

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: 27 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

**Victims' Request for Authorisation to Disclose Confidential Information in the
Record of the Case to the Registry for the Purpose of Mapping of Potential Victims
Eligible for Reparations**

Source: Legal Representatives of Victims

Document to be notified in accordance with regulation 31 of the *Regulations of the****Court to:*****The Office of the Prosecutor**

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I. INTRODUCTION

1. The Legal Representatives for Victims (the 'LRVs') are privy to confidential information and evidence in the record of the case disclosed by the Prosecution in relation to the attacks on the three IDP camps of Lukodi, Abok and Odek which may be relevant for the Registry to collaboratively work with the LRVs to realise the Order for Submissions on Reparations¹ of the Trial Chamber IX (the 'Chamber') in making observations on specific issues listed therein.
2. The LRVs therefore hereby request disclosure of this information to the Registry.

II. PROCEDURAL HISTORY

3. On 27 November 2015, the Single Judge of Pre-Trial Chamber II issued a "Decision on contested victims' applications for participation, legal representation of victims and their procedural rights" (the 'Decision'),² in which it established victims' participatory rights in proceedings at the pre-trial stage and other stages.³
4. On 4 February 2021, the Chamber issued the Trial Judgment, in which it convicted Dominic Ongwen on 62 counts of war crimes and crimes against humanity.⁴
5. On 6 May 2021, the Trial Chamber, issued the 'Order for Submissions on Reparations' (the 'Order'),⁵ in which it, inter alia, instructed the parties to make submission on specific issues pertaining to reparations proceedings by 6 September 2021.⁶
6. The Chamber further instructed the Registry to undertake a comprehensive mapping of victims eligible for reparations, 'with the assistance and cooperation of the LRVs as appropriate'.⁷
7. On 5 July 2021, the Registry filed its 'Progress Report on Mapping and Request for Extension of Time'.⁸ On 12 July 2021, the LRVs in the case submitted their joint

¹ Order for Submissions on Reparations, ICC-02/04-01/15, 6 May 2021.

² Decision on contested victims' applications for participation, legal representation of victims and their procedural rights, ICC-02/04-01/15-350, 27 November 2015.

³ Ibid, para. 27

⁴ Trial Judgment, ICC-02/04-01/15-1762-Conf, 4 February 2021.

⁵ Order for Submissions on Reparations, ICC-02/04-01/15-1820, 6 May 2021.

⁶ Order for Submissions on Reparations, ICC-02/04-01/15-1820, 6 May 2021, para. 5 (i).

⁷ Ibid., para. 5(iv).

request for extension of time limit to submit their observations on the reparations proceedings.⁹

8. On 19 July 2021, the Trial Chamber issued their Decision on requests for extension of time, in which they directed the Registry, the parties and the participants to find all possible alternatives to finalize their submission and comprehensive mapping of victims and efficiently and expeditiously as possible.¹⁰

III. SUBMISSIONS

9. Pursuant to the Decision, the LRVs have access to the case record, including evidence and confidential material, however, they do not have the authority to disclose this information to other participants in the reparations proceedings.¹¹

10. Cognizant of the Order instructing the parties to make submissions on a number of issues in relation to reparations, the LRVs have held meetings with the Registry to discuss cooperation in conducting mapping of victims potentially eligible for reparations in the present case. In the course of these meetings the LRVs have realized that in the record of the case there is confidential material disclosed by the Prosecution that would be of great value for to the purpose of the said mapping exercise to be conducted by the Registry.

11. The LRVs have established that the following confidential documents submitted into the evidence by the Prosecution are relevant for the purpose of mapping victims who had formerly resided in the three camps of Lukodi, Abok and Odek:

- i) Witness statement of P-0274 with ERN number *UGA-OTP-0283-1307*,
- ii) Witness statement of P-0274 with ERN number *UGA-OTP-0283-1320*,
- iii) Witness statement of P-0060 with ERN number *UGA-OTP-0283-0826.riv*,
- iv) Lukodi List with ERN number *UGA-OTP-0069-0092*,
- v) Lukodi List with ERN number *UGA-OTP-0069-0054*,

⁸ Registry Progress Report on Mapping and Request for Extension of Time, ICC-02/04-01/15-1863, 5 July 2021.

⁹ Victims' Joint Request for extension of time limit to submit their observations on reparation proceedings, ICC-02/04-01/15-1864, 12 July 2021

¹⁰ Decision on requests for extension of time, ICC-02/04-01/15-1865, 19 July 2021, para 12

¹¹ Decision on contested victims' applications for participation, legal representation of victims and their procedural rights, ICC-02/04-01/15-350, 27 November 2015, paras 28-31.

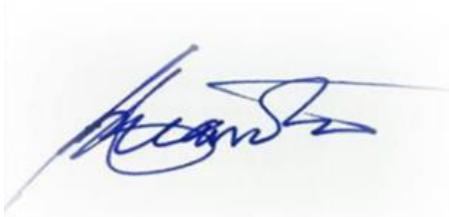
- vi) Camp Leaders List with ERN number *UGA-OTP-0267-0182-R01*,
- vii) Camp Leaders List with ERN number *UGA-OTP-0267-0180-R01*.

12. The witness statements and lists set out above relate to evidence provided by witnesses that had been involved in the administration of the IDP camps in Lukodi and Odek, and may be useful in assisting the Registry in the process of mapping and tracing the victims that may have been residents of the camps at the material time.
13. The LRVs note that this material may be prove to vital for the mapping of victims formerly resident in the IDP camps of Lukodi and Odek as it could compliment other official records to be gathered by the joint efforts of the LRVs and the Registry.
14. Rule 81 (3) of the RPE imposes general restrictions on disclosure of information prepared by a party for purposes of the trial proceedings. These provisions when read together with Articles 64,(6),(c), (e) and (f) and Article 68 (1) of the Statute empower the Chamber to authorise access to confidential information received in the record of the case.
15. The LRVs recall that the Chamber has delivered its Article 74 Judgement finding Mr. Dominic Ongwen guilty on 62 counts of war crimes and crimes against humanity and further that the Defence of Mr. Dominic Ongwen has filed its appeal brief against the said Judgement¹². The protection of victims thus remains an important facet of all proceedings before the Chamber and the Appeals Chamber. It is therefore for the Chamber to authorise the Registry to access confidential material forming part of the record of the case.
16. Owing to the sensitivity and confidential nature of the documents in question in the case record, the LRVs have consulted with the Prosecution to establish whether it has any objections to the authorising the Registry to access this material and the Prosecution has informed the LRVs that it has no objections to such authorisation.

¹² Defence Appeal Brief Against the Convictions in the Judgment of 4 February 2021, ICC-02/04-01/15-1866-Conf, 21 July 2021

IV. RELIEF SOUGHT

17. In light of the relevance of the above mentioned confidential documents to the Order of the Chamber and the informal approval by the Prosecution to give the Registry access to the said confidential documents in the record of the case for purposes of conducting mapping of victims potentially eligible for reparations, the LRVs request the Chamber to authorise the Registry, specifically the Victims Participation and Reparations Section to access the confidential material listed in paragraph 11 above.

**JOSEPH A. MANOBA****FRANCISCO COX**

DATED this Tuesday, 27 July 2021

At Kampala, Uganda and Santiago, Chile