

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 13 April 2018

TRIAL CHAMBER IX

Before: Judge Bertram Schmitt, Single Judge

SITUATION IN UGANDA

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

Public

Directions on Closing Briefs and Closing Statements

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

Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Judge Bertram Schmitt, acting as Presiding Judge on behalf of Trial Chamber IX ('Single Judge' and 'Chamber', respectively) of the International Criminal Court, in the case of *The Prosecutor v. Dominic Ongwen*, having regard to Articles 64(2), (8)(b) and 67(1)(f) of the Rome Statute ('Statute'), Rules 140 and 141 of the Rules of Procedure and Evidence ('Rules') and Regulation 38(1)(c) of the Regulations of the Court ('Regulations'), issues the following 'Directions on Closing Briefs and Closing Statements'.

1. On 13 July 2016, the Presiding Judge issued the Initial Directions on the Conduct of the Proceedings.¹ Therein, he, *inter alia*, provided directions with regard to the opening statements and stated that any issue 'unaddressed in the present decision and which require intervention from the Chamber will be dealt with in the course of the trial'.²
2. With the Office of the Prosecutor ('Prosecution') having provided its official notice of closure of the Prosecution evidence,³ the Presiding Judge considers this to be an appropriate moment to issue further instructions on the filing of closing briefs and closing statements. The directions are given at this early point in time to provide the parties and participants with the maximum amount of time to organise and plan their workload.
3. The closing briefs by the parties and participants, should they wish to file any, are to be filed six weeks after the declaration of the closure of the submission of evidence.⁴ The purpose of these submissions is to provide a succinct summary of their views, positions and arguments on the confirmed charges and the evidence presented during trial. They are not meant to be a discussion between the parties and participants on how they assess the evidence but simply an additional tool

¹ Initial Directions on the Conduct of the Proceedings, ICC-02/04-01/15-497.

² Initial Directions on the Conduct of the Proceedings, ICC-02/04-01/15-497, paras 4 and 7.

³ Notice of the Prosecution's completion of evidence presentation, 13 April 2018, ICC-02/04-01/15-1225.

⁴ See Rule 141(1) of the Rules: The Presiding Judge shall declare when the submission of evidence is closed.

for the assessment by the Chamber. It is therefore not necessary to receive the closing submission of another party or participant beforehand. Accordingly, all closing briefs are to be filed on the same date.⁵

4. The Presiding Judge orders that the Prosecution and Defence limit their closing briefs to 200 pages and considers the statutory page limit⁶ of 120 pages to be sufficient for the Legal Representatives for Victims.
5. The Presiding Judge has fully considered the rights of the accused under Article 67(1)(f) of the Statute and recalls the previous jurisprudence of the Chamber on this issue.⁷ He repeats that the right to translations is not without limitations and is confined to translations necessary to ‘meet the requirements of fairness’.
6. In this instance, the Presiding Judge does not consider it necessary for the fairness of trial that Acholi translations of the closing submissions must be filed. All closing briefs are independent of each other and are not reactionary to the ones made by other parties and participants. They are merely an additional assistance for the Chamber’s benefit. The Presiding Judge notes that the ‘pre-confirmation brief’ filed during the confirmation stage⁸ and the pre-trial brief at the trial stage⁹ were also not translated into Acholi. Furthermore, the legal nature of the closing briefs is such that they have no independent evidentiary value –

⁵ Though not uniform, this has been the practice for closing briefs in many international criminal law cases. ICC, Trial Chamber VII, *The Prosecutor v. Jean-Pierre Bemba Gombo et al.*, Decision on Prosecution’s Motion for Reconsideration of the Closing Submissions Directions, 15 January 2016, ICC-01/05-01/13-1552, para. 10; ICTR, Appeals Chamber, *Laurent Semanza v. The Prosecutor*, Judgement, 20 May 2005, ICTR-97-20-A, para. 36. (describing the general practice at the ICTY and ICTR for simultaneous closing briefs).

⁶ Regulation 38(1)(c) of the Regulations.

⁷ Decision on Defence Request for Findings on Fair Trial Violations Related to the Acholi Translation of the Confirmation Decision, ICC-02/04-01/15-1147, para. 12.

⁸ Public redacted version of “Pre-confirmation brief”, 21 December 2015, ICC-02/0401/15-375-Conf-AnxC, 8 June 2016, ICC-02/04-01/15-375-AnxC-Red2.

⁹ Prosecution’s Pre-Trial Brief, 6 September 2016, ICC-02/04-01/15-533.

the Statute and Rules do not even require that a closing brief be received during trial proceedings.¹⁰

7. As explained above, the closing briefs will merely be a summary and reiteration of the parties and participants' views and positions. They will therefore not contain anything substantially new. The accused is already aware of the case against him and all arguments raised up until this point in the proceedings. He has also heard (in Acholi) the evidence presented in court. Lastly, the legal team of the accused fully understands the language in which the closing briefs will be filed.
8. Should the Defence consider that certain discrete parts of the other participants' closing briefs require translation in order to prepare for the closing statements, it can liaise with the Registry accordingly.
9. The closing statements will be held two weeks after the filing of the closing briefs. Further details will be provided at a later point in the proceedings.

¹⁰ Rule 141(2) of the Rules makes reference only to inviting closing *statements*, not closing briefs.

FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY

INVITES the filing of the closing briefs, if any, six weeks after the declaration of the closure of the submission of evidence;

DECIDES that the Prosecution and Defence have a 200 page limit for their closing brief; and

ORDERS that the closing statements will be held two weeks after the filing of the closing briefs.

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



Judge Bertram Schmitt, Presiding Judge

Dated 13 April 2018

At The Hague, The Netherlands