

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **23 March 2021**

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

Order providing further details on the schedule of the hearing on sentence

To be notified, in accordance with Regulation 31 of the *Regulations of the Court*, to:

The Office of the Prosecutor

Fatou Bensouda

James Stewart

Counsel for the Defence

Krispus Ayena Odongo

Legal Representatives of Victims

Joseph Akwenyu Manoba

Francisco Cox

Paolina Massidda

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

The Office of Public Counsel for the Defence

States Representatives

Amicus Curiae

REGISTRY

Registrar

Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Others

Trial Chamber IX of the International Criminal Court, in the case of *The Prosecutor v. Dominic Ongwen*, having regard to Article 76 of the Rome Statute and Rule 143 of the Rules of Procedure and Evidence, issues the following order providing further details on the scheduled of the hearing on sentence.

1. On 4 February 2021, simultaneously with the issuance of its judgement pursuant to Article 74 of the Statute convicting Dominic Ongwen of a total of 61 crimes,¹ the Chamber rendered a decision whereby it regulated the further proceedings leading to the imposition of the sentence, and scheduled a hearing on sentence under Article 76(2) of the Statute for the week of 12-16 April 2021.² The Chamber announced that in due course it would render a more precise schedule of the hearing, with further details as to the date and time of the individual sessions.³
2. On 19 March 2021, the Chamber rendered a decision disposing of the request for submission of additional evidence made by the Defence, whereby it accepted the submission in writing of all evidence put forward by the Defence.⁴ The Chamber further indicated that it would shortly provide more details on the schedule of the hearing on sentence, which, also due to the absence of any additional evidence presented by the Prosecution and the participating victims, will be limited to hear the participants' oral submissions on the appropriate sentence to be imposed on Dominic Ongwen.⁵
3. On the same day, by way of email communication, the Chamber afforded the participants an opportunity to provide an indication of the amount of time they request to be allocated for their respective oral submissions at the hearing, clarifying in this regard that any such indication of time from the parties and participants is without prejudice to the Chamber's decision, which may eventually not be able to accommodate the requests in full.⁶

¹ 'Trial Judgment', ICC-02/04-01/15-1766-Conf (public redacted version available: [ICC-02/04-01/15-1766-Red](#)).

² 'Decision scheduling a hearing on sentence and setting the related procedural calendar', [ICC-02/04-01/15-1763](#).

³ 'Decision scheduling a hearing on sentence and setting the related procedural calendar', [ICC-02/04-01/15-1763](#), paras 3 and 8.

⁴ 'Decision on the "Defence request to submit additional evidence for Trial Chamber IX's determination of the sentence"', ICC-02/04-01/15-1801.

⁵ 'Decision on the "Defence request to submit additional evidence for Trial Chamber IX's determination of the sentence"', ICC-02/04-01/15-1801, para. 28.

⁶ Email from the Chamber of 19 March 2021 at 16.22.

4. On 22 March 2021, the parties and participants communicated to the Chamber their respective estimates of time for oral submissions at the hearing on sentence. The Prosecution, observing that the oral submissions will be primarily responsive in nature, estimates that it would need at most 3 hours to make its oral submissions, and will endeavour to finish in less time.⁷ The Defence, while stating that, at this stage, an estimate of time can only be preliminary given that the primary purpose of the hearing is to respond to the other participants' written submissions, asserts that 'it will need 3.0 - 4.5 hours, which includes Mr Ongwen speaking', and that it might be able 'to complete everything in 3.0-3.5 hours, but is hesitant to make this final until reading the briefs of the Prosecution and Legal Representatives'.⁸ The two teams of common legal representatives of victims both state that they would each need a maximum of 45 minutes for their oral submissions.⁹
5. The Chamber has considered the indications of time that the parties and participants deem adequate for their respective oral submissions at the hearing. It notes in that regard that their respective estimates are construed as highest estimates and are preliminary in nature, in that more precise estimates could be made only after the written submissions due on 1 April 2021, which the oral submissions will be responsive to.
6. Taking into account the submissions received, the Chamber considers it appropriate to grant 3 hours each to the Prosecution and the Defence (including Dominic Ongwen himself, if he wishes to address the Chamber directly) and 1.5 hours to the two teams of legal representatives of victims to divide between them. This amounts to five court sessions of 1.5 hours each. The Chamber thus schedules the hearing on sentence for two court days. A final court session of 1.5 hours is reserved should any need arise. The Chamber recalls in this regard that after the hearing no subsequent written submissions will be allowed, and that 'any motivated request for oral response/reply to another party's oral submissions shall be made orally at the hearing and will be disposed of by the Chamber, in light of the individual circumstances, at the hearing itself'.¹⁰

⁷ Email from the Office of the Prosecutor to the Chamber and the other participants of 22 March 2021 at 10.42.

⁸ Email from the Defence to the Chamber and the other participants of 22 March 2021 at 10.54.

⁹ Email from the common legal representative of victims to the Chamber and the other participants of 22 March 2021 at 11.23; and email from the legal representative of victims to the Chamber and the other participants of 22 March 2021 at 15.41.

¹⁰ Decision scheduling a hearing on sentence and setting the related procedural calendar', [ICC-02/04-01/15-1763](#), para. 8.

7. At the same time, the Chamber considers that not all the allocated time may actually be required by the participants for their respective oral submissions at the hearing. It emphasises in this regard that it expects the participants to provide focussed and non-repetitive submissions, and be ready to proceed to their oral submissions at any time as soon as the previous participant has finalised its own presentation.
8. Considering the existence of a legitimate personal impediment communicated to the Chamber by the common legal representative of victims, the Chamber sets the hearing on sentence for Wednesday, 14 and Thursday, 15 April 2021.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

SCHEDULES the hearing on sentence under Article 76(2) of the Statute for Wednesday, 14 April at 9.30 hours, and Thursday, 15 April 2021 at 9.30 hours.

DECIDES that the parties and participants shall be allocated time for their oral submissions as follows:

- Prosecution: 3 hours;
- Legal representatives of victims: 1.5 hours to divide between them; and
- Defence, including Dominic Ongwen himself: 3 hours.


Done in both English and French, the English version being authoritative.



Judge Bertram Schmitt, Presiding Judge



Judge Péter Kovács



Judge Raul C. Pangalangan

Dated 23 March 2021

At The Hague, The Netherlands