

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **19 March 2021**

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

**Decision on the Defence request for extension of time for its written submissions on
sentence**

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

Trial Chamber IX of the International Criminal Court, in the case of *The Prosecutor v. Dominic Ongwen*, having regard to Regulation 35(2) of the Regulations of the Court, issues the following decision on the Defence request for extension of time for its written submissions on sentence.

1. On 4 February 2021, simultaneously with the issuance of its judgement pursuant to Article 74 of the Statute convicting Dominic Ongwen of a total of 61 crimes,¹ the Chamber rendered a decision regulating the further proceedings leading to the imposition of the sentence, including the holding of a further hearing under Article 76 of the Statute.² In the same decision, the Chamber also granted the opportunity to the Defence, the Prosecution and the legal representatives of victims to file, in advance of the hearing, written submissions relevant to the sentence, and set at 1 April 2021 the time limit for such written submissions.
2. On 12 March 2021, the Defence filed a request for extension of time until 26 April 2021 for its written submissions on sentence on the ground of the failure on the part of the Registry to respond to its request for additional funds.³ The Prosecution and the common legal representative of the participating victims responded on 16 March 2021, both opposing the Defence request for extension of time.⁴ On 17 March 2021, the Defence filed a request for leave to reply to the response of the Prosecution.⁵
3. The Chamber is not persuaded by the Defence submission that there exists ‘good cause’ within the meaning of Regulation 35(2) of the Regulations of the Court to extend the time limit for the written submissions on the sentence. On the contrary, it observes that the Defence has been accorded ample time to prepare its written submissions, and is of the view that, even in the circumstances as described by the Defence in the request, such time remains more than sufficient for this purpose. In this regard, the Chamber also emphasises that the Defence may present its submissions relevant to the sentence orally at the hearing

¹ Trial Judgment, ICC-02/04-01/15-1762-Conf (public redacted version available: [ICC-02/04-01/15-1762-Red](#)).

² Decision scheduling a hearing on sentence and setting the related procedural calendar, [ICC-02/04-01/15-1763](#).

³ 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, ICC-02/04-01/15-1791-Conf (public redacted version available: ICC-02/04-01/15-1791-Red)

⁴ Prosecution’s response to the Defence request for an extension of time in which to file its sentencing brief, ICC-02/04-01/15-1796; CLRV Response to ‘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’, ICC-02/04-01/15-1794-Conf.

⁵ ‘Defence Request to Reply to the “Prosecution’s response to the Defence request or an extension of time in which to file its sentencing brief”’, ICC-02/04-01/15-1798.

under Article 76 of the Statute. Indeed, the possibility to file written submissions in advance of such hearing – which is not required as such by the legal instruments of the Court – has been meant as an additional opportunity to bring relevant arguments to the attention of the Chamber.⁶ In these circumstances, the Chamber remains satisfied that no prejudice arises to Dominic Ongwen from the envisaged sentencing calendar, and that the facts referred to in the Defence request do not warrant any modification thereof.

4. The Chamber notes that the Defence has requested leave to reply to the response filed by the Prosecution in relation to a discrete issue, but considers that the subject-matter of the proposed reply is not directly related to the matter under consideration in the present decision, and the proposed reply is therefore not necessary for the disposal of the request for extension of time. Accordingly, the request for leave to reply is rejected. For the same reason, and also due to the need to issue a decision on the requested extension of time without delay, this decision is taken before expiration of the time limit for responses to the Defence request for leave to reply.
5. Finally, the Chamber notes that the common legal representative of victims, ‘following the classification chosen by the Defence’, classified her response to the Defence request as a ‘confidential’ document, while stating that ‘her submissions do not contain any confidential information and could therefore be reclassified as public’.⁷ The Chamber considers that the response at issue may indeed be made public, and, acting under Regulation 23 *bis* (3) of the Regulations of the Court, orders its reclassification accordingly.

⁶ Decision scheduling a hearing on sentence and setting the related procedural calendar, [ICC-02/04-01/15-1763](#), para. 7.

⁷ CLRV Response to ‘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’, ICC-02/04-01/15-1794-Conf, para. 4.

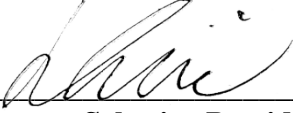
FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

REJECTS the Defence request for extension of time;


REJECTS the Defence request for leave to reply; and

ORDERS the Registry to reclassify document ICC-02/04-01/15-1794-Conf as ‘public’.

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



Judge Bertram Schmitt, Presiding Judge



Judge Péter Kovács



Judge Raul C. Pangalangan

Dated 19 March 2021

At The Hague, The Netherlands