

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 13 September 2017

TRIAL CHAMBER IX

Before: Judge Bertram Schmitt, Presiding Judge
Judge Peter Kovacs
Judge Raul C. Pangalangan

SITUATION IN UGANDA

IN THE CASE OF

THE PROSECUTOR v. DOMINIC ONGWEN

Public redacted version of confidential filed request for protective measures, dated 8 September 2017, reg nr ICC-02/04-01/15-975-Conf, Pursuant to the judicial order of Trial Chamber IX, dated 11 September 2017

Source: Marcus A.M. Wagemakers, counsel for witness P0045

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

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 Mr James Stewart
 Mr Benjamin Gumpert

Counsel for Dominic Ongwen

Mr Krispus Ayena Odongo

Legal Representatives of Victims

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Counsel Support Section**Victims and Witnesses Unit****Detention Section****Victims Participation and Reparations
Section****Other**

Marcus Wagemakers, counsel for
 Witness P0045

REQUEST OF COUNSEL FOR PROTECTIVE MEASURES

Counsel to Witness P0045 herewith files a motion with the request for protective measures. The motivation and substantiation for this motion can be found below.

P0045 was an LRA insider

Witness P0045 was clearly an insider within the LRA and held such a position in the hierarchy, which will enable LRA related subjects to identify it.

Vide : OTP 0218-0113

Line 202 How long were you in the bush?

Line 205 twelve years

*Line 271 I was abducted at the same time as my brother but he has been
 killed when trying to escape from the bush*

And: OTP 0218—171

Line 860 I was given to some one (...)

Line 882 This was an order from up (..)

Line 478 [REDACTED]

Line 508 [REDACTED]

Line 511 These were selected by Kony

Line 525 [REDACTED]

Recognition imposes immediate threat or P0045 and family members

Considering the statements delivered by witness P0045, there is an objectively and justifiable risk to assume that not only the life of P0045 will be in danger upon recognition, but also the lives of the family members of P0045.

Vide: OTP 0220- 1113

*Line 35 They started talking about people who were involved in witchcrafty
(...) such people were selected (...) more than 40 people were killed*

Line 45 They were shot

Line 112 He was very strict on escape (...) if you caught trying to escape (...) he would kill me

And: OTP 0220 1087

Line 249 So we were told that Kony gave new orders about killing (...) about cowards. They who was afraid had to be killed

Line 470 If (...) came across, they should be killed. If any person within the LRA was a coward he should also be killed

Line 725 What if any one (...) knew (...) and did not report it to the chairman?

Line 727 (...) They (...) would also be killed, together with that person

And: OTP 0220 1064

Line 134 (...) if people cannot follow his order (..) then he would kill them

And: OTP 0218-0103

Line 68 When (..) was killed I just saw and thought (...) no if I try to escape I will also be killed

Line 106 He said that that if (...) you return home you'd be given poison

Assessment

On the one hand, the statements of P0045 to the investigators about the killings and killing orders regarding LRA members are numerous, very detailed and consistent. On the basis of these statements, counsel must assume a risk if the identity of witness P0045 would be disclosed to the public.

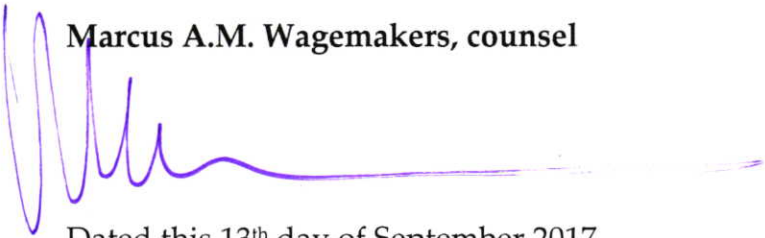
On the other hand, counsel to P0045 was not provided with any statements or evidence that might point in another direction.

Therefore, counsel must assume that the aforementioned statements of P0045 are true and that there is an objectively justifiable risk regarding the safety of P0045 and it's family members and that this risk arises from disclosing the identity of P0045 to the public.

Request for protective measures

Therefore counsel to P0045 requests:

- the following protective measures are being put in place, prior to the testimony of P0045 to the chamber: (i) image and voice distortion, (ii) that the name of P0045 and all other information that may lead to it's identification will be expunged from the courts record,(iii) that the pseudonym P0045 will be used for the witness; and (iv) all participants in the proceedings are prohibited to disclose any information as to P0045 to a third party;
- less restrictive measures are insufficient; and requests this motion to be filed confidentially.



Marcus A.M. Wagemakers, counsel

Dated this 13th day of September 2017
At The Hague, The Netherlands