

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **12 July 2021**

TRIAL CHAMBER IX

Before: Judge Bertram Schmitt, Presiding Judge
Judge Péter Kovács
Judge Chang-ho Chung

SITUATION IN UGANDA

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

PUBLIC

Victims' Joint Request for extension of time limit to submit their observations on reparation proceedings

Source: Legal Representatives of Victims
Office of Public Council for Victims

Document to be notified in accordance with regulation 31 of the *Regulations of the****Court to:*****The Office of the Prosecutor**

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I. INTRODUCTION

1. Trial Chamber IX (hereafter the 'Chamber'), in its Order of 6 May 2021¹ instructed the parties to make submission on specific issues pertaining to reparations proceedings by 6 September 2021. Pursuant to regulation 35 (1) of the Regulations of the Court (the 'Regulations'), the Legal Representatives of Victims (the 'LRVs') and the Common Legal Representative (the 'CLR') – together referred to as the 'Legal Representatives' request an extension of time limit by three months. Such an extension is justified as a result of the recent lockdown measures in Uganda aimed at curbing the spread of Covid-19. As such, these measures have made it impossible to consult with victims and to gather the data necessary to make informed submissions on reparations as instructed by the Chamber.

II. PROCEDURAL HISTORY

2. On 6 May 2021, the Chamber, issued the 'Order for Submissions on Reparations' (the 'Order'),² in which it, *inter alia*, instructed the parties to make submission on specific issues pertaining to reparations proceedings by 6 September 2021.³
3. Moreover, the Order invited any persons or organisations, particularly with local expertise, interested in making observations on any of the specific issues identified by the Chamber in para. 5(i) of the Order, to request, by 7 June 2021, leave to make submissions pursuant to Article 75(3) of the Statute and Rule 103 of the Rules.⁴

¹ Order for Submissions on Reparations, 6 May 2021, ICC-02/04-01/15-1820.

² Order for Submissions on Reparations, 6 May 2021, ICC-02/04-01/15-1820.

³ *Ibid*, para. 5 (i).

⁴ *Ibid*, para. 5 (iii).

4. From 4 through 11 June 2021 eleven requests for leave to submit such observations were filed⁵ and on 17 June 2021 the Chamber granted leave to all of the applicants.⁶
5. On 9 June 2021, the Chamber was reconstituted by the replacement of Judge Raul C. Pangalangan with Judge Chang-ho Chung.⁷
6. On 5 July 2021, the Registry filed its Progress Report on Mapping and Request for Extension of Time.⁸

III. SUBMISSIONS

7. The parties, the Registry and the Trust Fund for Victims ('TFV') were instructed by the Chamber 'to make submissions, as specific as possible and of up to 50 pages each, by Monday 6 September 2021, at the latest' on a number of issues pertaining to reparations.⁹

⁵ Request for leave to submit *amicus curiae* observations on reparations for victims of LRA in the case of Dominic Ongwen, 4 June 2021, ICC-02/04-01/15-1840; Request for leave to file submission on reparations issues pursuant to Article 75 of the Statute and rule 103 of the Rules, 7 June 2021, ICC-02/04-01/15-1842; Request for leave to file submissions on reparations issues, 7 June 2021, ICC-02/04-01/15-1843; Request for leave to submit *Amicus Curiae* observations on the legal questions presented in the Order for Submissions on Reparations (pursuant to Rule 103 of the Rules of Procedure and Evidence) of 6th May 2021 (ICC-02/04-01/15), 7 June 2021, ICC-02/04-01/15-1844; Request for leave to submit *Amicus Curie* Observations for reparations, pursuant to article 75 of the Statute and Rule 103 of Rules, 7 June 2021, ICC-02/04-01/15-1845; Request for Leave to Submit Observations on the issues set out under point 5 (iii) of the Order No. ICC-02/04-01/15, 7 June 2021, ICC-02/04-01/15-1846; Request for leave to submit an *Amicus Curiae* brief pursuant to article 75 of the Statute and Rule 103 of the Rules of Procedure and Evidence, 7 June 2021, ICC-02/04-01/15-1847; Request for leave to submit *amicus curiae* observations on reparations for victims of the LRA for the case of Dominic Ongwen, 7 June 2021, ICC-02/04-01/15-1848; Application by the United Nations for leave to make submissions pursuant to Paragraph 5(iii) of the "Order for Submissions on Reparations" of 6 May 2021, Article 75 of the Statute and Rule 103 of the Rules of Procedure and Evidence, 4 June 2021, ICC-02/04-01/15-1849; Transmission of a "Request for leave to submit *Amicus Curiae* Observations on reparations", ICC-02/04-01/15-1853, with Annex 1, ICC-02/04-01/15-1853-Anx1; Transmission of a "Brief and Priority Needs", ICC-02/04-01/15-1854, with Annex 1, ICC-02/04-01/15-1854-Anx1.

⁶ Decision on the requests for leave to submit *amicus curiae* observations, 17 June 2021, ICC-02/04-01/15-1860.

⁷ The Presidency, Decision replacing a judge in Trial Chamber IX, 9 June 2021, ICC-02/04-01/15-1851.

⁸ Registry Progress Report on Mapping and Request for Extension of Time, 5 July 2021, ICC-02/04-01/15-1863.

⁹ Order, para. 5. These issues include: estimated total number of the direct and indirect victims of the crimes for which Mr Ongwen was convicted, who may be potentially eligible for reparations; any legal and factual issues relevant to the identification of eligible victims; specification of the types and extent of the harm suffered by the victims of the crimes for which Mr Ongwen was convicted types

8. In order to address the issues adequately and comprehensively, whilst ensuring the meaningful and effective participation of victims in the reparations process, and that the process does not cause any harm or raise undue expectations, the Legal Representatives independently planned to undertake field missions to consult with their clients in person as follows:
 - a) the CLR from 7 until 28 June 2021;
 - b) the LRVs from 28 June to 12 July 2021.
9. Pursuant to the said Order of the Chamber - in which the parties were encouraged to undertake collaborative efforts and considering the fact that the Registry can benefit from the Legal Representatives rich presence and mechanisms for consultations with victims existing in the field, Counsel have:
 - a) Held a joint meeting and consultations to agree on strategies of fulfilling the Order.
 - b) Held joint meetings with the Registry to, amongst others, thresh out mechanisms for collaboration; share information as necessary on efforts already undertaken independently to collect data relevant to the reparation proceedings; identify what assistance can be provided by the Registry. Said assistance includes the formal communication and requests for information about the Internally Displaced Persons (IDP) camps to international and national public offices such as the World Food Program and the Prime Ministers' Office in Uganda.
 - c) Held joint LRV meetings with the TFV to explore collaborative measures that may be undertaken.

and modalities of reparations appropriate to address the harm suffered by the victims of the crimes for which Mr Ongwen was convicted; concrete estimates as to the costs to repair the harms suffered by the victims in light of the appropriate modalities for repairing them, including costs of running rehabilitation programmes in the region with the potential to address multi-dimensional harm of individual beneficiaries for the purposes of reparations; information as to the victims of the crimes for which Mr Ongwen was convicted have received any form of compensation or reparations for the harm suffered as a result of these crimes⁹ and any additional information relevant to reparations.

- d) Conducted sourcing for information within the record of the case and judgment delivered by the Chamber.

10. The Legal Representatives inform the Chamber that whilst these efforts were in progress, Uganda experienced a new wave of the Covid-19 pandemic which quickly resulted in a surge of cases leading to deaths being reported country wide.
11. Consequently, at the beginning of June 2021, the President of Uganda re-imposed lockdown measures in the country for 42 days. The measures included suspension of inter-district travel (as of 10 June 2021) and a ban on public gatherings (starting from 7 June 2021).¹⁰
12. Owing to the ever growing threat to public health, additional measures were promptly put in force for a further 42 days announced by the President of Uganda on 18 June 2021. These measures range from the ban on all vehicular movement except for essential workers, stricter curfew hours (from 7 pm to 05:30 am), and closing of non-essential businesses.¹¹
13. The Legal Representatives submit that the said developments and measures imposed in the country, as well as the need to safeguard the health and safety of the respective members of the their teams and of the victims, prevent them from conducting any field missions and render impossible the collection of data and

¹⁰ Reuters, Uganda re-imposes lockdown to beat back COVID-19 case surge, 7 June 2021, available at: <https://www.reuters.com/world/africa/uganda-re-imposes-lockdown-beat-back-covid-19-case-surge-2021-06-06/> (last access 1.07.2021); Daily Monitor, Museveni suspends schools, churches, bans public transport between districts, 7 June 2021, available at: <https://www.monitor.co.ug/uganda/news/national/museveni-suspends-schools-churches-bans-public-transport-between-districts--3427972> (last access 1.07.2021).

¹¹ Public Health (Control of covid-19) Rules, 2021, Statutory Instruments Supplement to the Ugandan Gazette No. 54, Volume CXIV, dated 1st July, 2021, Printed by UPPC, Entebbe, by Order of the Government, Statutory Instruments 2021 No 38. See also: Reuters, Uganda imposes new anti-coronavirus measures to stem raging pandemic, 19 June 2021, available at: <https://www.reuters.com/world/africa/uganda-imposes-new-anti-coronavirus-measures-stem-raging-pandemic-2021-06-18/> (last accessed 1.07.2021); Uganda Police Force, The Joint task force warns the public on tougher crackdown on covid 19 Pandemic, 21 June 2021, available at: <https://www.upf.go.ug/the-joint-task-force-warns-the-public-on-tougher-crackdown-on-covid-19-breaches/> (last accessed 1.7.2021).

information necessary for the submission on the issues raised in the Order by the 6 September 2021 deadline set by the Chamber.¹² These concerns are reflected in the Registry Progress Report on Mapping and Request for extension of time.

14. While the Legal Representatives continue to work remotely with the respective members of their teams residing in Uganda, the intermediaries and focal points to gather as much information as possible, the said information will have to be checked for authenticity upon the lockdown being lifted. Moreover, consultation with victims at this stage is essential and crucial in order for Counsel to be able to present to the Chamber meaningful submissions on the interests, wishes and harms of their clients.
15. It is currently not possible to foresee how the situation will evolve in the next weeks leading up to the lapse of the imposed lockdown. The situation remains critical and missions are suspended depending on further directives of the Ugandan authorities. Therefore, it is impossible to cope with the deadline set by the Chamber in the current circumstances. The Legal Representatives are hopeful that within the proposed three months extension they will be able to deploy and gather information from their clients spread out in a vast area and reconcile their data.
16. The Legal Representatives submit that the described circumstances constitute a good cause in accordance with regulation 35(2) of the Regulations justifying a three month extension of time limit to make submissions on the issues pertaining to reparations as ordered by the Chamber on 6 May 2021.

IV. CONCLUSION

17. The Legal Representatives respectfully request the Chamber to grant a three month extension of time limit to make their submissions on issues pertaining to reparations and listed by the Chamber in para. 5(i) of the Order.

¹² The Legal Representatives recall the information at para. 11 of their joint submissions of 11 June 2021. Victims' concerns on the applications to submit *amicus curiae* observations, 11 June 2021, ICC-02/04-01/15-1858.



Joseph A. Manoba



Francisco Cox



Paolina Massidda

Dated this 12th day of July 2021

At Kampala (Uganda), Santiago (Chile) and The Hague (The Netherlands).