

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

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

**TRIAL CHAMBER IX**

**Before:** Judge Bertram Schmitt, Presiding Judge  
Judge Péter Kovács  
Judge Raul C. Pangalangan

**SITUATION IN UGANDA**

**IN THE CASE OF**

***THE PROSECUTOR v. DOMINIC ONGWEN***

**Public**

**Prosecution's observations on 1183 victim applications for participation, notified on  
7 October 2016**

**Source:** The Office of the Prosecutor

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

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**REGISTRY**

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**Registrar**

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**Counsel Support Section**

**Victims and Witnesses Section**

Mr Nigel Verrill

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

## Introduction

1. The Office of the Prosecutor (“Prosecution”), in accordance with rule 89(1) of the Rules of Procedure and Evidence (“Rules”) and the procedure for evaluation of victim applications established in the case,<sup>1</sup> submits its observations on 1183 victim applications for participation, transmitted to the Parties on 7 October 2016.<sup>2</sup>

## Procedural Background

2. During the pre-trial stage, 2026 victims were admitted to participate in the proceedings.<sup>3</sup>
3. On 30 May 2016, the Trial Chamber directed the Registry to transmit any further victim applications for participation at trial by 6 October 2016.<sup>4</sup>
4. On 2 September 2016, the Registry transmitted 300 victim applications. All were admitted to participate in the proceedings as of 19 September 2016.<sup>5</sup>
5. On 27 September 2016, the Registry transmitted 610 victim applications.<sup>6</sup> The Prosecution filed its observations regarding these applications on 11 October 2016, raising no objections.<sup>7</sup>
6. A final batch of 1183 victim applications was transmitted to the Parties on 7 October 2016<sup>8</sup> and is the subject of this filing.

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<sup>1</sup> ICC-02/04-01/15-432 in conjunction with ICC-02/04-01/15-299.

<sup>2</sup> ICC-02/04-01/15-556, registered 6.10.2016, notified 7.10.2016.

<sup>3</sup> ICC-02/04-01/15-350, ICC-02/04-01/15-384.

<sup>4</sup> ICC-02/04-01/15-449.

<sup>5</sup> ICC-02/04-01/15-543, para. 6.

<sup>6</sup> ICC-02/04-01/15-544.

<sup>7</sup> ICC-02/04-01/15-564.

<sup>8</sup> ICC-02/04-01/15-556.

### Analysis of the applications for participation

7. The Prosecution, in its review of the victim applications, continues to follow the practice established in the decisions of the Chamber at the pre-trial stage<sup>9</sup> and as set out in the Prosecution's filings of 2 October 2015<sup>10</sup> and 9 November 2015<sup>11</sup>.
  
8. The Registry has assessed 1176 of the applications, transmitted on 7 October 2016, as complete and linked to the Ongwen case.<sup>12</sup> The Prosecution raises no objections with regard to these applicants; all of them meet the requirements for admission as victim participants in the case.
  
9. The Registry has assessed 7 applications as unclear.<sup>13</sup> The Prosecution submits that additional clarifications are indeed necessary to determine whether these applicants meet the criteria for participation. The Prosecution observes that:
  - The applications of a/06770/15, a/06233/15 and a/00681/16 contain contradictory information. Applicant a/06770/15 provides contradictory information about the location and her victimisation of the attack in 2004. Applicant a/06233/15 provides contradictory information about whether she was present during the attack or not. Applicant a/00681/16 describes his relationship to the direct victims of the attack and their victimisation differently in the application and in the supplement to the application.
  - Applicant a/00799/16 provides insufficient information with regard to personal harm suffered. The personal harm described in the application is

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<sup>9</sup> ICC-02/04-01/15-205, ICC-02/04-01/15-350 and ICC-02/04-01/15-384.

<sup>10</sup> ICC-02/04-01/15-309, paras. 7-20.

<sup>11</sup> ICC-02/04-01/15-337, para. 6.

<sup>12</sup> ICC-02/04-01/15-556, para 7.

<sup>13</sup> ICC-02/04-01/15-556, paras. 7 and 14.

too remote to be considered as the result of a charged crime. Whereas the applicant also states that her uncle was killed in the attack, she does not include proof of kinship and information about the proximity of relationship.

- The application of a/00118/16 should be clarified with regard to the age and account given. The applicant states she had two children at the time of the attack, one of whom was 4 years old. However, according to her application and accompanying identity card, the applicant could not have been of a child-bearing age.
- Applicants a/00666/16 and a/01265/16 allege that they suffered personal harm as a result of a crime committed against a relative who is not part of their nuclear family and with whom they did not live in close proximity. Additional information is required to assess whether the relationship between these applicants and direct victims can be said to have resembled that of close family members.

### **Dual status of victim applicants**

10. Among the 1183 applicants, the Prosecution has identified the following 24 individuals as Prosecution witnesses<sup>14</sup>:

- applicant a/01233/16 is Prosecution Witness P-0275;
- applicant a/02099/16 is Prosecution Witness P-0330;
- applicant a/02100/16 is Prosecution Witness P-0314;
- applicant a/02101/16 is Prosecution Witness P-0099;
- applicant a/02102/16 is Prosecution Witness P-0279;
- applicant a/02103/16 is Prosecution Witness P-0396;
- applicant a/02104/16 is Prosecution Witness P-0286;

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<sup>14</sup> All 24 witnesses are included in the List of Witnesses as filed on 6 September 2016, ICC-CPI-02/04-01/15-532-Conf-AnxB.

- applicant a/02105/16 is Prosecution Witness P-0226;
- applicant a/02106/16 is Prosecution Witness P-0199;
- applicant a/02107/16 is Prosecution Witness P-0306;
- applicant a/02108/16 is Prosecution Witness P-0280;
- applicant a/02109/16 is Prosecution Witness P-0061;
- applicant a/02110/16 is Prosecution Witness P-0008;
- applicant a/02111/16 is Prosecution Witness P-0374;
- applicant a/02112/16 is Prosecution Witness P-0227;
- applicant a/02113/16 is Prosecution Witness P-0304;
- applicant a/02114/16 is Prosecution Witness P-0007;
- applicant a/02115/16 is Prosecution Witness P-0235;
- applicant a/02116/16 is Prosecution Witness P-0097;
- applicant a/02117/16 is Prosecution Witness P-0366;
- applicant a/02118/16 is Prosecution Witness P-0281;
- applicant a/02119/16 is Prosecution Witness P-0214;
- applicant a/02120/16 is Prosecution Witness P-0352;
- applicant a/02149/16 is Prosecution Witness P-0236.

11. In addition, applicant a/02121/16 is Prosecution Witness P-0001. Witness P-0001 was inadvertently omitted from the Prosecution's List of Evidence ("LOE") and List of Witnesses ("LOW"), filed on 6 September 2016. The Prosecution will apply to add the statement of P-0001 and related material to the LOE and LOW.<sup>15</sup> Provided that the Trial Chamber grants the Prosecution's application, the respective witness will therefore also have dual status.

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<sup>15</sup> Prosecution's Request to Add items to its List of Evidence and to include P-0001 to its List of Witnesses, dated 24 October 2016.

## Conclusion

12. The Prosecution raises no objections with regard to 1176 victim applications, assessed by the Registry as complete and linked to the Ongwen case.
13. With regard to applicants a/00681/16, a/06233/15, a/06770/15, a/00799/16, a/00118/16, a/01265/16 and a/00666/16, assessed by the Registry as unclear, the Prosecution submits that further information is necessary to determine whether these applicants meet the criteria for participation.
14. The Prosecution has identified 25 individuals with dual status, as indicated in paragraphs 10 and 11 above.



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Fatou Bensouda  
Prosecutor

Dated this 24<sup>th</sup> of October 2016  
At The Hague, The Netherlands