the present transmission fall within the following groups:¹² 621 applications belonging to the group "Attack on the Lukodi IDP camp", 40 belonging to the group "Attack on the Pajule IDP camp" and 2 applications belonging to the group "Conscription and use of child soldiers".¹³
2. In compliance with the Decision of 3 September 2015, the Registry transmits only those applications which it assesses as complete and in which the applicant alleges to have personally suffered harm, whether direct or indirect, as a result of one or more crimes with which Dominic Ongwen is charged,¹⁴ as laid out in the Warrant of Arrest and the Prosecutor's Notice. In assessing the Applications against the requirements of rule 85 of the Rules, the Registry has continued to follow the approach described in the Registry's Reports filed with the First and Second Transmissions.¹⁵ As regards the crimes of conscription and use of child

¹¹ ICC-02/04-01/15-299, para. 6. As explained in the Registry's First Report, applications are transmitted to the Defence in redacted form. ICC-02/04-01/15-303, paras. 18-20.

¹² Following the issuance of the Prosecutor's Notice on 18 September 2015 and in accordance with the Decision of 4 March 2015 (ICC-02/04-01/15-205, para. 29), the Registry organises the applications received into 4 groups according to the main incidents laid out in the Notice: Pajule IDP camp, Odek IDP camp, Lukodi IDP camp, Abok IDP camp; and 3 additional groups corresponding to categories of alleged crimes as separately outlined in the Notice: Persecution, Sexual and gender based crimes, and Conscription and use of child soldiers.

¹³ The Registry notes that Standard Application Forms for participation, as opposed to the Simplified Form adopted for the purpose of participation in the present case, (ICC-02/04-01/15-205 paras. 14-22) which were received by the Registry between 2007 and 2014, were used for the applications pertaining to the groups "Attack on the Pajule IDP camp" and "Conscription and use of child soldiers".

¹⁴ ICC-02/04-01/15-299, para. 4.

¹⁵ ICC-02/04-01/15-303, paras. 6-17 and ICC-02/04-01/15-327, para. 2. Following the approach detailed in the Registry's First Transmission (ICC-02/04-01/15-303, footnote 14), the Registry transmits applications a/06221/15, a/05700/15, a/05854/15 and a/05792/15 which were submitted by 17-year old applicants applying on their own behalf.

soldiers, the Registry has assessed as falling within the scope of the Case applications where these crimes are alleged to have been committed in one of the locations listed in the Prosecutor's Notice¹⁶ or in which there is a mention of, or a link to, Dominic Ongwen and/or the Sinia Brigade.

Update on the Registry's Activities

3. Since the Registry's Second Transmission, the Registry undertook a mission to the new localities mentioned in the Prosecutor's Notice, during which it conducted information sessions with approximately 700 people and assisted around 400 applicants to complete application forms.
4. The Registry continues to review the applications it has received since the opening of the Situation in Uganda with a view to identifying and transmitting to the Single Judge and the Parties any applications which would fall within the scope of the Case as delineated by the Prosecutor's Notice.

Information on the Applicants' Views on Legal Representation

5. At least 191 applicants¹⁷ whose applications are filed with the present transmission have indicated their wish to be represented by two lawyers currently registered on the ICC List of Counsel, either through a power of attorney or directly in their application for participation. The Registry is currently in the process of verifying said powers of attorney, in compliance with the Single Judge's Decision of 29 October 2015.¹⁸ The Registry notes that 42 applicants whose applications fall within the groups "Attack on the Pajule IDP camp" and "Conscription and use of child soldiers" are currently represented

¹⁶ ICC-02/04-01/15-305-Red2, paras. 49 and 52.

¹⁷ The Registry is seeking additional information in the field in order to match with certainty some applications with the powers of attorney received.

¹⁸ ICC-02/04-01/15-331.

either by counsel from the Office of Public Counsel for Victims (the “OPCV”)¹⁹ or the OPCV in the context of the Situation in Uganda.²⁰

6. The Registry has continued to compile answers provided by applicants regarding their preferences with regard to legal representation.²¹ The great majority of applicants do not object to the possibility of one legal representative (or one team of lawyers) representing all the victims participating in the Case; at this stage the Registry has not identified a need for more than one group of victims for the purpose of common legal representation.
7. Many applicants have indicated that they would like to be represented by someone from the Acholi region or who speaks Acholi, or someone familiar with Lukodi.²² Some applicants have expressed a wish for proximity and/or accessibility to their lawyer,²³ while ethical integrity²⁴ as well as competence²⁵ and other human qualities²⁶ (such as kindness and a sense of caring) continue to be mentioned as important qualities by many applicants.

¹⁹ a/0115/07, ICC-02/04-01/05-366 page 8.

²⁰ ICC-02/04-191, para. 30.

²¹ The Registry’s consultation of applicants on their preference regarding legal representation is further described in the Registry’s First Report, ICC-02/04-01/15-303, paras. 21-24. The Registry notes that 42 applicants pertaining to the groups “Attack on the Pajule IDP camp” and “Conscription and use of child soldiers” were not consulted on their preferences regarding legal representation, since their application forms were filled in and received by the Registry prior to the current admission process for participation in the present Case.

²² 257 applicants.

²³ 119 applicants.

²⁴ 264 applicants.

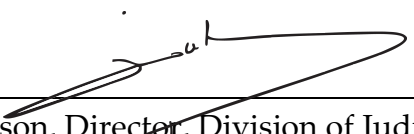
²⁵ 96 applicants.

²⁶ 138 applicants.

Further transmissions of applications

8. The Registry will continue to assess all applications received or to be received and transmit them on a rolling basis until the final deadline for transmission of victim applications in the record of this Case.

RESPECTFULLY SUBMITTED,



Marc Dubuisson, Director, Division of Judicial Services
per delegation of
Herman von Hebel, Registrar

Dated this 18 November 2015

At The Hague, the Netherlands