

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: **ICC-02/04-01/15**
Date: **7 September 2018**

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

Public Redacted Version of “Defence Request in Light of the Trial Chamber IX’s Trial Hearings Dates Schedule for the Remainder of 2018”, filed on 29 August 2018

Source: Defence for Dominic Ongwen

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

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I. INTRODUCTION

1. The Defence requests the amendment of Trial Chamber IX's ('Trial Chamber') intended trial hearings schedule for the remainder of 2018.¹
2. In particular, the Trial Chamber intends to sit the following days for the remainder of 2018: 18 September 2018, week of 1 October, week of 8 October (only 8-9 October), week of 22 October, week of 29 October, week of 5 November, week of 12 November (only 12-14 November), week of 19 November (only 19-21 November).
3. As the Trial Chamber is aware, the [REDACTED] continues to recommend that Mr Ongwen is not to sit on Wednesdays during full court weeks.² The intended schedule neglects to implement this recommendation. Therefore, the Defence urges the Trial Chamber to implement the recommended break in the proceedings to allow Mr Ongwen [REDACTED].

II. CONFIDENTIALITY

4. Pursuant to Regulation 23bis of the Regulations of the Court, the Defence files this request confidentially because [REDACTED]. The public redacted version of the request is not filed as it concerns [REDACTED].

III. SUBMISSIONS

5. On 20 August 2018, the Trial Chamber informed the parties (and participants) about the hearing schedule for the remainder of 2018.³ The Intended Schedule is set to start on the week of 1 October 2018 and end on the week of 19 November 2018.⁴ The Defence disagrees with this schedule and requests the Trial Chamber to amend it for the following reasons.

¹ E-mail communication from Trial Chamber IX to *Ongwen* Case parties and participants, 'Rest of 2018 Hearing Dates', 20 August 2018, 9:35.

² ICC-02/04-01/15-1321-Conf, para. 12(3).

³ E-mail communication from Trial Chamber IX to *Ongwen* Case parties and participants, 'Rest of 2018 Hearing Dates', 20 August 2018, 9:35.

⁴ Defence Opening Statements are scheduled on 18 September 2018; *See above*, para. 2.

6. In its scheduling e-mail, the Trial Chamber noted paragraph 12(3) of the Defence filing ICC-02/04-01/15-1321-Conf and found that “further reductions to this schedule may be made in due course.”⁵ The paragraph 12(3) states:

[REDACTED]⁶ (Bold added).

7. This is not an attempt to delay the proceedings or ‘buy’ more time for the witness preparation. The Trial Chamber must understand that this is a serious matter that concerns [REDACTED]. The Defence concerns are further supported by [REDACTED] – appointed by this Court – who continues to recommend that Mr Ongwen is not to sit on Wednesdays during full court weeks.

8. It is the Defence position that the Trial Chamber’s ruling that “reductions [...] may be made in due course”⁷ is not in line with the [REDACTED] recommendations, and is hazardous. The Trial Chamber should not wait and act only after [REDACTED]. Rather, the Trial Chamber must act now in order to prevent any potential complications. Such conduct will be in compliance with the Trial Chamber’s obligation to ensure that the *Ongwen* trial is fair and expeditious and is conducted with full respect for the rights of Mr Ongwen.⁸

9. In light of the above, the Defence requests the Trial Chamber to amend the hearing schedule for the remainder of 2018 as follows:

- Week of 1 October 2018 (no hearing on Wednesday, 3 October 2018);
- Week of 8 October 2018 (hearings on 8-9 October 2018);
- Week of 22 October 2018 (no hearing on Wednesday, 24 October 2018);
- Week of 29 October 2018 (no hearing on Wednesday, 31 October 2018);
- Week of 5 November 2018 (no hearing on Wednesday, 7 November 2018);
- Week of 12 November 2018 (no hearings during this week);

⁵ E-mail communication from Trial Chamber IX to Ongwen Case parties and participants, ‘Rest of 2018 Hearing Dates’, 20 August 2018, 9:35.

⁶ ICC-02/04-01/15-1321-Conf, para. 12(3).

⁷ E-mail communication from Trial Chamber IX to Ongwen Case parties and participants, ‘Rest of 2018 Hearing Dates’, 20 August 2018, 9:35.

⁸ Article 64(2) of the Rome Statute.

- Week of 19 November 2018 (no hearing on Wednesday, 21 November 2018; additional hearings on 22 and 23 November 2018);
10. As outlined above, the Defence request for the amendment of the Trial Chamber's intended schedule reflects the [REDACTED] recommendations. Additionally, the Defence requests that no hearings are held during the week of 12 November 2018. In order to substitute the 12-13 November 2018 hearings,⁹ the Defence proposes that new hearings are added on 22 and 23 November 2018.

IV. RELIEF SOUGHT

11. For the reasons stated above, the Defence requests the Trial Chamber to amend the Intended Schedule as follows:
- Week of 1 October 2018 (no hearing on Wednesday, 3 October 2018);
 - Week of 8 October 2018 (hearings on 8-9 October 2018);
 - Week of 22 October 2018 (no hearing on Wednesday, 24 October 2018);
 - Week of 29 October 2018 (no hearing on Wednesday, 31 October 2018);
 - Week of 5 November 2018 (no hearing on Wednesday, 7 November 2018);
 - Week of 12 November 2018 (no hearings during this week);
 - Week of 19 November 2018 (no hearing on Wednesday, 21 November 2018; additional hearings on 22 and 23 November 2018).

⁹ In line with the [REDACTED] recommendations, there should be no hearing on Wednesday, 14 November 2018.

Respectfully submitted,



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Hon. Krispus Ayena Odongo
On behalf of Dominic Ongwen

Dated this 7th day of September, 2018

At The Hague, Netherlands