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N°: ICC-02/04-01/15
Date: 31 October 2019

TRIAL CHAMBER IX

Before: Judge Bertram Schmitt, Single Judge

SITUATION IN UGANDA

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

Public

**With Public Annexes I to XIII, XV to XLV,
And Confidential Annex XIV**

**Registry's Report Filing in the Record of the Case Decisions issued by way of
email from January 2019 to June 2019**

Source: Registry

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 Kripus Ayena Odongo
Mr Charles Achaleke Taku

Legal Representatives of the Victims

Mr Joseph Akwenu Manoba
Mr Francisco Cox
Ms Paolina Massidda

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda
Ms Caroline Walter
Mr Orchlon Narantsetseg

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I. Introduction

1. The Registry hereby submits the present report and its 45 annexes consisting of email decisions (“Report”) pursuant to the “Decision on Publicity of Case Record” (“Decision”),¹ issued on 7 February 2017 by Trial Chamber IX (“Chamber”).

II. Procedural history

2. On 7 February 2017, the Single Judge issued the Decision directing the Registry to file in the record of the case a monthly report containing all decisions issued by way of email (‘Monthly Report’).² Additionally, the Single Judge provided criteria for the application of redactions to the email decisions.³
3. The Chamber directed the parties and participants to: a. frame their requests made by email in a way that make their publicity possible; b. indicate the need for specific redactions to certain portions of the emails to the Registry sufficiently in advance of the filing of the Monthly Reports and; c. indicate in the email when emails cannot be made public at all.⁴
4. The Single Judge clarified in the Decision that emails related to the submission of evidence should not be part of the Monthly Reports.⁵
5. On 21 March 2017, the Registry filed its report on the implementation of the

¹ Trial Chamber IX, “Decision on Publicity of Case Record”, 7 February 2017, ICC-02/04-01/15-700.

² *Ibid.*, par. 4.

³ Trial Chamber IX, Annex to the Decision on Publicity of Case Record, 7 February 2017, ICC-02/0401/15-700-AnxA, footnote 1.

⁴ ICC-02/04-01/15-700, para 4.

⁵ *Ibid.*, par. 5.

Decision (“Registry’s Report”),⁶ which included the additional guidelines that were provided by the Chamber and the procedure that was followed to enable the participants to suggest specific additional redactions.⁷

6. On 15 March 2019, the Registry filed its report covering the email decisions issued from January 2018 to January 2019.⁸
7. On 24 June 2019, the Registry compiled email decisions issued by the Chamber⁹ following the report filed in March 2019.¹⁰ For completeness of the record, the Chamber directed the Registry to include additional email decisions that were issued between February 2019 and May 2019.¹¹

III. Applicable law

8. For the purpose of the present submission, the Registry considered Articles 64(7), 64(10) and 67(1) of the Rome Statute and Rule 137 of the Rules of Procedure and Evidence.

IV. Submission

9. In the Decision, the Single Judge provided the Registry with guidance as to the application of redactions, where applicable:

The name of the staff member sending the email on behalf of the Chamber shall be redacted from the body of the email. Further, any private email address shall be

⁶ Registry, “Registry’s Report implementing the “Decision on Publicity of Case Record””, 22 March 2017, ICC-02/04-01/15-780.

⁷*Ibid.*, paras 8 and 9.

⁸ Registry, “Registry’s Report filing in the Record of the Case Decisions issued by way of email from January 2018 to January 2019”, ICC-02/04-01/15-1483, 15 March 2019.

⁹ Emails sent by the Registry Courtroom Officer on 24 June 2019 at 20:26 and 20:31.

¹⁰ Registry, “Registry’s Report filing in the Record of the Case Decisions issued by way of email from January 2018 to January 2019”, ICC-02/04-01/15-1483, 15 March 2019.

¹¹ E-mail from the Associate Legal Officer to the Registry Courtroom Officer on 02 October at 12:35.

redacted. When a decision concludes a chain of emails, these emails shall also be filed in the record of the case. Should the participants wish that specific redactions be applied thereto it shall indicate them to the Chamber and the Registry in a timely manner.¹²

10. In addition, as mentioned in the Registry's Report, the Chamber directed that redactions be implemented on: the "from", "to" and "cc" lines of the email headings, except for the reference to the email address "Trial Chamber IX communications" and; the names of Registry staff members and team members of the parties and participants, except for the Counsel and the Senior Trial Lawyer.¹³

11. In order to enable the parties and the participants to suggest specific additional redactions, the Registry followed the procedure that was adopted for the purposes of the Registry's Report. Hence, the Registry liaised with the Office of the Prosecutor ("Prosecution"), the Defence, the Office of Public Counsel for Victims ("OPCV") and the Legal Representatives of Victims ("LRV") by email.¹⁴ Redaction proposals were received and considered.¹⁵

¹² Trial Chamber IX, Annex A to the Decision on Publicity of Case Record, 7 February 2017, ICC-02/04-01/15-700-AnxA, footnote 1.

¹³ Registry, "Registry's Report implementing the "Decision on Publicity of Case Record", 22 March 2017, ICC-02/04-01/15-780, para. 9.

¹⁴ Three emails were sent by the Registry Court Officer on 24 June 2019 at 20:25 containing annexes I, X and XIII relate to *ex parte* email decisions; and at 20:31 with partially redacted annexes of email decisions. For the completeness of the record, a third email was sent on 04 October 2019 at 16:37.

¹⁵ The Registry received answers in relation to the first batch of Annexes from the OPCV on 26 June at 13:32 for further proposals for redactions to public Annexes XVI, XXXVII; from the OTP on 28 June at 16:52 for further proposals for redactions to public Annexes IX, XV, XVI, XVIII, XXI, XXIII, XXVI, XXVII, XXIX, XXX, XXXIII, XXXV, XXXVI, XXXVII, XXXIX, XL, XLI; and from the Defence on 05 July at 16:12 for further proposals for redactions to public Annexes III, XXVII, XLI. The Registry received proposals for further redactions from the Defence in relation to the *ex parte* email decisions to Annexes I and X on 05 July at 14:23. The Registry received answers in relation to the second batch of Annexes from OPCV on 11 October 2019 at 15:07; from the OTP on 14 October 2019 at 16:05 for further proposals for redactions to public Annex XLII; and from the Defence on 16 October 2019 at 10:21 for further proposals for redactions to public Annex XLIII. The Registry received instructions from the Defence in relation to the *ex parte* email decisions on 30 October 2019 at 16:12 to modify the level of confidentiality of annexes I and XI and indicated that annex XIV shall remain confidential.

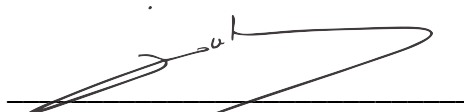
12. Accordingly, the Registry applied redactions to emails set forth in the following 45 annexes:

- **Annex I** : email sent on 08 January 2019, "Decision on Defence Requests for Communications with Mental Health Experts [EXPARTE, Defence and Registry only]" at 11:41;
- **Annex II** : email sent on 09 January 2019, "New Defence Postponement Request" at 17:45;
- **Annex III** : email sent on 10 January 2019, "RE: URGENT REQUEST re Defence Filing" at 18:13;
- **Annex IV** : email sent on 11 January 2019, "Decision Ordering an Adjournment (with reasons to follow)" at 16:41;
- **Annex V** : email sent on 16 January 2019, "ICC-02/04-01/15-1411-Conf-Exp" at 14:29;
- **Annex VI** : email sent on 17 January 2019, "Decision on Requested Redactions to Email Decision of 24 October 2018" at 14:49;
- **Annex VII** : email sent on 18 January 2019, "Decision on Prosecution Request Related to the Scope of D-133's evidence" at 14:37;
- **Annex VIII** : email sent on 23 January 2019, "Hearing Schedule" at 10:03;
- **Annex IX** : email sent on 21 March 2019, "RE: Request for reclassification of filing ICC-02/04-01/15-878-Conf" at 15:56;
- **Annex X** : email sent on 24 January 2019, "RE: ICC-02/04-01/15-1418-Conf-Exp-Red" at 11:53;
- **Annex XI** : email sent on 18 March 2019, "FW: Report on Mr Ongwen - Ex Parte Trial Chamber IX only " at 11:50;
- **Annex XII** : email sent on 29 January 2019, "ICC-02/04-01/15-1422-Conf-Exp" at 12:21;

- **Annex XIII** : email sent on 31 January 2019, "Shortening of Response Deadline for ICC-02/04-01/15-1428" at 21:25;
- **Annex XIV** : email sent on 07 February 2019, "RE: Request for Addition of a Privileged Mobile Phone Number for Co-Counsel Taku" at 11:47;
- **Annex XV** : email sent on 12 February 2019, "RE: Ongwen Defence request in light of Decision 1443" at 10:25;
- **Annex XVI** : email sent on 12 February 2019, "FW: Request for Passive Monitoring with the Children during the Visit" at 14:12;
- **Annex XVII** : email sent on 12 February 2019, "Decision on Request for Clarification of 30 January 2019 Direction" at 17:54;
- **Annex XVIII** : email sent on 18 February 2019, "Reclassification of ICC-02/04-01/15-1427-Conf and ICC-02/04-01/15-1440-Conf" at 12:43;
- **Annex XIX** : email sent on 18 February 2019, "RE: Reclassification of ICC-02/04-01/15-1418-Conf-Red" at 16:52;
- **Annex XX** : email sent on 19 February 2019, "Hearing Schedule Through 1 October 2019" at 14:07;
- **Annex XXI** : email sent on 25 February 2019, "RE: Request to Provide D-0140 with a Summary of his Expected Testimony" at 15:38;
- **Annex XXII** : email sent on 26 February 2019, "RE: Request for reclassification of 1422-Conf and 1429-Conf and notification" at 09:17;
- **Annex XXIII** : email sent on 26 February 2019, "RE: The Prosecutor v. Dominic Ongwen" at 17:32;
- **Annex XXIV** : email sent on 27 February 2019, " Decision on Procedure Regarding the Request for D-133's Visit to be Passively Monitored" at 12:43;
- **Annex XXV** : email sent on 01 March 2019, "RE: Request to Meet with D-0140" at 16:42;
- **Annex XXVI** : email sent on 08 March 2019, "RE: Reclassification of ICC-02/04-01/15-1450-Conf" at 10:26;

- **Annex XXVII** : email sent on 08 March 2019, "RE: Request for variation of deadline for leave to appeal Decision #1476" at 14:56;
- **Annex XXVIII** : email sent on 13 March 2019, "shortening of response deadline for filing ICC-02/04-01/15-1478-Conf" at 14:25;
- **Annex XXIX** : email sent on 18 March 2019, "FW: Defence Request concerning 31 January and 1 February 2019" at 11:49;
- **Annex XXX** : email sent on 25 March 2019, "Rule 74 assurances for D-92" at 15:36;
- **Annex XXXI** : email sent on 27 March 2019, "Reclassification of filing ICC-02/04-01/15-879-Conf" at 10:29;
- **Annex XXXII** : email sent on 23 April 2019, "RE: Request for an authorisation to add new audio tracks to the items previously disclosed and uploaded in E-court " at 14:38;
- **Annex XXXIII** : email sent on 29 April 2019, "Ruling on Prosecution request to interview Defence witness D-0068" at 09:51;
- **Annex XXXIV**: email sent on 07 May 2019, "RE: Reclassification Request: ICC-02/04-01/15-1487-Conf - Prosecution's Response to "Defence Notification of Rule 68(2)(b) Statements and Redaction Requests" at 11:47;
- **Annex XXXV** : email sent on 07 May 2019, "reclassification of ICC-02/04-01/15-1490-Conf" at 14:34;
- **Annex XXXVI** : email sent on 08 May 2019, "RE: Information and request for order to Registry" at 15:38;
- **Annex XXXVII** : email sent on 10 May 2019, "decision in light of further requests pertaining to the Defence's request to interview P-214" at 14:20;
- **Annex XXXVIII** : email sent on 16 May 2019, "Shortening of Response Deadline for ICC-02/04-01/15-1513" at 09:12;
- **Annex XXXIX** : email sent on 21 May 2019, "Decision on the Defence Request for Information regarding a Member of the CLRV Staff" at 14:28;

- **Annex XL** : email sent on 23 May 2019, "Decision on Prosecution Request regarding the items the Defence intends to use during D-0139's testimony" at 13:04;
- **Annex XLI** : email sent on 27 May 2019, "RE: In-court protective measures for UGA-D26-P-0113" at 14:49;
- **Annex XLII** : email sent on 30 May 2019, "RE: URGENT Request for Visit to D-0113" at 17:40;
- **Annex XLIII** : email sent on 31 May 2019, "RE: URGENT: Defence Request for Reconsideration of the denial of VWU Recommendations for Protective Measures for D-0113" at 09:06;
- **Annex XLIV** : email sent on 31 May 2019, "Modification of response deadline for ICC-02/04-01/15-1527" at 14:26; and
- **Annex XLV** : email sent on 12 June 2019, "FW: Request for Visit in Holding Cell" at 18:24.



Marc Dubuisson, Director of Division of Judicial Services
On behalf of Peter Lewis, Registrar

Dated this 31 October 2019

At The Hague, The Netherlands