

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-02/04-01/15**
Date: **23 September 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

Decision on the Registry Request for Access to Prosecution Documents

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

The Office of the Prosecutor

Karim A. A. Khan

Mr James Stewart

Counsel for the Defence

Mr Krispus Ayena Odongo

Legal Representatives of Victims

Mr Joseph Akwenyu Manoba

Mr Francisco Cox

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda

The Office of Public Counsel for the Defence

States Representatives

Trust Fund for Victims

Mr Pieter de Baan

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

Others

Trial Chamber IX of the International Criminal Court, in the case of *The Prosecutor v. Dominic Ongwen* (the ‘Ongwen case’), having regard to articles 54(3)(f), 64(6)(c) and (f), and 68(1) of the Rome Statute, rule 10 of the Rules of Procedure and Evidence, and Regulations 97 to 100 of the Regulations of the Registry, issues the following Decision on the Registry Request for Access to Prosecution Documents (‘Decision’).

1. On 6 May 2021, the Chamber issued its Order for Submissions on Reparations (the ‘Order’), by which it, *inter alia*, instructed the Registry, with the assistance and cooperation of the Legal Representatives of Victims (‘LRVs’), as appropriate, to undertake a comprehensive mapping of direct and indirect victims potentially eligible for reparations.¹
2. On 30 July 2021, the Chamber issued a Decision granting an LRVs’ Request to authorise the Registry to access certain confidential material relevant for the mapping exercise, as instructed in the Order (‘30 July 2021 Decision’).²
3. On 15 September 2021, the Registry filed its Request for Access to Prosecution Documents (‘Registry’s Request’)³, whereby it requests the Chamber to allow the Office of the Prosecutor (‘Prosecutor’) to share with the Victims Participation and Reparation Section (‘VPRS’) a series of documents in the record of the case potentially containing additional information relevant for the mapping exercise.
4. On 20 September 2021, the Office of Public Counsel for Victims, the Defence for Dominic Ongwen, and the LRVs, informed the Chamber, via email, that they do not oppose the Registry’s Request and were not going to submit responses.⁴
5. On 21 September 2021, the Prosecutor submitted its Response indicating that it does not oppose the Registry’s Request.⁵ The Prosecutor indicates that the documents are potentially relevant to the identification of victims of the sexual and gender-based crimes and child soldier-related crimes, noting that they have been disclosed during the trial proceedings as confidential.⁶

¹ Order for Submissions on Reparations, 6 May 2021, [ICC-02/04-01/15-1820](#), p. 6 and para 5(iv).

² Decision on the Victims’ Request for Authorisation to Disclose Confidential Information in the Record of the Case to the Registry for the Purpose of Mapping of Potential Victims Eligible for Reparations, 30 July 2021, [ICC-02/04-01/15-1869](#).

³ Registry Request for Access to Prosecution Documents, 15 September 2021, [ICC-02/04-01/15-1872](#).

⁴ Email from the OPCV to the Chamber, 20 September 2021, at 15:00 hrs; email from the Defence to the Chamber, 20 September 2021, at 16:08 hrs; and email from the LRVs to the Chamber, 20 September 2021, at 15:59 hrs.

⁵ Prosecution’s response to the Registry Request for Access to Prosecution Documents (‘Prosecution’s Response’), 21 September 2021, [ICC-02/04-01/15-1873](#), para 1.

⁶ Prosecution’s Response, [ICC-02/04-01/15-1873](#), paras 2-3.

6. On the same date, the Trust Fund for Victims ('TFV') submitted its Response expressing full support to the Registry's Request. The TFV also brings to the Chamber's attention the fact that access to the documents referred to in the Registry's Request and in the 30 July 2021 Decision, in particular insofar as public, may also be granted to the TFV, as the information contained therein may be of particular importance to its estimations relevant to the costs of repair.⁷

7. As previously noted by the Chamber, there is no impediment to grant the request insofar as (i) the Prosecutor, as the organ responsible for the security of the information and evidence obtained in the course of its investigations and for taking the necessary measures to ensure the confidentiality of information, the protection of any person, or the preservation of evidence, has no objections with the documents being shared with the VPRS; and (ii) the Registry shall take the appropriate measures for the protection of victims and witnesses and, when required for reasons of safety and security of victims, it shall take all necessary measures within its powers to ensure the confidentiality of information.⁸

8. In light of the above, the Chamber authorises the Registry, and particularly the VPRS, to access the documents referred to in the Registry's Request, for the purposes of conducting the comprehensive mapping of victims potentially eligible for reparations, as instructed in the Order.

9. As to the TFV's submission that access to documents relevant to the mapping exercise may also be granted to the TFV, as they may contain information of importance to its estimations of the costs of repair, the Chamber orders the Prosecutor to make the documents referred to in the Registry's Request and in the 30 July 2021 Decision also available to the TFV, in a redacted form if necessary to ensure the confidentiality of information and/or the protection of any person.

10. Lastly, the Chamber instructs the Registry, the parties, and the participants, to file directly in the record of the case any analogous requests in the future, should any other related documents be identified, and directs the parties and participants to file any responses thereto, within 5 days of the notification of the formal request.

⁷ Trust Fund for Victims' response to Registry Request for Access to Prosecution Documents ('Trust Fund's Response'), 21 September 2021, [ICC-02/04-01/15-1874](#), para 5.

⁸ 30 July 2021 Decision, [ICC-02/04-01/15-1869](#), para 6.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

GRANTS the Registry's Request and authorises the VPRS to access the following documents: UGA-OTP-0059-0071; UGA-OTP-0059-0072; UGA-OTP-0116-0002 to UGA-OTP-0116-0445; UGA-OTP-0117-0002 to UGA-OTP-0117-0430; UGA-OTP-0118-0002 to UGA-OTP-0118-0485; UGA-OTP-0119-0002 to UGA-OTP-0119-0445; UGA-OTP-0120-0002 to UGA-OTP-0120-0380; UGA-OTP-0121-0002 to UGA-OTP-0121-0408; UGA-OTP-0122-0002 to UGA-OTP-0122-0412; UGA-OTP-0123-0002 to UGA-OTP-0123-0416; UGA-OTP-0124-0002 to UGA-OTP-0124-0404; UGA-OTP-0125-0002 to UGA-OTP-0125-0375; UGA-OTP-0126-0002 to UGA-OTP-0126-0391; UGA-OTP-0127-0002 to UGA-OTP-0127-3783; UGA-OTP-0127-3830 to UGA-OTP-0127-3857; UGA-OTP-0132-0621; UGA-OTP-0132-0647; UGA-OTP-0132-0653; UGA-OTP-0139-0231; UGA-OTP-0139-0237; UGA-OTP-0139-0246; UGA-OTP-0165-0124; UGA-OTP-0233-0472; UGA-OTP-0233-0476 to UGA-OTP-0233-1018; and UGA-OTP-0244-0909;

ORDERS the Prosecutor to make the documents referred to in the Registry's Request and in the 30 July 2021 Decision also available to the TFV, in a redacted form if necessary to ensure the confidentiality of information or the protection of any person;

INSTRUCTS the Registry, the parties, and the participants to file directly in the record of the case any similar requests in the future, and directs the parties and participants to file any responses thereto within 5 days of the notification of the formal requests.

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



Judge Bertram Schmitt, Presiding Judge



Judge Péter Kovács



Judge Chang-ho Chung

Dated this Thursday, 23 September 2021

At The Hague, The Netherlands