

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: **4 June 2018**

TRIAL CHAMBER IX

Before:

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

SITUATION IN UGANDA

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

Public

**CLRV Response to the Defence Request for a Status Conference
ICC-02/04-01/15-1264-Red**

Source: Office of Public Counsel for Victims

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

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I. INTRODUCTION

1. The Common Legal Representative of the victims¹ (the “CLR”) does not oppose, in principle, the Defence request to hold a status conference in the second half of June 2018. However, she submits that the Defence should be ordered to provide the Prosecution and the Legal Representatives of Victims with details about the issues it intends to raise at the status conference. Indeed, the current classification of the Defence’s Request does not allow the Legal Representatives of Victims to fully apprehend the need for such a hearing nor the matters to be discussed.

2. In this regard, the CLR supports the Prosecution’s request contained in its submissions in response to the Defence’s Request filed on 1 June 2018.²

II. PROCEDURAL BACKGROUND

3. On 29 May 2018, the Defence filed a Public Redacted Version of its Request for a Status Conference pursuant to Rules 132(2) and 132*bis*(4) of the Rules of Procedure and Evidence (the “Defence’s Request”).³

4. On the same day, Trial Chamber IX (the “Chamber”), by e-mail, shortened the deadline for responses to the Defence’s Request, indicated that submissions should be filed by 5 June 2018.⁴

¹ 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.

² See the “Prosecution’s Response to Defence Request for a Status Conference ICC-02/04-01/15-1264-Red”, No. ICC-02/04-01/15-1265, 1 June 2018, para. 1 (the “Prosecution’s Response”).

³ See the Public Redacted Version of “Defence Request for a Status Conference Pursuant to Rules 132(2) and 132 bis(4) of the Rules of Procedure and Evidence”, filed on 29 May 2018”, No. ICC-02/04-01/15-1264-Red, 29 May 2018 (the “Defence’s Request”).

5. On 1 June 2018, the Prosecution filed its Response to the Defence's Request (the "Prosecution's Response").⁵

III. SUBMISSIONS

6. At the outset the CLRV notes that Defence's Request is unclear as to whether the Defence intends to ask for part of the status conference to be held on an *ex parte* basis. Should this be the case, the CLRV submits that the Defence should be required to provide adequate justification thereof. In this regard, the CLRV contends that the Defence's justification for filing its Request on an *ex parte* basis is insufficient.

7. However, the CLRV understands that, during the status conference, the Defence wishes to address matters related to its presentation of evidence, as well the specific issue related to the appointment of experts for the purpose of article 31(1)(a) of the Rome Statute.

8. As far as the presentation of evidence by the Defence is concerned, the CLRV indicates that discussion of issues of common concern to all parties and participants at a status conference may advance the efficiency of the proceedings, provided that the Prosecution and the Legal Representatives of Victims are adequately informed of the topics to be addressed at the hearing. In this regard, the CLRV supports the Prosecution's request for the Defence to provide, in advance and in writing, details on the matters it intends to raise during the status conference.⁶

9. Concerning the appointment of experts and modalities of a medical examination for the purposes of article 31(1)(a),⁷ the CLRV wishes to recall the previous joint submissions of the Legal Representatives of Victims to the effect that

⁴ See the e-mail sent by the Legal Officer of Trial Chamber IX on 29 May 2018 at 16:46.

⁵ See the Prosecution's Response, *supra* note 2.

⁶ *Idem*, para. 1 (b).

⁷ See the Defence's Request, *supra* note 3, para. 17.

the interests of the participating victims are affected by issues related to the medical condition of the Accused and, therefore, they are entitled to receive information in this regard.⁸

10. The CLRV submits that the Legal Representatives of Victims shall be adequately informed of the Defence's intentions in this regard in order to be able to preserve the personal interests of their clients and express their views and concerns, if need be, on such an important issue which clearly affects their interests before the Chamber, as well as, eventually in meetings to be held between the parties.

11. Therefore, the CLRV also supports the Prosecution's arguments according to which a status conference to discuss such an appointment would be inefficient in the absence of further information and concrete proposals by the Defence provided in writing in advance to the hearing.⁹

Respectfully submitted.



Paolina Massidda
Principal Counsel

Dated this 4th day of June 2018

At The Hague (The Netherlands)

⁸ See the Joint Response to the "Prosecution Request for the Disclosure of Material Underlying the Defence Psychiatric Expert Report", No. ICC-02/04-01/15-671-Conf, 27 January 2017, paras. 11-12.

⁹ See the Prosecution's Response, *supra* note 2, para. 13.