

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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

Date: 16 March 2021

TRIAL CHAMBER IX

**Before: Judge Bertram Schmitt, Presiding Judge
Judge Péter Kovács
Judge Raul Cano Pangalangan**

SITUATION IN UGANDA

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

Confidential

**CLRV Response to the "Defence Request for an Extension of Time
to File its Sentencing Brief
due to the Registrar's Violation of Mr Ongwen's Fair Trial Rights"**

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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I. PROCEDURAL HISTORY

1. On 4 February 2021, Trial Chamber IX (the “Chamber”) issued its Judgment, declaring Mr Ongwen guilty of 61 charges of war crimes and crimes against humanity.¹ The same day, the Chamber issued a decision, setting the date for the filing of the parties and participants’ written submissions on sentencing to the 1st of April 2021 and planning a subsequent hearing to be held between the 12 and 16 of April 2021 (the “Scheduling Decision”).²

2. On 10 February 2021, the Defence asked for leave to appeal the Scheduling Decision.³ On 22 February 2021, after receiving the Prosecution⁴ and the Common Legal Representative of the Victims’ submissions,⁵ the Chamber rejected the application.⁶

3. On 12 March 2021, the Defence submitted the “Defence Request for an Extension of Time to File its Sentencing Brief due to the Registrar’s Violation of Mr Ongwen’s Fair Trial Rights” (the “Request”).⁷

¹ See the “Trial Judgment” (Trial Chamber IX), [No. ICC-02/04-01/15-1762-Red](#), 4 February 2021.

² See the “Decision scheduling a hearing on sentence and setting the related procedural calendar” (Trial Chamber IX), [No. ICC-02/04-01/15-1763](#), 4 February 2021 (the “Scheduling Decision”).

³ See the “Defence Request for Leave to Appeal ‘Decision scheduling a hearing on sentence and setting the related procedural calendar’”, [No. ICC-02/04-01/15-1766-Conf](#), 10 February 2021. See also, the “Public Redaction Version of ‘Defence Request for Leave to Appeal ‘Decision scheduling a hearing on sentence and setting the related procedural calendar’”, filed on 10 February 2021”, [No. ICC-02/04-01/15-1766-Red](#), 10 February 2021.

⁴ See the “Prosecution’s Response to the ‘Defence Request for Leave to Appeal ‘Decision scheduling a hearing on sentence and setting the related procedural calendar’”, [No. ICC-02/04-01/15-1773](#), 15 February 2021.

⁵ See the “CLRVR Response to the ‘Defence Request for Leave to Appeal ‘Decision scheduling a hearing on sentence and setting the related procedural calendar’”, [No. ICC-02/04-01/15-1772-Conf](#), 15 February 2021.

⁶ See the “Decision on Defence request for leave to appeal the ‘Decision scheduling a hearing on sentence and setting the related procedural calendar’” (Trial Chamber IX), [No. ICC-02/04-01/15-1777](#), 22 February 2021.

⁷ See the “Defence Request for an Extension of Time to File its Sentencing Brief due to the Registrar’s Violation of Mr Ongwen’s Fair Trial Rights”, [No. ICC-02/04-01/15-1791-Conf](#), 12 March 2021 (the “Request”). A public redacted version was filed the same day, [No. ICC-02/04-01/15-1791-Red](#).

II. LEVEL OF CLASSIFICATION

4. In accordance with regulation 23bis (2) of the Regulations of the Court, the present submission is filed confidential following the classification chosen by the Defence. The CLRV however notes that her submissions do not contain any confidential information and could therefore be reclassified as public.

III. SUBMISSIONS

5. The Common Legal Representative of the Victims (the "CLRV") participating at trial⁸ opposes the Request for an extension of time in the part asking for a postponement until 26 April 2021 for the Defence to file its sentencing brief.⁹

6. In particular, the CLRV argues that such an extensive delay is unreasonable and is contrary to the best interests of the victims she represents. As already noted on several occasions throughout the trial, victims have been longing for the end of these proceedings and for a determination of Mr Ongwen's sentence. Therefore, every day of postponement in the proceedings should be carefully weighted with the victims' rights for expeditious proceedings.

7. Concerning the merits of the Request, the CLRV notes that the Request alleges a failure on the part of the Registry to provide the Defence with additional funds and consequently leaves the adjudication of this matter to the discretion of the Chamber.

⁸ 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-02/04-01/05-384](#), 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.

⁹ See the Request, *supra* note 7.

8. Finally, on the Defence's renewed allegations that Mr Ongwen is a mentally disabled person and requires additional time to read and review material because of his disabilities, the CLRV recalls her previous submissions on the matter underlining that such contentions have never been established before the Chamber.¹⁰

9. Should the Chamber be minded to grant an extension for the Defence to file its sentencing brief, the CLRV respectfully submits that the Prosecution and the Legal Representatives of the Victims should be granted the same as a matter of procedural fairness.

Respectfully submitted,



Paolina Massidda

Dated this 16th day of March 2021

At The Hague, The Netherlands

¹⁰ See, in particular, the "CLRV Response to the "Defence Request for Leave to Appeal 'Decision scheduling a hearing on sentence and setting the related procedural calendar'", [No. ICC-02/04-01/15-1772](#), 15 February 2021 (reclassified as public on 22 February 2021 pursuant to Trial Chamber IX's Decision No. ICC-02/04-01/15-1777 issued the same day), paras. 11 to 13.