

**Cour
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**International
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Court**

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Date: 9 November 2015

PRE-TRIAL CHAMBER II

Before: Judge Cuno Tarfusser, Single Judge

SITUATION IN UGANDA

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

Public

**Prosecution's observations on 336 victims' applications for participation,
transmitted by the Registry on 26 October 2015**

Source: The Office of the Prosecutor

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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Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

The Office of Public Counsel for Victims

The Office of Public Counsel for the Defence

States Representatives

Amicus Curiae

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Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Section

Mr Nigel Verrill

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Victims Participation and Reparations Section

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Other

Introduction

1. The Office of the Prosecutor (“the Prosecution”) in accordance with rule 89(1) of the Rules of Procedure and Evidence (“Rules”) and the “Decision of the Single Judge concerning the procedure for admission of victims to participate in the proceedings in the present case”¹ (“Decision”) submits observations on 336 victims’ applications for participation, transmitted by the Registry to the Parties and the Chamber on 26 October 2015.

Procedural Background

2. The Single Judge on 3 September 2015 issued the Decision, instructing the Registry to transmit to the Chamber and the Parties the complete victims’ applications falling within the scope of the case against Dominic Ongwen until 7 December 2015.
3. The Registry transmitted the first set of applications on 18 September 2015,² to which the Prosecution and the Defence filed observations on 2 and 6 October 2015 respectively.³ The Defence objected to 11 of the applicants being registered as victim participants in the case.⁴ The Single Judge has not yet ruled on those objections.
4. On 26 October 2015 the Registry transmitted to the Chamber and the Parties the “Second Report on Applications to Participate in the Proceedings” (“Second Report”),⁵ with 336 further victims’ applications.

¹ ICC-02/04-01/15-299.

² ICC-02/04-01/15-303.

³ ICC-02/04-01/15-309 and ICC-02/04-01/15-312-Conf.

⁴ ICC-02/04-01/15-312-Conf, paras. 6-11.

⁵ ICC-02/04-01/15-327.

The analysis of the 336 applications for participation

5. The Prosecution in its analysis of the applications continues to follow the approach outlined in its filing of 2 October 2015.⁶
6. The Prosecution observes that, upon instruction from the Chamber, the Registry with the Second Report also transmitted a table setting out its assessment of the crimes and personal harms suffered by individual applicants (Annex 337). The Prosecution clarifies that it does not, at this stage, engage with the particulars of that assessment. The Prosecution limits its objections on these criteria to instances where individual applicants fail to demonstrate they had suffered personal harm as a result of at least one crime Dominic Ongwen will be charged with. The Prosecution considers this approach consistent with the streamlined procedure established by the Single Judge on 3 September 2015.
7. In the Prosecution's assessment, out of the 336 applications transmitted on 26 October 2015, all but one applicant met the criteria for participation in the pre-trial proceedings of the case. The application filed on behalf of applicant a/05156/15 requires further information or clarification.
8. Applicant a/05156/15 is, according to the application, a disabled adult who did not file the application herself. The application was instead filed by a person acting on her behalf (rule 89(3) of the Rules). The application however does not state the relationship between the victim and person making the application nor does it include any supporting documentation of such relationship. The Prosecution notes the application is one of a person acting on behalf of the victim as opposed to that of a person acting with the consent of the victim. If the latter, the thumb print of the victim on the application would have sufficed

⁶ ICC-02/04-01/15-309, paras. 7-20.

to demonstrate the victim's consent. However, the victim is explicitly marked as a disabled adult in the requisite category of the application, thus the relationship between the victim and the person making the application should be clarified before the application is accepted.

Dual status of applicants a/05335/15, a/05366/15 and a/05603/15

9. Applicant a/05335/15 is the same person as Witness P-0060. The statement of the witness to the Prosecution has been disclosed to the Defence in May 2015 with no redactions applied to the identity of the witness.
10. Applicant a/05603/15 is the same person as Witness P-0186. While no statement has been taken from P-0186 by the Prosecution, the screening note relating to the individual has been disclosed to the Defence in August 2015 with no redactions applied to the identity.⁷
11. Applicant a/05366/15 is the same person as Witness P-0196. The statement of the witness has been disclosed to the Defence in June 2015 with no redactions applied to the identity of the witness.
12. The Prosecution proposes that the redactions to the applications of the above applicants be revisited and, subject to the authorisation of the Single Judge, un-redacted or lesser redacted versions of the applications be transferred by the Registry to the Defence.

Conclusion

13. The Prosecution submits that 335 applicants, whose applications have been transferred by the Registry on 26 October 2015, meet the requirements for admission as victim-participants in the pre-trial proceedings in this case. With

⁷ Screening note of P-0186, UGA-OTP-0233-1127.

regard to application submitted by applicant a/05156/15, the Prosecution considers further information or clarification is necessary before the victim is admitted.



Fatou Bensouda,
Prosecutor

Dated this 9th day of November 2015
At The Hague, The Netherlands