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No.: ICC-02/04-01/15
Date: **21 November 2022**

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

Registry Additional Information on Victims

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I. Introduction

1. On 16 November 2022, Trial Chamber IX (“Chamber”) issued an order (“Order”) in the case of *the Prosecutor v. Dominic Ongwen* (“Case”) in which it indicated that “it is considering to proceed in the present case in a similar fashion as the way Trial Chamber II is proceeding in the *Ntaganda* case (see ICC-01/04-02/06-2786), implementing the appeals judgment by assessing and ruling upon a limited but representative sample of the applications and additional information currently in the case file.”¹
2. In the Order the Chamber instructed the Registry, through the Victims Participation and Reparations Section (“VPRS”), to provide information, within five days of the Order, regarding: 1) the total number of applications for participation and/or reparations received in the case; and 2) the total representation, within the applications received, regarding gender, age, and the main three groups of the victims of the case, namely: (i) victims of the attacks at or near the Internally Displaced Persons (“IDP”) camps of Pajule, Odek, Lukodi, and Abok; (ii) victims of sexual and gender-based crimes; and (iii) victims of the crimes of conscription and use of child soldiers (altogether “additional information on victims”).
3. The VPRS hereby presents the requested additional information on victims in the Case.

II. Procedural History

4. On 6 May 2021, the Chamber issued an order for submissions on reparations (“Order for Submissions on Reparations”), by which it, *inter alia*: i) instructed the Registry to make submissions on a number of reparations-related issues; and ii)

¹ Email from Trial Chamber IX to the VPRS, Parties and Trust Fund for Victims, 16 November 2022 at 15:01.

instructed the Registry, with the assistance and cooperation of the Legal Representatives of Victims (“LRVs”), to undertake a comprehensive mapping of direct and indirect victims potentially eligible for reparations in the Case.²

5. On 6 December 2021, the Registry filed its submissions on reparations and a report on the mapping exercise (“Mapping Report”).³
6. On 27 September 2022, the LRVs submitted a joint request for leave to submit supplementary information on reparations (“LRVs Request”).⁴
7. On 7 October 2022, the Defence for Mr Ongwen submitted a response to the LRVs Request (“Defence Response”).⁵
8. On 16 November 2022, the Chamber issued its Order.⁶

III. Applicable Law

9. The Registry submits the present filing in accordance with the Order.

IV. Submissions

a. Total number of applications received in the Case

10. VPRS received a total of 4,143 victim application forms for participation in the Case. At the pre-trial stage of proceedings, the Single Judge instructed the Registry to use a ‘simplified form’ which exclusively contained information required by rule 85 of the Rules of Procedure and Evidence regarding participation in the

² Trial Chamber IX, “Order for Submissions on Reparations”, 6 May 2021, ICC-02/04-01/15-1820.

³ Registry, “Registry’s Mapping Report and Submission on Reparations”, 6 December 2021, ICC-02/04-01/15-1919.

⁴ LRVs, “Joint Request on behalf of Victims for Leave to Submit Supplementary Observations on Reparations”, 27 September 2022, ICC-02/04-01/15-2011.

⁵ Defence, “Defence Response to the Joint Request of the Legal Representatives”, 7 October 2002, ICC-02/04-01/15-2013.

⁶ See *supra*, footnote 1.

proceedings.⁷ The simplified form did not contain any questions related to reparations, but it merely asked the applicants to tick a box to indicate if, in the event of a conviction, the victim intends to apply for reparations.

11. VPRS also received, between 2006 and 2014, 1283 applications in the Uganda situation (*ie* not specific to the *Ongwen* case). At the start of the *Ongwen* Case, the VPRS analysed all these “situation forms” and identified 47 applications falling inside the scope of the Case. The 47 applications had been submitted on a previous model of the victim application form which also contained questions about reparations. 44 out of the 47 victims indicated the reparations measures desired.
12. No other application forms for participation and/or reparations were received or collected by the VPRS since 2016, when the victim application process ended as per the Chamber’s order to that effect.⁸
13. During the mapping exercise in 2021,⁹ many of the victims met by the VPRS expressed interest in filling in reparations forms to express their current needs.¹⁰
14. A total of 4,141 applications (4,094 simplified forms and 47 situation forms) were transmitted to the Chamber at the pre-trial and trial stages.¹¹ Six out of the 4,141 transmitted applications were duplicates, 28 were rejected¹² and 4,113 were granted participating victim status.

⁷ Pre-Trial Chamber II, “Decision Establishing Principles on the Victims’ Application Process”, 4 March 2015, ICC-02/04-01/15-205, paras. 14-22.

⁸ Trial Chamber IX, “Decision Setting the Commencement Date of the Trial”, 30 May 2016, ICC-02/04-01/15-449, paras. 9-10 and p. 7.

⁹ *See supra*, para. 4.

¹⁰ The Registry however refrained from collecting any individual applications for reparations pursuant to Trial Chamber IX’s “Order for Submissions on Reparations”, 6 May 2021, ICC-02/04-01/15-1820, para. 5 (iv).

¹¹ 48 simplified forms out of the 4,143 received were not transmitted to the Chamber because they were either duplicates (22 forms) or assessed as incomplete or falling outside the scope of the Case (26 forms). One form (a/01426/16), assessed by the VPRS as falling inside the scope of the Case (the victim, a man who is now 40 years old, suffered harm as a result of the attack on the Pajule IDP camp) was erroneously not transmitted to the Chamber, despite the application being received on time. The VPRS stands ready to transmit this application to the Chamber or the TFV for the purpose of reparations.

¹² VPRS notes that 18 applications were rejected following the changes in the scope of the charges with respect to the crime of persecution (*i.e.* the charge of persecution in the document containing the charges was limited to persecution in relation to attacks on Pajule, Odek, Lukodi and Abok IDP camps). *See*

15. 12 out of the 4,113 applicants who were granted participating victim status died in the course of proceedings and either no resumption of action was received (three applications) or the resumptions of actions received were assessed by the VPRS as incomplete (nine applications).¹³ These applications could also qualify for reparations when the necessary documentation is received.
16. The current number of participating victims in the Case is therefore 4,095.¹⁴ The VPRS provided statistical information, including data on gender, age, ethnic group, victim type, etc., on the 4,095 participating victims in its Mapping Report.¹⁵

b. Additional information on participating victims

17. Noting that the Order highlights the Chamber's wish to proceed in the present Case in a similar fashion as the way Trial Chamber II is proceeding in the *Ntaganda* case, VPRS is focusing the present submissions on the case-specific applications received, and particularly the 4,095 victims granted participatory status in the Case.¹⁶
18. VPRS recalls that it organized the victim applications received, for the purpose of their preliminary legal analysis and transmission to the Chamber, into six groups: four groups according to the attacks on IDP camps (*i.e.* Pajule IDP camp,¹⁷ Odek IDP camp, Lukodi IDP camp and Abok IDP camp) and two additional groups corresponding to the thematic crimes (*i.e.* sexual and gender based crimes

Pre-Trial Chamber II, "Second decision on contested victims' applications for participation and legal representation of victims", 24 December 2015, ICC-02/04-01/15-384, para. 12.

¹³ VPRS notes that more participating victims may have passed since; however, no information to this effect or resumptions of action were received from the LRVs since the end of Mr Ongwen's trial.

¹⁴ Registry, "Updated Consolidated List of Participating Victims", 29 June 2020, ICC-02/04-01/15-1746.

¹⁵ Registry, Annex I to "Registry's Mapping Report and Submission on Reparations", 6 December 2021, ICC-02/04-01/15-1919-AnxI, para. 30.

¹⁶ VPRS did not include in the tables and graphs below application a/01426/16 mentioned in fn 11 supra.

¹⁷ VPRS notes that in the judgment pursuant to article 47 of the Statute, of 4 February 2021, ICC-02/04-01/15-1762, para. 1173 ("Trial Judgment"), the Chamber stated that Pajule and Lapul, although registered as two separate IDP camps by the Ugandan Government, formed only one entity. In line with the Chamber's approach, VPRS is referring to both camps jointly as Pajule IDP camp.

("SGBC"), and conscription and use of child soldiers).¹⁸ Each application has been allocated to one group, even in cases where they could have fallen into more than one group. For example, applications that could fall within multiple groups because they include crimes committed in one of the four IDP camps and also thematic crime(s) have been allotted to the group pertaining to the relevant IDP camp. According to these criteria, the 4,095 participating victims were transmitted to the Chamber in the aforesaid six groups: 793 applications in the Pajule IDP camp group, 690 applications in the Odek IDP camp group, 1653 applications in the Lukodi IDP camp group, 886 applications in the Abok IDP camp group, 47 applications in the SGBC group and 26 applications in the conscription and use of child soldiers group.

19. This grouping however does not illustrate the overlap between the different groups. Therefore, for the present reporting the VPRS filtered applications further in its database and created the tables below which, it is submitted, better reflect the thematic crimes suffered by victims who also suffered harm in the attacks on the four IDP camps.¹⁹ A break-down by gender and current age is also included in the tables below.

¹⁸ See, *inter alia*, Registry, "Fourth Report on Applications to Participate in the Proceedings," 2 September 2016, ICC-02/04-01/15-530, fn 6.

¹⁹ The VPRS notes that the information in its database regarding the crimes reported in the forms may contain minor inconsistencies considering the large amount of applications that were received and transmitted to the Chamber in an extremely short time frame just before the start of trial.

PAJULE IDP CAMP²⁰

| | Female | Male | %Female | %Male | Total |
|---------------------------|------------|------------|--------------|--------------|--------------|
| UNDER 30 YEARS OLD | 17 | 36 | 2.2% | 4.8% | 53 |
| 31 - 45 YEARS OLD | 88 | 162 | 11.6% | 21.4% | 250 |
| 46 - 60 YEARS OLD | 112 | 161 | 14.8% | 21.3% | 273 |
| 61 - 75 YEARS OLD | 62 | 70 | 8.2% | 9.3% | 132 |
| 76 AND ABOVE | 22 | 25 | 2.9% | 3.3% | 47 |
| UNKNOWN | 1* | | | | 1 |
| TOTAL | 302 | 454 | 39.8% | 60.1% | 756** |

*One application provided no information regarding date of birth/age.

** This total excludes 37 victims who also suffered harm as a result of SGBC and/or conscription and use of child soldiers.

ODEK IDP CAMP²¹

| | Female | Male | %Female | %Male | Total |
|---------------------------|------------|------------|--------------|--------------|-------------|
| UNDER 30 YEARS OLD | 56 | 91 | 8.5% | 13.9% | 147 |
| 31 - 45 YEARS OLD | 122 | 106 | 18.6% | 16.2% | 228 |
| 46 - 60 YEARS OLD | 109 | 76 | 16.6% | 11.6% | 185 |
| 61 - 75 YEARS OLD | 40 | 26 | 6.1% | 4.0% | 66 |
| 76 AND ABOVE | 23 | 7 | 3.5% | 1.1% | 30 |
| TOTAL | 350 | 306 | 53.4% | 46.6% | 656* |

* This total excludes 34 victims who also suffered harm as a result of SGBC and/or conscription and use of child soldiers.

LUKODI IDP CAMP²²

| | Female | Male | Org. | %Female | %Male | Total |
|---------------------------|------------|------------|----------|--------------|--------------|---------------|
| UNDER 30 YEARS OLD | 343 | 342 | | 20.9% | 20.8% | 685 |
| 31 - 45 YEARS OLD | 259 | 181 | | 15.8% | 21.6% | 440 |
| 46 - 60 YEARS OLD | 189 | 134 | | 11.5% | 16.0% | 323 |
| 61 - 75 YEARS OLD | 87 | 58 | | 5.3% | 6.9% | 145 |
| 76 AND ABOVE | 30 | 20 | | 1.8% | 2.4% | 50 |
| N/A | | | 1* | | | 1 |
| TOTAL | 908 | 735 | 1 | 55.2% | 67.7% | 1644** |

*One application is from an organisation.

**This total excludes nine victims who also suffered harm as a result of SGBC.

²⁰ In the Mapping Report, paras. 43-48, VPRS provided a rough estimate of the number of victims who suffered harm as a result of the attack on the Pajule IDP camp at up to 30,000 (see Mapping Report, fn 40).

²¹ In the Mapping Report, paras. 36-38, VPRS provided a rough estimate of the number of victims who suffered harm as a result of the attack on the Odek IDP camp at up to 7,700 (see Mapping Report, para. 36).

²² In the Mapping Report, paras. 33-35, VPRS estimated that up to 6,000 victims suffered harm as a result of the attack on the Lukodi IDP camp.

ABOK IDP CAMP²³

| | Female | Male | %Female | %Male | Total |
|---------------------------|------------|------------|--------------|--------------|-------------|
| UNDER 30 YEARS OLD | 42 | 45 | 5.0% | 5.4% | 87 |
| 31 - 45 YEARS OLD | 128 | 157 | 15.3% | 18.7% | 285 |
| 46 - 60 YEARS OLD | 106 | 151 | 12.6% | 18.0% | 257 |
| 61 - 75 YEARS OLD | 76 | 72 | 9.1% | 8.6% | 148 |
| 76 AND ABOVE | 28 | 33 | 3.3% | 3.9% | 61 |
| TOTAL | 380 | 458 | 45.3% | 54.7% | 838* |

*This total excludes 48 victims who also suffered harm as a result of SGBC and/or conscription and use of children.

SGBC GROUP^{24}**

| | Female | Male | % Female | % Male | Total |
|---------------------------|------------|-----------|--------------|--------------|-------------|
| UNDER 30 YEARS OLD | 12 | 2 | 8.3% | 1.4% | 14 |
| 31 - 45 YEARS OLD | 56 | 7 | 38.6% | 4.8% | 63 |
| 46 - 60 YEARS OLD | 42 | 6 | 29.0% | 4.1% | 48 |
| 61 - 75 YEARS OLD | 15 | 2 | 10.3% | 1.4% | 17 |
| 76 AND ABOVE | 1 | 2 | 0.7% | 1.4% | 3 |
| TOTAL | 126 | 19 | 86.9% | 13.1% | 145* |

*This total includes victims who also suffered harm as a result of one of the four IDP camps attacks.

CONSCRIPTION AND USE OF CHILD SOLDIERS GROUP^{}**

| | Female | Male | % Female | % Male | Total |
|---------------------------|-----------|-----------|--------------|--------------|-------------|
| UNDER 30 YEARS OLD | 6 | 13 | 10.7% | 23.2% | 19 |
| 31 - 36 YEARS OLD | 15 | 21 | 26.8% | 37.5% | 36 |
| ABOVE 36 YEARS OLD | 0 | 1* | 0.0% | 1.8% | 1 |
| TOTAL | 21 | 35 | 37.5% | 62.5% | 56** |

*One application above 36 years old is introduced by an indirect victim.

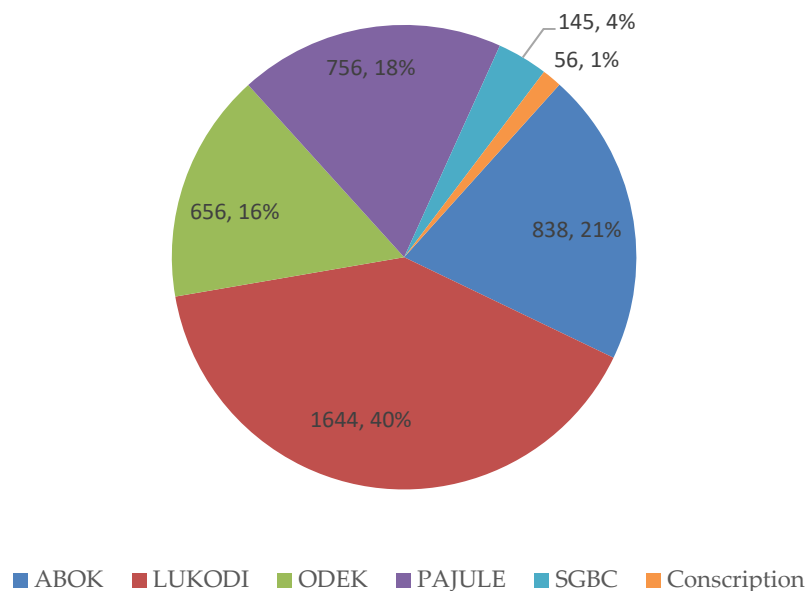
**This total includes victims who also suffered harm as a result of one of the four IDP camps attacks.

20. With respect to the victims of the attacks on the four IDP camps, VPRS notes that the number of participating victims who suffered harm as a result of the attack on the Lukodi IDP camp is significantly higher than the number of participants victimized in the other three IDP camps. This is mainly the result of the limited initial scope of the Case, as shown by the order given by the Pre-Trial Chamber to

²³ In the Mapping Report, paras. 39-42, VPRS estimated that up to 13,000 victims suffered harm as a result of the attack on the Abok IDP camp.

²⁴ In the Mapping Report, paras. 49-56, VPRS provided a rough estimate of the victims who suffered harm as a result of SGBC and conscription and use of child soldiers at approx. 10,000 (see Mapping Report, para. 55).

the Registry to first approach the Lukodi community.²⁵ The Registry could only start its work in relation to the other categories of victims after September 2015, once the Prosecutor’s notice of intended charges against Mr Dominic Ongwen was made public.²⁶ Whilst there are some common elements between the four attacks, there are also differences in terms of the crimes for which Mr Ongwen was convicted, the scale of the attacks, etc. The Registry’s access and work in Odek, Abok and especially Pajule was limited in light of the size of the three IDP camps and the number of victims compared to the Lukodi IDP camp.



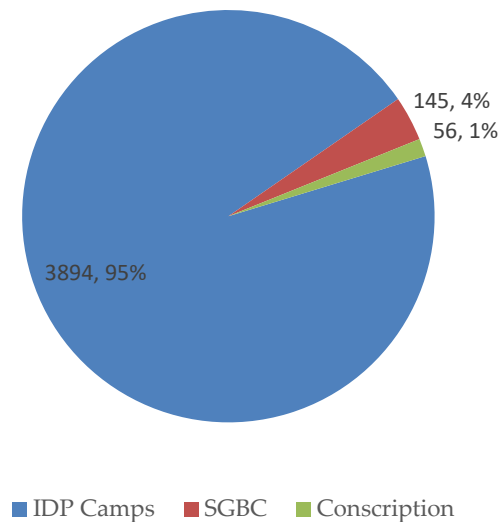
21. With respect to the thematic crimes, as also previously reported in the Mapping Report,²⁷ despite special efforts to reach out to and collect application forms from thematic crimes victims at the time, the number of participating victims who

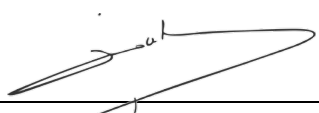
²⁵ Pre-Trial Chamber, “Decision Establishing Principles on the Victims’ Application Process”, 4 March 2015, ICC-02/04-01/15-205, para 11.

²⁶ Office of the Prosecutor, Public redacted version of “Notice of intended charges against Dominic Ongwen”, 18 September 2015, ICC-02/04-01/15-305-Red3. The collection time frame was rendered short by the fact that all applications had to be submitted to the Chamber before the start of the trial hearing. See Trial Chamber IX, “Decision Setting the Commencement Date of the Trial”, 30 May 2016, ICC-02/04-01/15-449, paras. 9-10 and p. 7.

²⁷ Mapping Report, para. 25.

reported having suffered harm as a result of these types of crimes is extremely low despite tangible information that the number of these victims is actually much higher. This may have to do with inhibitions of these victims to come forward due to potential social stigma. The small number compared to the IDP camps victim forms may therefore not be representative.





Marc Dubuisson, Director, Division of Judicial Services
on behalf of Peter Lewis, Registrar

Dated this 21 November 2022

At The Hague, the Netherlands