

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: ICC-02/04-01/05
Date: 21 January 2015

PRE-TRIAL CHAMBER II

Before: Judge Ekaterina Trendafilova, Single Judge

SITUATION IN UGANDA

**IN THE CASE OF
THE PROSECUTOR *v.* JOSEPH KONY, VINCENT OTTI, OKOT ODHIAMBO,
DOMINIC ONGWEN**

Public

With confidential *ex parte* annex, Prosecutor

**Decision on Setting the Date for the Initial Appearance of Dominic Ongwen and
the Date for a Status Conference**

Decision to be notified, in accordance with regulation 31 of the *Regulations of the Court*, to:

The Office of the Prosecutor
Fatou Bensouda, Prosecutor
James Stewart, Deputy Prosecutor

Duty Counsel for Dominic Ongwen
Hélène Cisse

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar
Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Judge Ekaterina Trendafilova, acting as Single Judge on behalf of Pre-Trial Chamber II (the “Chamber”) of the International Criminal Court (the “Court”),¹ issues this decision on setting the date for the initial appearance of Dominic Ongwen (Mr. Ongwen) and the date for a status conference *ex parte*, Prosecutor only.

1. On 16 December 2003, the situation in Uganda, from which the case against Mr. Ongwen arises, was referred to the Prosecutor by Uganda in accordance with articles 13(a) and 14 of the Rome Statute (the “Statute”).²

2. On 5 July 2004, the situation was assigned to Pre-Trial Chamber II.³

3. On 8 July 2005, Pre-Trial Chamber II issued the “Decision on the Prosecutor’s application for the warrants of arrest under Article 58”,⁴ along with a warrant of arrest for Mr. Ongwen,⁵ for his alleged responsibility for (i) crimes against humanity of murder, enslavement and other inhumane acts under articles 7(1)(a), 7(1)(c) and 7(1)(k) of the Statute and (ii) war crimes of murder, cruel treatment, attack against a civilian population and pillaging under articles 8(2)(c)(i), 8(2)(c)(i), 8(2)(e)(i) and 8(2)(e)(v) of the Statute.

4. On 21 January 2015, Mr. Ongwen arrived to the detention centre of the Court.

¹ Pre-Trial Chamber II, Decision Designating a Single Judge, 21 January 2015, ICC-02/04-01/05-415.

² See Information provided by the Prosecutor to the Presidency, annexed to Presidency, Decision Assigning the Situation in Uganda to Pre-Trial Chamber II, 5 July 2004, ICC-02/04-1; see also Pre-Trial Chamber II, Warrant of Arrest for Dominic Ongwen, 8 July 2005, ICC-02/04-01/05-57, para. 18.

³ Presidency, “Decision Assigning the Situation in Uganda to Pre-Trial Chamber II”, 5 July 2004, ICC-02/04-1

⁴ Pre-Trial Chamber II, “Decision on the Prosecutor’s application for the warrants of arrest under Article 58”, 8 July 2005, ICC-02/04-01/05-1.

⁵ Pre-Trial Chamber II, “Warrant of Arrest for Dominic Ongwen”, 8 July 2005, ICC-02/04-01/05-10-Conf; a public redacted version is also available, see ICC-02/04-01/05-57.

Initial Appearance

5. The Single Judge notes articles 60(1) and 67 of the Statute, rule 121(1) of the Rules of Procedure and Evidence (the “Rules”) and regulations 20(1) and 21 of the Regulations of the Court (the “Regulations”).

6. In particular, according to article 60(1) of the Statute together with rule 121(1) of the Rules, a person subject to a warrant of arrest under article 58 of the Statute “shall appear before the Pre-Trial Chamber” and be informed of the crimes he is alleged to have committed, his rights under the Statute and the date for a hearing to confirm or to decline to confirm the charges. Due to the limited scope and nature of the initial appearance, the presence of the victims’ legal representative is not required.⁶

7. The Single Judge also notes regulation 21(1) of the Regulations according to which the publicity of hearings may extend beyond the courtroom, and accordingly, she authorises video recording and the taking of photographs in the courtroom at the start of the initial appearance hearing.

Status Conference, Prosecutor only

8. The Single Judge also notes articles 57(3)(c), 61(3), 67 and 68(1) of the Statute and rule 121(2) and (3) of the Rules. Considering the imminent start of the disclosure process in this case, which has remained dormant for several years, the Single Judge deems it necessary to convene first a status conference in the presence of the Prosecutor only to discuss issues related to disclosure of the Prosecutor’s evidence, protection of witnesses and other related matters. A list of questions, which are deemed important by this Chamber, are set out in the annex confidential *ex parte*, Prosecutor only, to this decision. The Prosecutor is invited to present additional information, not covered by the set of questions provided by the Single Judge, which she deems necessary so that the disclosure process can take place under satisfactory

⁶ See also Pre-Trial Chamber II, Decision on the “Joint Request to attend the Status Conference to be held on 27 January 2014”, 27 January 2014, ICC-01/04-02/06-230.

conditions. It is the expectation of the Single Judge that the Prosecutor will be in a position to provide meaningful and precise information with regard to all issues set out in the annex to this decision, to the extent possible, so as to enable the Chamber to organize the upcoming proceedings accordingly. The foregoing is without prejudice of organizing a further status conference in the presence of the Defence, if need be.

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

- a) **decides** to convene the hearing for the initial appearance of Mr. Ongwen on Monday, 26 January 2015, at 14h00 hours in courtroom II;
- b) **authorises** the Registrar to inform external applicants that, at the start of the initial appearance hearing and after all the parties and representatives of the Registry have taken their seats, video recording and the taking of photographs will be permitted for no longer than one minute and a half;
- c) **decides** to convene a status conference in closed session in the presence of the Prosecutor only on Wednesday, 28 January 2015, at 14h00 in the pre-trial courtroom.

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



Judge Ekaterina Trendafilova
Single Judge

Dated this Wednesday, 21 January 2015

At The Hague, The Netherlands