

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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

Date: **6 June 2016**

TRIAL CHAMBER IX

Before:

**Judge Bertram Schmitt, Single Judge
Judge Péter Kovács
Judge Raul C. Pangalangan**

SITUATION IN UGANDA

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

Public Document

**Common Legal Representative's observations
on legal representation issues**

Source: Office of Public Counsel for Victims

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

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**Unrepresented Applicants
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Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
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Other

I. INTRODUCTION

1. During the Status Conference held on 23 May 2016, Trial Chamber IX (the “Chamber”) requested Counsel representing victims to file observations on how the legal representation should be organised during the trial.¹

2. In accordance with the instructions of the Chamber, the Common Legal Representative of 592 victims authorised to participate in the present case (the “Common Legal Representative”)² files her observations on issues pertaining to the legal representation of victims at trial.

II. SUBMISSIONS

3. Preliminarily, the Common Legal Representative observes that determining the system of legal representation of victims at trial is vested with the relevant Chamber. However, she wishes to underline that the system in place has so far been efficient and has allowed victims to express their views and concerns in the proceedings.

4. The Common Legal Representative also wishes to inform the Chamber that since the pre-trial stage of the proceedings, the team is composed of the Principal Counsel of the Office of Public Counsel for Victims assisted in Uganda by Ms Jane

¹ See the oral Decision issued by the Presiding Judge in the course of the Status Conference held on 23 May 2016, No. ICC-02/04-01/15-T-25-ENG ET WT, 23 May 2016, p. 29, lines 5-17.

² See the “Decision on contested victims’ applications for participation, legal representation of victims and their procedural rights” (Pre-Trial Chamber II, Single Judge), No. ICC-02/04-01/15-350, 27 November 2015, p. 19; the “Decision on issues concerning victims’ participation” (Pre-Trial Chamber II, Single Judge), No. ICC-02/04-01/15-369, 15 December 2015, pp. 10-11; the “Second decision on contested victims’ applications for participation and legal representation of victims” (Pre-Trial Chamber II, Single Judge), No. ICC-02/04-01/15-384, 24 December 2015, pp. 20-22; and the “Decision on the ‘Request for a determination concerning legal aid’ submitted by the legal representatives of victims” (Trial Chamber IX, Single Judge), No. ICC-02/04-01/15-445, 26 May 2016, para. 13.

Adong, Field Counsel. The team also avails itself of the support of the legal staff of the Office.

5. Indeed, the Common Legal Representative considered that, during the pre-trial stage of the case, one person in the field was sufficient to assist her in maintaining regular contact with victims, collecting their views and instructions and keeping them regularly updated of the proceedings.

6. The Field Counsel is based in Kampala (Uganda) and acts as the point of contact with victims in the field in order to collect their views and concerns, including on matters related to their safety, security and well-being. She meets with victims on a regular basis to keep them informed and explain the procedural developments in the case, and also acts as focal point for the *liaison* and coordination with field staff of other organs of the Court or Registry sections.

7. The Field Counsel has extensive experience in national proceedings and international criminal law; knowledge of the case and of the proceedings before the Court; knowledge of the country and of the local languages spoken by the majority of the victims (Lwo (or Luo), more specifically Acholi and Lango); and an understanding of the type of victimisation and of the cultural and ethnic background of the victims. Moreover, she is available to work on the case on a full-time basis.

8. Victims have been met on several occasions in groups and individually, by both the Common Legal Representative and the Field Counsel. Special attention was also given to particularly vulnerable victims and individuals enjoying dual status, and advice was requested from the Victims and Witnesses Unit, when necessary. In order to make the communication more effective, victims are aware that they can contact the Field Counsel via a dedicated phone line, available 24/7.

9. In relation to the communication with victims, information sheets for general distribution have been regularly provided to victims, intermediaries and other stakeholders in order to clarify and explain the proceedings. This information complements the information provided directly to victims during individual or group gatherings and meetings with them in the field, mostly in between missions.

10. While a minority of the victims might have some difficulties in fully understanding the complexity of the Court's proceedings, the Common Legal Representative has noticed that the large majority of them has a fair understanding of the proceedings, has been able to follow them, and, most importantly, has been able to provide on several occasions important input in order for their lawyers to be able to represent their interests before the Court.

11. Upon conclusion of the preliminary phase of the case, the Common Legal Representative assessed the working method with the team and verified with the victims whether they were satisfied with the system.

12. Victims have indicated that they value the efforts made by their legal representative and field counsel to regularly travel to the locations where they reside to meet with them and have expressed their satisfaction with the system in place, underlining, in particular, that they feel that their views and interests are duly taken into account and that they can trust their lawyers. Victims have also indicated that, despite the fact that the proceedings are long, they feel that justice is being done and that the Judges take their expectations into account.

13. The only difficulty raised so far by victims is the issue of family members being represented in the two groups of victims currently formed and therefore by different counsel. The Common Legal Representative has already indicated this issue

in previous submissions.³ However, said issue could be easily solved by ascertaining the wishes of the victims concerned who should be asked their preference in relation to their legal representation.

14. Counsel representing victims agree on said approach. Therefore, the Common Legal Representative suggests that both teams identify the persons concerned and provide the Registry with a list in order for it to consult the victims in the matter.

Respectfully submitted.

A handwritten signature in black ink, appearing to read 'Paolina Massidda', with a horizontal line underneath.

Paolina Massidda
Principal Counsel

Dated this 6th day of June 2016

At The Hague, The Netherlands

³ See the "Common Legal Representative's submissions pursuant to the "Order Scheduling First Status Conference and Other Matters"", No. ICC-02/04-01/15-437, 18 May 2016, para. 40.