

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

No.: **ICC-02/04-01/15**  
Date: **10 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 Redacted Version**

**Public Redacted Version of "Prosecution's Response to 'Defence Request in Light of the Trial Chamber IX's Trial Hearings Dates Schedule for the Remainder of 2018', ICC-02/04-01/15-1326-Conf", filed on 3 September 2018**

**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**

**Detention Section**

**Victims Participation and Reparations Section**

**Other**

## **Introduction**

1. The Prosecution opposes the Request<sup>1</sup> because the proposed changes to the trial schedule in 2018 have not been demonstrated to be necessary. The Prosecution accepts that modifications may have to be made in the future where evidence is produced to demonstrate that they are necessary. The Prosecution is prepared to sit every weekday for the remainder of the trial, excepting court recesses and official holidays. Unless the Defence can establish a [REDACTED] need specific to Mr Ongwen, rather than a generalised assertion, the Chamber should proceed as quickly as Court and Registry resources will allow.

## **Confidentiality**

2. Pursuant to regulation 23*bis*(2) of the Regulations of the Court, this document is classified as confidential because it responds to a filing so designated. Should the Defence file a public version of their filing, the Prosecution will do the same.

## **Submissions**

3. The current schedule for October-November 2018 has just 29 court days, following a four-month break between witness hearings. Currently, no hearings are scheduled in December 2018. The proposed modification would result in the loss of six court days, which is more than 20% of the remaining court schedule in 2018.

4. The Prosecution submits that, in order to set back the progress of the trial in such a significant way, the Chamber and the Parties must be provided with concrete [REDACTED] evidence demonstrating that the proposed changes are necessary. The sole document relied upon in making the Request does not do this. It does not even

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<sup>1</sup> ICC-02/04-01/15-1326-Conf (“Request”).

explain why extra breaks are justified in Dominic Ongwen's case, as opposed to "generally" in similar cases.<sup>2</sup>

5. Finally, with regard to the proposed modifications in the weeks of 12 November and 19 November, the Defence gives no explanation for merging two weeks of three court days each into one week of four court days, resulting in a loss of two court days. This contradicts the recommendation "that Mr Ongwen should not sit in court on Wednesdays during five-day weeks".<sup>3</sup> Currently, the weeks of 12 November and 19 November each have three sitting days, not five.

### Conclusion

6. The Chamber should reject the Request.



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**Fatou Bensouda, Prosecutor**

Dated this 10<sup>th</sup> day of September 2018  
At The Hague, the Netherlands

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<sup>2</sup> ICC-02/04-01/15-1326-Conf, para. 6.

<sup>3</sup> ICC-02/04-01/15-1326-Conf, para. 6.