

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-02/04-01/15**
Date: **22 February 2021**

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 for Trial Chamber IX to accept Submissions on Sentencing Pursuant to Rule 103 of the Rules of Procedure and Evidence’

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

The Office of the Prosecutor

Fatou Bensouda

James Stewart

Counsel for the Defence

Krispus Ayena Odongo

Legal Representatives of Victims

Joseph Akwenyu Manoba

Francisco Cox

Paolina Massidda

Legal Representatives of 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**

Others

Judge Bertram Schmitt, acting as Single Judge on behalf of Trial Chamber IX of the International Criminal Court, in the case of *The Prosecutor v. Dominic Ongwen*, having regard to Article 76(1) of the Rome Statute (the ‘Statute’) and Rule 103 of the Rules of Procedure and Evidence (the ‘Rules’), issues the following decision on the ‘Defence Request for Trial Chamber IX to accept Submissions on Sentencing Pursuant to Rule 103 of the Rules of Procedure and Evidence’ (‘Request’), submitted on 9 February 2021.¹

1. The Defence submits that the Chamber should request *amicus curiae* observations under Rule 103 of the Rules ‘before deciding the novel issue of sentencing of former child soldier’.² The Defence does not identify any prospective *amicus curiae* and only states very broadly that observations should be requested ‘from States, organizations, professionals and intellectuals’.³
2. The Prosecution and both teams of legal representatives of victims responded on 12 February 2021, all arguing that the Request should be rejected.⁴
3. Rule 103 of the Rules accords the Chamber the discretion to invite or grant leave to a State, organization or person to submit any observation on any issue that the Chamber deems appropriate if the Chamber considers this desirable for the proper determination of the case.
4. As provided for in Article 76(1) of the Statute, the Chamber will consider the appropriate sentence to be imposed on Dominic Ongwen on the basis of the evidence presented and submissions made during the trial, including in the upcoming submissions as regulated in the ‘Decision scheduling a hearing on sentence and setting the related procedural calendar’ issued on 4 February 2021.⁵ In terms of scope of the evidence and submissions, there is no reason to consider, also in light of the evidence already on record, that they will be insufficient, including as concerns the personal background and individual circumstances of Dominic Ongwen. In this context, for the purpose of the determination of the

¹ [ICC-02/04-01/15-1765](#).

² Request, para. 17.

³ Request, para. 20.

⁴ [Prosecution’s Response to Defence Request for Trial Chamber IX to Accept Submissions on Sentencing Pursuant to Rule 103](#), ICC-02/04-01/15-1768; [CLR V Response to the Defence Request for Trial Chamber IX to accept Submissions on Sentencing Pursuant to Rule 103 of the Rules of Procedure and Evidence](#), ICC-02/04-01/15-1770; [Victims’ Response to “Defence Request for Trial Chamber IX to accept Submissions on Sentencing Pursuant to Rule 103 of the Rules of Procedure and Evidence”](#), ICC-02/04-01/15-1771.

⁵ [ICC-02/04-01/15-1763](#).

appropriate sentence in the present case, the Single Judge does not deem it necessary or desirable to seek submissions on the issues identified in the Request from unspecified 'States, organizations, professionals and intellectuals' as instead requested by the Defence.

FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY

REJECTS the Request.

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



Judge Bertram Schmitt, Single Judge

Dated 22 February 2021

At The Hague, The Netherlands