



Original: English

No. ICC-02/04-01/15 A3

Date: 3 September 2024

THE APPEALS CHAMBER

Before:

**Judge Solomy Balungi Bossa, Presiding
Judge Tomoko Akane
Judge Luz del Carmen Ibáñez Carranza
Judge Gocha Lordkipanidze
Judge Erdenebalsuren Damdin**

SITUATION IN UGANDA

IN THE CASE OF THE PROSECUTOR v. DOMINIC ONGWEN

Public document

Decision on the Trust Fund for Victims' request for leave to make observations

Decision 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, Prosecutor
Ms Helen Brady

Counsel for the Defence

Chief Charles Achaleke Taku
Ms Beth Lyons

Legal Representatives of Victims

Mr Joseph Akwenyu Manoba
Mr Francisco Cox

The Office of Public Counsel for Victims

Ms Paolina Massidda
Mr Orchlon Narantsetseg

Trust Fund for Victims

Ms Deborah Ruiz Verduzco

REGISTRY

Registrar

Mr Osvaldo Zavala Giler

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

The Appeals Chamber of the International Criminal Court,

In the appeal of Mr Dominic Ongwen against the decision of Trial Chamber IX entitled “Reparations Order” of 28 February 2024 (ICC-02/04-01/15-2074),

Having before it the Trust Fund for Victims’ “Observations on Defence Request for Suspensive Effect and Request under rule 103 of the Rules of Procedure and Evidence” of 1 May 2024 (ICC-02/04-01/15-2087),

Renders the following

DECISION

1. The aforementioned request of the Trust Fund for Victims is granted.
2. The Trust Fund for Victims may submit written observations, of no longer than 15 pages, on the issues identified in this decision, by 16h00 on 17 September 2024.
3. The Defence, the Legal Representatives of Victims and the Common Legal Representative of Victims may file responses, of no longer than 15 pages, to the observations of the Trust Fund for Victims, by 16h00 on 27 September 2024.

REASONS

I. PROCEDURAL HISTORY

1. On 28 February 2024, Trial Chamber IX issued the “Reparations Order” (hereinafter: “Impugned Decision”).¹
2. On 22 April 2024, the Defence filed its notice of appeal (hereinafter: “Notice of Appeal”).²

¹ [ICC-02/04-01/15-2074](#), with a confidential *ex parte* Annex I and two public Annexes II and III.

² [Defence Notice of Appeal of the Reparations Order dated 28 February 2024 and Request for Suspensive Effect](#), ICC-02/04-01/15-2084.

3. On 1 May 2024, the Trust Fund for Victims (hereinafter: “TFV”) filed its “Observations on Defence Request for Suspensive Effect and Request under rule 103 of the Rules of Procedure and Evidence”, in which it seeks leave to make observations on issues arising from the Defence’s appeal (hereinafter: “TFV Request”).³
4. On 6 May 2024, the Defence requested the Appeals Chamber to reject the TFV Request as premature.⁴
5. On 16 May 2024, the Appeals Chamber issued a decision in which it, *inter alia*, deferred its ruling on the TFV Request, as the grounds of appeal were not fully developed at that time.⁵
6. On 24 June 2024, the Defence filed its appeal brief (hereinafter: “Appeal Brief”).⁶
7. On 23 and 26 August 2024, the Legal Representatives of Victims (hereinafter: “Victims Group 1”) and the Common Legal Representative of Victims (hereinafter: “Victims Group 2”) filed their responses to the Appeal Brief.⁷

II. MERITS

8. The TFV seeks leave to make observations pursuant to rule 103 of the Rules of Procedure and Evidence (hereinafter: “Rules”) on several issues raised in the Notice of Appeal, “some of which have a number of practical implications in the implementation of the [Impugned Decision]”.⁸ In particular, it seeks to address issues “such as the symbolic payment of EUR 750 or the prioritization of victims”.⁹

³ [ICC-02/04-01/15-2087](#), paras 27-28.

⁴ [Defence Response to the Registry’s and TFV’s Submissions on Suspensive Effect and Rule 103 of the Rules and Procedure and Evidence](#), ICC-02/04-01/15-2091, paras 17-18.

⁵ [Decision on the Defence request for suspensive effect](#), ICC-02/04-01/15-2092, para. 38.

⁶ [Defence Brief in Support of its Appeal of the Reparations Order dated 28 February 2024](#), ICC-02/04-01/15-2093-Conf, with confidential Annex A and public Annexes B-D (public redacted version registered on 17 July 2024 (ICC-02/04-01/15-2093-Red)).

⁷ Victims’ Response to the “Defence Brief in Support of its Appeal of the Reparations Order dated 28 February 2024”, ICC-02/04-01/15-2095-Conf; Response of the Common Legal Representative of Victims to the “Defence Brief in Support of its Appeal of the Reparations Order dated 28 February 2024”, ICC-02/04-01/15-2096-Conf.

⁸ [TFV Request](#), para. 27.

⁹ [TFV Request](#), para. 28.

9. Rule 103(1) of the Rules provides:

At any stage of the proceedings, a Chamber may, if it considers it desirable for the proper determination of the case, invite or grant leave to a State, organization or person to submit, in writing or orally, any observation on any issue that the Chamber deems appropriate.

10. The Appeals Chamber recalls that its decision under rule 103(1) of the Rules is discretionary.¹⁰

11. The Appeals Chamber is satisfied that the two issues identified by the TFV arise from the Appeal Brief. The Defence makes arguments on the symbolic award under the fifth ground of appeal and on the prioritisation of victims under the sixth ground of appeal.¹¹ The Appeals Chamber also notes that pursuant to the Impugned Decision, the TFV has a role in the execution of the symbolic cash payments¹² and in the implementation of reparations with respect to the priority victims.¹³ Having regard to the role of the TFV in the present reparations proceedings, the Appeals Chamber considers it desirable for the proper determination of this appeal to grant leave to the TFV to make observations on the two aforementioned issues. The TFV may also make observations on other matters arising in this appeal related to the role of the TFV in the implementation process.

12. The Appeals Chamber emphasises that the TFV should focus in its observations on the issues as raised by the Defence under the fifth and sixth grounds of appeal, to the extent that the TFV's mandate and experience are of relevance. It should also focus on other matters arising in the appeal related to its role in the implementation process. The Appeals Chamber therefore invites the TFV to make observations on these issues by 16h00 on 17 September 2024. Its observations shall not exceed 15 pages. The Defence, Victims Group 1 and Victims Group 2 may file responses, of no longer than 15 pages, to the observations of the TFV, by 16h00 on 27 September 2024.

¹⁰ See, for example, *The Prosecutor v. Bosco Ntaganda*, [Decision on the requests for suspensive effect and other procedural issues](#), 5 February 2024, ICC-01/04-02/06-2892 (A6 A7), para. 62; *The Prosecutor v. Bosco Ntaganda*, [Decision on various procedural issues](#), 9 September 2021, ICC-01/04-02/06-2708 (A4 A5), para. 26.

¹¹ [Appeal Brief](#), paras 67-87.

¹² See, for example, [Impugned Decision](#), paras 633-634, 822; p. 361.

¹³ See, for example, [Impugned Decision](#), para. 810.

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

A handwritten signature in black ink, appearing to read 'S. Balungi Bossa', written in a cursive style.

Judge Solomy Balungi Bossa
Presiding

Dated this 3rd day of September 2024

At The Hague, The Netherlands