

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: ICC-02/04-01/15
Date: 27 November 2020

TRIAL CHAMBER IX

Before: Judge Bertram Schmitt, Presiding Judge
Judge Péter Kovács
Judge Raul Cano Pangalangan

SITUATION IN UGANDA

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

Public

**CLR V Response to the Defence Request
to Reschedule the Delivery of the Article 74(5) Judgment**

Source: Office of Public Counsel for Victims

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

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**Unrepresented Applicants
(Participation/Reparation)**

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I. INTRODUCTION

1. The Common Legal Representative of the Victims¹ (the “CLR”) participating at trial does not oppose the Defence Request to Reschedule the Delivery of the Article 74(5) Judgment (the “Defence Request”) but underlines that, should it be granted, the delivery of the judgment must be done as soon as practicable and no later than 29 January 2021.²

2. While Victims have been waiting since fifteen years now to see justice delivered, the result of the consultation the CLR could undertake in the field - following the filing of the Defence Request - indicates that the majority of the Victims she represents consider that the date set for the delivery of the judgement is problematic in light of the fore coming elections.

II. PROCEDURAL HISTORY

3. On 12 November 2020, Trial Chamber IX (the “Chamber”) issued its “Order Scheduling the Delivery of the Judgment”, whereby the Single Judge announced that the judgment pursuant to Article 74 of the Rome Statute will be delivered on 12 January 2021.³

¹ See the “Decision on contested victims’ applications for participation, legal representation of victims and their procedural rights” (Pre-Trial Chamber II, Single Judge), [No. ICC-02/04-01/15-350](#), 27 November 2015, p. 19; the “Decision on issues concerning victims’ participation” (Pre-Trial Chamber II, Single Judge), [No. ICC-02/04-01/15-369](#), 15 December 2015, pp. 10-11; the “Second decision on contested victims’ applications for participation and legal representation of victims” (Pre-Trial Chamber II, Single Judge), [No. ICC-02/04-01/05-384](#), 24 December 2015, pp. 20-22; and the “Decision on the ‘Request for a determination concerning legal aid’ submitted by the legal representatives of victims” (Trial Chamber IX, Single Judge), [No. ICC-02/04-01/15-445](#), 26 May 2016, para. 13.

² See the “Defence Request to Reschedule the Delivery of the Article 74(5) Judgment”, No. ICC-02/04-01/15-1755-Conf and [No. ICC-02/04-01/15-1755-Red](#), 25 November 2020 (the “Defence Request” or the “Request”).

³ See the “Order Scheduling the Delivery of the Judgment” (Trial Chamber IX, Single Judge), [No. ICC-02/04-01/15-1754](#), 12 November 2020.

4. On 25 November 2020, the Defence submitted its Request.⁴

5. The same day, pursuant to Regulation 34 of the Regulations of the Court, the Chamber shortened the deadline for responses to the Defence Request to 27 November 2020.⁵

III. LEVEL OF CLASSIFICATION

6. The CLRV notes that the Defence has classified its Request as confidential and has simultaneously filed a public redacted version of it. In light of the importance of the matter for the Victims she represents and considering that the present response does not contain nor refers to confidential information, the CLRV files it as a public document.

IV. SUBMISSIONS

7. At the outset, the CLRV underlines that Victims participating at trial have been waiting for justice to be delivered for more than fifteen years and that the proposal of postponing the judgment delivery date is therefore a source of concerns for them. In fact, Victims expressed relief and happiness when they were informed about the coming date for the delivery of the Chamber' decision.

8. However, and although the CLRV could not consult extensively with all her clients in light of the very short deadline imposed by the Chamber, the consultations she was able to undertake in the last 48 hours with the main groups of victims she represents in the different locations, show that the majority of the Victims consulted considers that the delivery date on 12 January 2020 is indeed problematic in light of the prospective elections.

⁴ See the Defence Request, *supra* note 2.

⁵ See the email by the Chamber dated 25 November 2020 at 15:46.

9. In particular, some Victims indicated that because of the fact that the media is only speaking about the elections, the news of the delivery of the judgment was overlooked. While Victims wish for the judgment to be delivered as soon as possible, they also want that due respect and proper attention is given to the delivery as a sign that justice is possible.⁶ Furthermore, Victims wish to be able to follow the delivery of the judgment as it was the case for certain critical junctures of the trial for which public live streaming was in place.

10. Moreover, Victims consulted expressed concerns about the fact that the set date for the delivery of the judgement is too close to the general election date and indicate that the decision could be exploited for political reasons on both sides.⁷

11. All Victims consulted indicated that in any case the delivery of the judgment has to take place as soon as practicable after the elections.

12. Consequently, the CLRV does not oppose the Defence Request but underlines that, should it be granted, the delivery of the judgment must be done as soon as practicable, and no later than 29 January 2021.

13. Finally, the CLRV supports the Defence's application for a secure video-link connection for counsels who may not be able to attend the hearing for the delivery of the judgement in person in light of the current circumstances linked to the pandemic.⁸

⁶ See also in this regard the Defence Request, *supra* note 2, paras. 5 to 17.

⁷ See also in this regard the Defence Request, *supra* note 2, paras. 18 to 21.

⁸ See also in this regard the Defence Request, *supra* note 2, paras. 28 to 30.

14. Respectfully submitted,

A handwritten signature in black ink, reading "Paolina Massidda". The signature is written in a cursive style with a prominent flourish at the end of the name. The signature is underlined with a single horizontal line.

Paolina Massidda

Dated this 27th day of November 2020

At The Hague, The Netherlands