

Pursuant to Trial Chamber IX 's instruction dated 26 February 2024 this document is reclassified as Public

**Cour
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**International
Criminal
Court**

Original: **English**

No.: **ICC-02/04-01/15**
Date: **21 February 2024**

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***

Confidential

**Decision on the 'Registry Report pursuant to the Chamber's Order Scheduling a
Hearing for the Delivery of the Reparations Order dated 13 February 2024
(ICC-02/04-01/15-2071 13-02-2024)'**

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

Legal Representatives of Victims

Mr Joseph Akwenyu Manoba
Mr Francisco Cox

Counsel for the Defence

Mr Charles Achaleke Taku
Ms Beth Lyons
Mr Thomas Obhof

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda
Mr Orchlón Narantsetseg
Mr Walter Komakech

Unrepresented Applicants for Reparations

Trust Fund for Victims

Ms Deborah Ruiz Verduzco

REGISTRY

Registrar

Mr Osvaldo Zavala Giler

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

Counsel Support Section

Detention Section

Other

Presidency

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Trial Chamber IX ('Chamber') of the International Criminal Court, in the case of *The Prosecutor v. Dominic Ongwen*, having regard to rule 144 of the Rules of Procedure and Evidence (the 'Rules'), issues the following decision on the 'Registry's Report pursuant to the Chamber's Order Scheduling a Hearing for the Delivery of the Reparations Order dated 13 February 2024 (ICC-02/04-01/15-2071 13-02-2024)'.

I. PROCEDURAL HISTORY

1. On 13 February 2024, the Chamber issued its Order scheduling a public hearing on 28 February 2024 at 15.00 to deliver its Reparation Order ('Scheduling Order').¹ In the Scheduling Order, the Chamber, *inter alia*, instructed the Registry to assess the possibility of securing the attendance of Mr Dominic Ongwen ('Mr Ongwen'), either physically at the seat of the Court or through the use of video technology and report back to the Chamber by 19 February 2024, at the latest.²

2. On 19 February 2024, the Registry filed its Report pursuant to the Chamber's Order Scheduling a Hearing for the Delivery of the Reparations Order ('Report'), in which it recommends that Mr Ongwen appear for delivery of the Reparation Order by way of video technology.³

II. SUBMISSIONS AND ANALYSIS

3. In its Report, the Registry advises that through its consultations with the Kingdom of Norway ('Norway'),⁴ the state in which Mr Ongwen is serving his sentence, Mr Ongwen 'indicated that he was willing to attend the hearing *via* video link, although his preference was to be present physically in court'.⁵ The Registry further reports that it consulted with the Defence, which indicated that Mr Ongwen's preference was to be present in The Hague to attend the hearing and to 'spend about a week in The Hague after the decision so that [his Counsel] can go through the decision with him [...]'.⁶

¹ Order Scheduling a Hearing for the Delivery of the Reparations Order ('Scheduling Order'), 13 February 2024, [ICC-02/04-01/15-2071](#).

² Scheduling Order, [ICC-02/04-01/15-2071](#), p. 3.

³ Registry Report pursuant to the Chamber's Order Scheduling a Hearing for the Delivery of the Reparations Order dated 13 February 2024 (ICC-02/04-01/15-2071 13-02-2024) ('Registry Report'), 19 February 2024, ICC-02/04-01/15-2072-Conf.

⁴ The Registry specifies that its consultations have been with a representative of the Directorate of the Norwegian Correctional Services. *See* Registry Report, ICC-02/04-01/15-2072-Conf, para. 5.

⁵ Registry Report, ICC-02/04-01/15-2072-Conf, para. 7.

⁶ Registry Report, ICC-02/04-01/15-2072-Conf, para. 12.

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4. The Registry notes that prison authorities in Norway have cautioned that given the short period of time between now and the delivery of the Reparations Order, securing the physical appearance of Mr Ongwen at the seat of the Court would entail major practical challenges due to the complexity of the organisation of a transfer operation.⁷ The Registry explains that prison officials have therefore concluded that they are not supportive of a physical transfer and that the best solution would be for Mr Ongwen to appear *via* video link.⁸

5. Finally, the Registry reports that it has already tested the use of video technology with the prison and ‘confirms that it stands ready to fully support Mr Ongwen’s attendance *via* video link [...]’.⁹ The Chamber notes that the Registry clarified in a separate email to the Chamber that if Mr Ongwen appears *via* video link, a Registry Court Officer will travel to Mr Ongwen’s location to perform the functions of the Court Officer during the hearing.¹⁰

6. Having considered the Registry’s Report, the Chamber finds that Mr Ongwen shall be present at the delivery of the Reparations Order by way of video link. The Chamber notes that while Mr Ongwen’s preference is to be in at the seat of the Court for the hearing, he has also indicated that he is amenable to attending the hearing *via* video link.¹¹ The Chamber also considers the Norway prison officials’ expression of the significant practical difficulties related to the possibility of transferring Mr Ongwen to the seat of the Court for the delivery of the Reparations order. Further, the Chamber is encouraged that Mr Ongwen’s attendance at the hearing *via* video link will be straightforward given that the Registry has already tested the video technology with the prison and a Court Officer will be present.¹² The Chamber considers that Mr Ongwen’s appearance for the delivery of the Reparations Order by way of video link is consistent with the requirements of rule 144 of the Rules.

⁷ Registry Report, ICC-02/04-01/15-2072-Conf, para. 7.

⁸ Registry Report, ICC-02/04-01/15-2072-Conf, para. 7.

⁹ Registry Report, ICC-02/04-01/15-2072-Conf, para. 8.

¹⁰ Email from the Registry to Trial Chamber IX, 20 February 2024 at 14:03 hrs.

¹¹ Registry Report, ICC-02/04-01/15-2072-Conf, para. 7.

¹² Registry Report, ICC-02/04-01/15-2072-Conf, para. 8; Email from the Registry to Trial Chamber IX, 20 February 2024 at 14:03 hrs.

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FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

DIRECTS the Registry to facilitate Mr Ongwen's attendance at the public hearing for the delivery of the Reparations Order on 28 February 2024 at 15.00 *via* video link; and

DIRECTS the Registry to review its Report and either file public redacted version or justify the need to maintain the current classification as confidential within three days from the notification of the present Decision.

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 Wednesday, 21 February 2024

At The Hague, The Netherlands