

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/04-01/15
Date: 24 February 2016

PRE-TRIAL CHAMBER II

Before: Judge Cuno Tarfusser, Presiding Judge

SITUATION IN UGANDA

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

Confidential

with Confidential, *EX PARTE* annexes 1-2 only available to the Prosecution

**Prosecution's application under article 54(3)(f) to apply redactions to documents
obtained under article 54(3)(e)**

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

Ms Fatou Bensouda
Mr James Stewart
Mr Benjamin Gumpert

Counsel for Dominic Ongwen

Mr Krispus Ayena Odongo

Legal Representatives of Victims

Mr Joseph Akwenyu Manoba
Mr Francisco Cox
Ms Paolina Massidda

Legal Representatives of Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

The Office of Public Counsel for Victims

Ms Paolina Massidda

The Office of Public Counsel for the Defence

Amicus Curiae

States Representatives

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section

Other

Introduction

1. The Office of the Prosecutor (the "Prosecution") requests the Chamber to authorize redactions to 43 documents collected from the United Nations ("UN") prior to their disclosure. The Prosecution's request is made pursuant to article 54(3)(f) of the Rome Statute of the International Criminal Court (the "Statute") and rules 81(3) and 82(1) of the Rules of Procedure and Evidence (the "Rules").

Level of Confidentiality

2. This application is classified as "Confidential" under regulation 23bis of the Regulations of the Court, as it refers to confidential correspondence between the Prosecution and the United Nations. An annexed copy of this correspondence as well as unredacted copies of the 43 documents provided by the UN, are filed as "Confidential *ex parte* – only available to the Prosecution" because it contains the substance of communications currently subject to article 54(3)(e).

Background

3. During the early stages of the Prosecution's investigative activities into to the Situation in Uganda, the UN provided the Prosecution with 67 documents subject to conditions under article 54(3)(e) of the Statute. The Prosecution has reviewed this material and considers them disclosable to the Defence under rule 77.

4. On 22 May 2015, the Prosecution informed the Single Judge that it was taking steps to request consent from the providers of all material subject to restrictions under article 54(3)(e).
5. On 13 January 2016, the UN wrote to the Prosecution consenting to the disclosure of 24 of the 67 documents. With respect to the remaining 43 documents, the UN provided its consent subject to minimal redactions.
6. The UN justified these redactions, stating that disclosure of the relevant information would either:
 - a. “endanger the safety or security of any person”; or
 - b. “prejudice the security or proper conduct of any operation or activity of the UN or of its specialised agencies or related organizations or of its implementing partners or executing agencies”.
7. A copy of the correspondence received from the UN and a table summarising the reasons for each redaction is attached as Annex 1.¹

Submissions

8. The Prosecution requests the Chamber to authorise redactions to 43 documents provided by the UN prior to their disclosure. None of the 43 documents contain potentially exculpatory material.
9. The redactions proposed by the UN are minimal and do not impact the Defence's ability to comprehend the substance of the underlying documents. They are neither prejudicial to Dominic Ongwen nor inconsistent with his rights under article 67(2) or rule 77. They are further required in order to

¹ Annex 1 - UN Response : ref : 2012-PLC-000011.

protect: names or issues connected to the private life of individuals; names of institutions; interactions between the UN and various entities or third parties; UN internal *modus operandi*; and events having occurred outside the borders of Uganda.

10. A copy of the 43 documents highlighting portions sought to be redacted by the UN is attached as Annex 2.
11. In light of the above, the Prosecution requests the Chamber to authorize the implementation of these redactions.



Fatou Bensouda
Prosecutor

Dated this 24th day of February 2016
At The Hague, The Netherlands