

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **19 July 2021**

TRIAL CHAMBER IX

Before: **Judge Bertram Schmitt, Presiding Judge**
 Judge Péter Kovács
 Judge Chang-ho Chung

SITUATION IN UGANDA

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

Public

Decision on requests for extension of time

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

The Office of the Prosecutor

Mr Karim A. A. Khan

Mr James Stewart

Counsel for the Defence

Mr Krispus Ayena Odongo

Legal Representatives of Victims

Mr Joseph Akwenyu Manoba

Mr Francisco Cox

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victim**

Ms Paolina Massidda

The Office of Public Counsel for the Defence

States Representatives

Trust Fund for Victims

Mr Pieter de Baan

REGISTRY

Registrar

Mr Peter Lewis

Victims and Witnesses Unit

Mr Nigel Verrill

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

Trial Chamber IX of the International Criminal Court (the ‘ICC’ or the ‘Court’), in the case of *The Prosecutor v. Dominic Ongwen* (the ‘Ongwen case’), having regard to regulation 35 of the Regulations of the Court (‘Regulations’), issues the following Decision on requests for extension of time (‘Decision’).

I. PROCEDURAL HISTORY

1. On 6 May 2021, the Chamber, in its prior composition, issued the ‘Order for Submissions on Reparations’ (the ‘Order’),¹ in which it, *inter alia*, (i) instructed and invited the Registry, the Trust Fund for Victims (‘TFV’), the Office of the Prosecutor (‘Prosecutor’), the Republic of Uganda, and persons or organisations authorised to act as *amicus curiae*, to make submissions on a list of issues identified by the Chamber, by 6 September 2021;² (ii) instructed the Registry, with the assistance and cooperation of the Legal Representatives of Victims (‘LRVs’), to undertake a comprehensive mapping of victims potentially eligible for reparations and to file a progress report by 5 July 2021 and a final report by 6 September 2021;³ and (iii) authorised the parties and the TFV to respond to any submissions by 4 October 2021.⁴

2. On 5 July 2021, the Registry submitted its Progress Report on Mapping and Request for Extension of Time (‘Registry’s Request’),⁵ informing the Chamber on the action plan it had developed for the mapping of victims potentially eligible for reparations and requesting a three month extension of the time limit for the submission of its final report on the mapping and its submission on reparations, until 6 December 2021.

3. As authorised by the Chamber,⁶ the Office of Public Counsel for Victims (‘OPCV’)⁷ and the LRVs⁸ informed the Chamber of their support to the Registry’s Request. The TFV informed the Chamber that it would not submit observations on the Request.⁹

¹ Order for Submissions on Reparations, 6 May 2021, [ICC-02/04-01/15-1820](#), (‘Order’).

² Order, [ICC-02/04-01/15-1820](#), para. 5 (i), (ii), (iii).

³ Order, [ICC-02/04-01/15-1820](#), para. 5 (iv).

⁴ Order, [ICC-02/04-01/15-1820](#), para. 6.

⁵ Registry Progress Report on Mapping and Request for Extension of Time (‘Registry’s Request’), 5 July 2021, [ICC-02/04-01/15-1863](#).

⁶ Email from Trial Chamber IX Communications to the parties and the TFV 6 July 2021, at 8:44 hrs.

⁷ Email from the OPCV to Trial Chamber IX Communications, 09 July 2021, at 09:49 hrs.

⁸ Email from the LRVs to Trial Chamber IX Communications, 12 July 2021, at 10:56 hrs.

⁹ Email from the TFV to Trial Chamber IX Communications, 12 July 2021, at 09:51 hrs.

4. On 12 July 2021, the OPCV and the LRVs filed a Joint Request for extension of time limit ('Victims' Request'), similarly asking the Chamber to grant a three-month extension of their time limit to make their submissions on reparations.¹⁰

5. On 13 July 2021, TFV informed the Chamber that it had no observations regarding the Victims' Request, submitting that, should any extension of time be granted, such extension should also apply to the TFV's deadline to submit its observations.¹¹

II. ANALYSIS

6. The Registry submits that recent developments related to the COVID-19 pandemic in Uganda negatively impact its planning and timeline.¹² In particular, it notes that, as 10 June 2021 a number of measures, including a suspension of inter-district travel and a ban on public gatherings was imposed for a period of, at least, 42 days. Several other measures were later imposed, including a ban on all vehicular movement, except for essential workers, a strict curfew, very limited physical presence at the workplace, and heavy police and military deployment in Kampala and the districts' borders.¹³

7. The Registry argues that a representative mapping requires genuine consultations with victim representatives and other interlocutors within their relevant localities, as well as other field activities which cannot be carried out in the current context.¹⁴ In effect, the Registry informs that a mission to Uganda planned for June 2021 in the context of the mapping exercise had to be suspended.¹⁵ In this context, the Registry argues that good cause is shown for extending the time limit for its filing of the final report on the mapping and its submission on reparations. Consequently, it requests a three months extension, from 6 September 2012 until 6 December 2021, on the premise that the restrictions be lifted by 31 August 2021. However, should they be lifted before or extended after this date, the Registry submits that it would assess the situation proposing a new deadline accordingly.¹⁶

¹⁰ Victims' Joint Request for extension of time limit to submit their observations on reparation proceedings, [ICC-02/04-01/15-1864](#) ('Victims' Request'), para. 17.

¹¹ Email from the TFV to the Trial Chamber IX Communications inbox, 13 July 2021 at 17:36.

¹² Registry's Request, [ICC-02/04-01/15-1863](#), para. 5.

¹³ Registry's Request, [ICC-02/04-01/15-1863](#), para. 18.

¹⁴ Registry's Request, [ICC-02/04-01/15-1863](#), para. 20.

¹⁵ Registry's Request, [ICC-02/04-01/15-1863](#), para. 16.

¹⁶ Registry's Request, [ICC-02/04-01/15-1863](#), para. 21.

8. Similarly, the OPCV and the LRVs seek an extension of three months to submit their observations.¹⁷ They argue that, in order to address the reparations issues adequately and comprehensively, ensuring meaningful participation of victims and that the process does not cause any harm or raise undue expectations, field missions to Uganda to consult with their clients in person had been planned.¹⁸ However, they argue that the current COVID-19 limitations prevent them from conducting any field missions and render impossible the collection of data and information necessary for their submissions.¹⁹ The OPCV and LRV indicate their expectation that, within the proposed three months extension, they will be able to deploy and gather information from their clients spread out in a vast area in Uganda.²⁰

9. The Chamber notes that, pursuant to regulation 35(2) of the Regulations, the Chamber may extend or reduce a time limit if good cause is shown, and, where appropriate, after having given the participants an opportunity to be heard. In the past, other Chambers have considered that factors such as difficulties in organising field missions when they are necessary;²¹ security concerns, weather conditions, and obstacles in the access to all groups of victims in a country;²² and COVID-19 related restrictions or circumstances,²³ are all good causes to extend a time limit.

10. The Chamber notes the difficulties encountered by the Registry, the OPCV, and the LRVs to conduct activities in Uganda, such as direct consultations with victims and other interlocutors, as well as other field missions to collect information relevant to the mapping exercise and their submissions on reparations, in light of the COVID-19 restrictions that are

¹⁷ Victims' Request, [ICC-02/04-01/15-1864](#), para. 17.

¹⁸ Victims' Request, [ICC-02/04-01/15-1864](#), para. 8.

¹⁹ Victims' Request, [ICC-02/04-01/15-1864](#), para. 13.

²⁰ Victims' Request, [ICC-02/04-01/15-1864](#), para. 15.

²¹ Trial Chamber II, *Prosecutor v. Thomas Lubanga Dyilo*, Decision on the request of the Trust Fund for Victims for an extension of the time limit for the submission of the first batch of files of potential victims, 29 March 2016, [ICC-01/04-01/06-3205](#), paras 2, 4.

²² Pre-Trial Chamber III, *Situation in the People's Republic of Bangladesh/Republic of the Union of Myanmar*, Decision on the Registry's Request for Extension of Notice Period and Submissions on the Article 15(3) Process, 28 June 2019, [ICC-01/19-6](#), para. 14.

²³ Trial Chamber VI, *Prosecutor v. Bosco Ntaganda*, Decision on Request for an Extension of Time for Filing Expert's Report. 20 July 2020, [ICC-01/04-02/06-2553](#), para. 7; Trial Chamber II, *Prosecutor v. Thomas Lubanga Dyilo*, Decision on the submissions by the Legal Representative of Victims V01 in its Response to the Twelfth Report of the Trust Fund for Victims on the implementation of collective reparations, filing ICC-01/04-01/06-3500-Conf-Exp, 26 March 2021, [ICC-01/04-01/06-3508](#) ('Lubanga Decision on submissions'), paras 14, 16; Trial Chamber X, *Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Decision on request for extension of deadlines for the final transmission of victim applications for participation at trial, 12 June 2020, [ICC-01/12-01/18-880](#), para. 10.

currently in place in Uganda. In these circumstances, in line with the Chamber's Order, in order to ensure that the mapping exercise is conducted in a comprehensive manner and that the submissions on the issues relevant to the Chamber's assessment of reparations in the case are as complete as possible, the Chamber finds that good cause has been shown to extend the time limits provided for at paragraph 5(i) and 5(iv) of the Order, as requested by the Registry, the OPCV and LRVs, and the TFV.

11. In addition, the Chamber considers it pertinent, in the interests of fairness amongst parties and participants, to extend the deadline to the Prosecutor and the relevant authorities of the Republic of Uganda, to make their submissions in accordance with paragraph 5(ii) of the Order, as well as to the persons and organizations who were granted leave to submit *amicus curiae* observations in accordance with rule 103 of the Rules of Procedure and Evidence, pursuant to paragraph 5(iii) of the Order.²⁴ The deadline for responses to the submissions, as granted at paragraph 6 of the Order, shall be similarly extended.

12. Notwithstanding the above, the Chamber recalls the principle whereby reparations must be prompt, which requires the reparation process to be as expeditious as possible, especially when a considerable number of years have elapsed since the commission of the crimes.²⁵ The Chamber has also clearly indicated that the reparation phase of the proceedings in this case should advance as efficiently and expeditiously as possible, avoiding unnecessary delays.²⁶ Taking into account the general uncertainty generated by the COVID-19 pandemic and that time limits cannot be extended indefinitely,²⁷ without affecting the victims' rights to prompt reparations, the Chamber directs the Registry and the parties and participants, to find all possible alternatives to finalise their submissions and comprehensive mapping of victims as efficiently and expeditiously as possible and, at the latest, within the final deadlines established in this Decision.

²⁴ Decision on the requests for leave to submit *amicus curiae* observations, 17 June 2021, [ICC-02/04-01/15-1860](#).

²⁵ *Lubanga* Decision on submissions, [ICC-01/04-01/06-3508](#), para. 17.

²⁶ Order, [ICC-02/04-01/15-1820](#), para. 4.

²⁷ For a similar approach see *Lubanga* Decision on submissions, [ICC-01/04-01/06-3508](#), para. 15.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

GRANTS the Registry an extension of the time limit to file its final report on the mapping of victims potentially eligible for reparations, as referred to in paragraph 5(iv) of the Order, until 6 December 2021;

GRANTS the parties, the Registry, and the TFV an extension of the time limit to make their submissions on reparations, as referred to in paragraph 5(i) of the Order, until 6 December 2021;

EXTENDS the time limit for the Prosecutor and the relevant authorities of the Republic of Uganda to make submissions on reparations in accordance with paragraph 5(ii) of the Order, until 6 December 2021;

EXTENDS the time limit for persons and organizations who were granted leave to submit *amicus curiae* observations in accordance with paragraph 5(iii) of the Order, until 6 December 2021; and

EXTENDS the time limit for the parties and the TFV to respond to the submissions on reparations referred above in accordance with paragraph 6 of the Order, until 10 January 2022.

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



Judge Bertram Schmitt, Presiding Judge



Judge Péter Kovács



Judge Chang-ho Chung

Dated this Monday, 19 July 2021
At The Hague, The Netherlands