

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **5 May 2021**

TRIAL CHAMBER IX

Before: Judge Bertram Schmitt, Single Judge

SITUATION IN UGANDA

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

Public

Decision on the ‘Defence Request for Redactions to Statements Submitted into Evidence for Sentencing’

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

Judge Bertram Schmitt, acting as Single Judge on behalf of Trial Chamber IX of the International Criminal Court, in the case of *The Prosecutor v. Dominic Ongwen*, having regard to Articles 64(2), (6)(c) and (7), and 68(1) of the Statute, and Rule 132 *bis* of the Rules of Procedure and Evidence, issues the following decision on the ‘Defence Request for Redactions to Statements Submitted into Evidence for Sentencing’, filed on 29 April 2021.¹

1. The Defence states that a number of witness statements which it submitted and relies upon in the sentencing proceedings² may be reclassified as public, provided that some discrete information be redacted therefrom.³ Such material has already been made available, in full, to the Prosecution and the legal representatives of the victims participating in the proceedings. Thus, what is at issue is only the extent to which the concerned material may be made available also to the public. For this reason, and in light of the content of the statements at issue and the nature of redactions requested by the Defence, as well as of the disposal of the Defence request, the Single Judge does not consider it necessary to receive submissions from the other participants in the proceedings in response to the request. This decision is accordingly rendered prior to the expiration of the relevant time limit.
2. The Single Judge emphasises the importance of the principle of publicity of proceedings, which, *inter alia*, demands that information, including any evidence that is part of the record of the case, be made accessible to the public to the fullest possible extent, that is, to the extent that revealing information does not create, or unduly increases an impermissible danger to any interest demanding protection by the Court.⁴
3. Having considered the request by the Defence against this background, the Single Judge concurs that the material at issue may be made available to the public with the redactions proposed by the Defence. Indeed, the discrete information which the Defence requests to still withhold from the public may, if revealed at large, unnecessarily jeopardise concretely identified legitimate interests. This is the case for: (i) the identity of a ‘resource person’ assisting work of the defence team on the field and who may be further resorted to in the

¹ ICC-02/04-01/15-1816-Conf and confidential annexes (‘Request’; public redacted version also available: ICC-02/04-01/15-1816-Red).

² These items are marked as: UGA-D26-0015-1851, UGA-D26-0015-1855, UGA-D26-0015-1858, UGA-D26-0015-1861 and UGA-D26-0015-1864.

³ Request, para. 1.

⁴ *See, e.g.*, Decision on the ‘Prosecution’s application for in-court protective and special measures’, ICC-02/04-01/15-612-Red, 29 November 2016.

future; (ii) the specific location of the interviews conducted with Dominic Ongwen's family members; and (iii) the identity of a third person, whose privacy, in the particular circumstances given, indeed demands protection.

4. In any case, this discrete information warranting redaction vis-à-vis the general public is extremely limited and is not essential to the comprehension of the items of the material concerned. In this context, any impact on the principle of public is thus not only justified, but also insignificant.

FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY

AUTHORISES redactions to UGA-D26-0015-1851, UGA-D26-0015-1855, UGA-D26-0015-1858, UGA-D26-0015-1861 and UGA-D26-0015-1864 as requested by the Defence and specified in the annexes to the Request.

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

A handwritten signature in black ink, appearing to read 'Bertram Schmitt', is written over a horizontal line.

Judge Bertram Schmitt, Single Judge

Dated 5 May 2021

At The Hague, The Netherlands