

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 8 June 2018

TRIAL CHAMBER IX

Before: Judge Bertram Schmitt, Single Judge

SITUATION IN UGANDA

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

Public

Decision on Defence Request to Hold a Status Conference

To be notified, in accordance with regulation 31 of the Regulations of the Court, to:

The Office of the Prosecutor

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Legal Representatives of the Victims

Joseph Akwenyu Manoba and Francisco
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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

Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Judge Bertram Schmitt, acting as Single 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 Rules 132(2) and 132 *bis*(4) of the Rules of Procedure and Evidence ('Rules') and Regulations 23 *bis*(3) and 54 of the Regulations of the Court, issues the following 'Decision on Defence Request to Hold a Status Conference'.

I. Procedural history and submissions

1. On 29 May 2018, the defence for Mr Ongwen ('Defence') filed a submission requesting that the Chamber schedule a status conference in the latter part of June 2018 ('Request').¹ The Defence argues that several issues need to be discussed before the commencement of the presentation of evidence by the Defence, among others the number of witnesses it intends to call,² the appearance of expert witnesses³ and the modalities of a medical examination pursuant to Rule 135 of the Rules.⁴
2. On 1 June 2018, the Office of the Prosecutor ('Prosecution') filed its response ('Prosecution Response').⁵ It submits that it does not have sufficient information on the issues on which the Defence wishes to hold a status conference. Therefore, it proposes that the Chamber 'delay its consideration on the Request until the Defence has provided the written details and explanation' the Prosecution requires to prepare and respond meaningfully.⁶

¹ Defence Request for a Status Conference Pursuant to Rules 132(2) and 132 *bis*(4) of the Rules of Procedure and Evidence, ICC-02/04-01/15-1264-Conf-Exp, available only to the Defence. A public redacted version was filed on the same day, ICC-02/04-01/15-1264-Red.

² Request, ICC-02/04-01/15-1264-Red, para. 14.

³ Request, ICC-02/04-01/15-1264-Red, para. 16.

⁴ Request, ICC-02/04-01/15-1264-Red, para. 17.

⁵ Prosecution's Response to Defence Request for a Status Conference ICC-02/04-01/15-1264-Red, ICC-02/04-01/15-1265.

⁶ Prosecution Response, ICC-02/04-01/15-1265, para. 14.

3. On 4 and 5 June 2018, the Common Legal Representatives for Victims and the Legal Representatives for Victims ('LRV', 'LRV Response') submitted their responses, respectively.⁷ In essence, they repeat the submissions of the Prosecution and equally request that the Request be not decided upon until further information is submitted by the Defence.⁸

II. Analysis

4. As a preliminary matter, the Single judge notes that the LRV Response is classified as 'confidential'. Since this filing is in response to a public-redacted version of the Request and contains no confidential information, the Single Judge hereby orders the Registry to re-classify the LRV Response as 'public'.
5. Turning to the Request, the Single Judge notes that the Defence refers to the status conference held before the beginning of the presentation of evidence by the Prosecution in order to justify the scheduling of another status conference.⁹
6. The Single Judge explains that this status conference¹⁰ was held pursuant to Rule 132(1) of the Rules with the specific purpose of setting the date of trial.¹¹ The Defence has already provided the relevant information for its presentation of evidence¹² and there is no need for a status conference to discuss the modalities of this presentation in general terms.

⁷ CLRV Response to the Defence Request for a Status Conference ICC-02/04-01/15-1264-Red, 4 June 2018, ICC-02/04-01/15-1269; Victims' Response to the "Defence Request for a Status Conference ICC-02/04-01/15-1264-Red", Victims' Response to the "Defence Request for a Status Conference ICC-02/04-01/15-1264-Red", 5 June 2018, ICC-02/04-01/15-1276-Conf.

⁸ LRV Response, ICC-02/04-01/15-1276-Conf, para. 5.

⁹ Request, ICC-02/04-01/15-1264-Red, para. 13.

¹⁰ Transcript of hearing on 23 May 2016, ICC-02/04-01/15-T-25-ENG.

¹¹ *See also*, Order Scheduling First Status Conference and Other Matters, 4 May 2016, ICC-02/04-01/15-432, para. 1.

¹² *See the information provided on 4 June 2018*: Defence Request Pursuant to Rule 68(2)(c) of the Rules of Procedure and Evidence, ICC-02/04-01/15-1270-Conf; Defence Request to Introduce Previously Recorded Testimony Pursuant to Rule 68(2)(b) of the Rules of Procedure and Evidence, ICC-02/04-01/15-1271-Conf; Defence notification of List of Witnesses and Evidence in compliance with ICC-02/04-01/15-1021 and Request for Leave to Add Witnesses its List of Witnesses and Materials to its List of Evidence, ICC-02/04-01/15-1272-Conf-Exp with three confidential annexes and a public-redacted version filed on the same day and Defence

7. Further, the Single Judge finds that none of the reasons advanced by the Defence in support for holding a status conference are convincing. The number of witnesses¹³ is, in and of itself, not an issue which requires discussion at a status conference.
8. Considering the issue raised in paragraph 10 and 15 of the Request, the Single Judge notes that additional information on the subject matter is expected at a later point in time. Absent any specific reason advanced by the Defence, this issue does not justify a status conference at this point in time.
9. As regards the modalities of the appearance of expert witnesses the Defence intends to call¹⁴ and the modalities of a medical examination pursuant to Rule 135 of the Rules,¹⁵ the Single Judge notes that no specific submissions or requests have been made. Accordingly, the need for a status conference does not arise.
10. Considering the above, the Single Judge finds that it would not facilitate the fair and expeditious conduct of the proceedings to hold a status conference and, accordingly, rejects the Request.

Application for In-Court Protective Measures, Special Measures and Rule 75 Notice, ICC-02/04-01/15-1273-Conf.

¹³ Request, ICC-02/04-01/15-1264-Red, para. 14.

¹⁴ Request, ICC-02/04-01/15-1264-Red, para. 16.

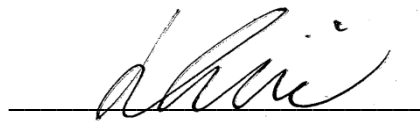
¹⁵ Request, ICC-02/04-01/15-1264-Red, para. 17.

FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY

ORDERS the Registry to re-classify the LRV Response (ICC-02/04-01/15-1276-Conf) as public; and

REJECTS the Request.

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

A handwritten signature in black ink, appearing to read 'B. Schmitt', is written over a horizontal line.

Judge Bertram Schmitt, Single Judge

Dated 8 June 2018

At The Hague, The Netherlands