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**International
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Court**

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Date: **22 May 2023**

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

**Public Redacted Version of ‘Defence Request for an Order to Disclose Specific Material of
Persons in the Victim Sample Pool of Participating Victims’, filed on 5 May 2023**

Source: Defence for Dominic Ongwen

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. The Defence for Dominic Ongwen ('Defence') hereby requests Trial Chamber IX ('Chamber') to order the Victims Participation and Reparations Section ('VPRS') to disclose to the Defence 12 unredacted victim applications from the victim sample pool ('VSP') of participating victims.
2. The Defence also requests that it be allowed to supplement its submissions due on 19 May 2023 no more than one (1) week after receiving the lesser redacted versions of the victim applications with no more than 10 pages for the supplemental submission.

II. CONFIDENTIALITY

3. Pursuant to Regulation 23 *bis*(1) of the Regulations of the Court, the Defence files this request as it mentions information about the alleged victims which is not known to the public. A public redacted version will be filed in due course.

III. PROCEDURAL HISTORY

4. On 16 December 2022, the Chamber order the VPRS to create the VSP, consisting of 205 participating victims from the four (4) crime sites and thematic crimes based on percentages of estimated potential beneficiaries.¹ The Common Legal Representative ('CLR') and Legal Representatives for Victims ('LRV') were then ordered to contact their respective clients chosen for the VSP to seek permission to disclose their identities.²
5. On 16 January 2023, the Chamber ordered the CLR and LRV to disclose to the Defence those consenting to disclosure on a rolling basis, and at the latest, 30 days from the 16 January 2023 order.³
6. On 15 March 2023, the Registry filed 63 lesser-redacted victim applications from the VSP.⁴

¹ Trial Chamber IX, *Decision on the Registry Additional Information on Victims*, [ICC-02/04-01/15-2024](#), paras 27(a)-(b).

² *Ibid* and Trial Chamber IX, *Decision on the Registry Transmission of List of Individuals and Relevant Information for Reparations Sample*, [ICC-02/04-01/15-2027](#), para. 13(a).

³ *Ibid* (noting that the CLR and LRV were to disclose updates and possibly application numbers, not the actual names).

⁴ Trial Chamber IX, *Transmission to the Defence of 63 Redacted Victim Dossiers pursuant to Trial Chamber IX Decision ICC-02/04-01/15-2027*, [ICC-02/04-01/15-2034](#).

7. On 29 March 2023, the Defence requested the lifting of redactions in 164 victim applications.⁵
8. On 11 April 2023, the CLRV⁶ and LRV⁷ responded to the Defence's request to lift redactions.
9. On 16 April 2023, the Defence requested VPRS to lift redactions in 12 victim applications.⁸
10. On 17 April 2023, VPRS responded back, stating,

It is VPRS practice to consult the legal representatives of victims on redactions to be applied to the victims' dossiers, as they are usually in the best position to assess security and safety concerns of their clients against the legitimate disclosure interests of the Defence/public. Unless you disagree, we will thus be seeking their views on the matter and will revert to you soonest with the results thereof.⁹

The Defence responded back 31 minutes later, stating that VPRS could share the application numbers and tell the CLRV and LRV that the Defence seeks the lifting of the redactions as it deemed "it necessary to make an informed and proper assessment of the 12 applications and that the Defence intends to use the databases supplied by the Office of the Prosecutor, and the case-record database, to determine whether any additional information about what happened to them is available."¹⁰ The Defence requested that the detailed letter not be disclosed to the CLRV and LRV.¹¹

11. On 17 April 2023, the LRV and CLRV filed a joint submission.¹² On that same day, the CLRV submitted an additional submission.¹³

⁵ Trial Chamber IX, *Public Redacted Version of 'Defence Request for an Order to Disclose the Names of the Victim Sample Pool of Participating Victims'*, filed on 29 March 2023, [ICC-02/04-01/15-2036-Red](#).

⁶ Trial Chamber IX, *CLRV Response to the "Defence Request for an Order to Disclose the Names of the Victim Sample Pool of Participating Victims"*, [ICC-02/04-01/15-2037](#).

⁷ Trial Chamber IX, *Victims' Response to the Defence Request for an Order to Disclose the Names of the Victim Sample Pool of Participating Victims*, ICC-02/04-01/15-2038.

⁸ Email from Thomas Obhof to Dr Philipp Ambach, *Ongwen Defence – Request for the lifting of redactions to victim applications*, sent on 16 April 2023 at 13h43 CET.

⁹ Email from Dr Philipp Ambach to Thomas Obhof, *RE: Ongwen Defence – Request for the lifting of redactions to victim applications*, received on 17 April 2023 at 19h22 CET.

¹⁰ Email from Thomas Obhof to Dr Philipp Ambach, *Re: Ongwen Defence – Request for the lifting of redactions to victim applications*, sent on 17 April 2023 at 19h53 CET.

¹¹ *Ibid.*

¹² Trial Chamber IX, *Legal Representatives of Victims Joint Submissions on the Sample Application Forms for reparations*, [ICC-02/04-01/15-2040](#).

¹³ Trial Chamber IX, *CLRV submission of information related to the Sample Applications for reparations*, [ICC-02/04-01/15-2041](#).

12. On 20 April 2023, the Chamber denied the Defence's request to lift redactions in the VSP.¹⁴ The Chamber left open the possibility to request lifting of specific redactions at a later date.¹⁵
13. On 2 May 2023, the Defence received a response from the CLRV and LRV through VPRS.¹⁶ It contained two MS Word documents from the CLRV and LRV.

IV. COMPLAINT ABOUT THE PROCEDURE FOR REQUESTING THE LIFTING OF REDACTIONS

14. The Defence notes that the procedure outlined by the Chamber in Decision 2027, whereby the Defence requests the lifting of redactions to VPRS, is not what happened. When the Defence made the request, VPRS essentially pushed the request to the CLRV and LRV. This is not the process outlined by the Chamber in Decision 2027. It wasted two (2) weeks from the entire procedure, and from the email from VPRS, this is common practice. The VPRS did not act as a neutral party to decide whether redactions were still warranted. VPRS simply followed the desires of the CLRV and LRV about the alleged security situation of the applicants, which is disappointing and, in the opinion of the Defence, against the spirit of what the Chamber order in Decision 2027.

V. SUBMISSIONS

A. Applicable Standards

15. The Appeals Chamber's jurisprudence states that "in granting the Defence access to the victims' applications, the necessary redactions shall be made to protect the victims' safety, physical and psychological wellbeing, dignity and privacy, pursuant to article 68 of the Statute."¹⁷ It is incumbent upon the Chamber to strike a necessary balance between safeguarding the rights of

¹⁴ Trial Chamber IX, *Decision on the Defence Request for an Order to Disclose the Names of the Victim Sample Pool of Participating Victims*, ICC-02/04-01/15-2043-Conf.

¹⁵ *Ibid*, para. 21.

¹⁶ Email from VPRS to the Defence, *RE: Ongwen Defence – Request for the lifting of redactions to victim applications*, received on 2 May 2023 at 13h52 CET.

¹⁷ Appeals Chamber, *Judgment on the appeals against the decision of Trial Chamber VI of 8 March 2021 entitled "Reparations Order"*, [ICC-01/04-02/06-2782](#), para. 689 (cited in Trial Chamber II, *Decision on the Request on Behalf of the Convicted Person seeking communication of material by the Trust Fund for Victims and the lifting of redactions applied by the Registry and the Legal Representatives of Victims' to the victims' dossiers*, [ICC-01/04-02/06-2847](#), para. 21 and Trial Chamber IX, *Decision on the Defence Request for an Order to Disclose the Names of the Victim Sample Pool of Participating Victims*, ICC-02/04-01/15-2043-Conf, para. 17). See also Appeals Chamber, *Judgment on the appeals against Trial Chamber II's 'Decision Setting the Size of the Reparations Award for which Thomas Lubanga Dyilo is Liable'*, [ICC-01/04-01/06-3466-Red](#), paras 249-256 and Appeals Chamber, *Judgment on the appeal of the victims against the "Reparations Order"*, [ICC-01/12-01/15-259-Red2](#), para. 90.

Mr Ongwen and “providing for an *appropriate* measure of protection for the victims, as set forth in article 68(1) of the Statute.”¹⁸

16. The Appeals Chamber wrote:

Whether information relating to persons at risk may be redacted must be determined on a case-by-case basis. The Appeals Chamber has had previous occasion to set out those factors to be addressed by the Pre-Trial Chamber when considering a request for non-disclosure prior to the hearing to confirm the charges, pursuant to rule 81(4). Those factors can be summarised briefly as: a thorough consideration of the danger that the disclosure of the identity of the person may cause; the necessity of the protective measure, including whether it is the least intrusive measure necessary to protect the person concerned; and the fact that any protective measures taken shall not be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.¹⁹

The Appeals Chamber has also stated that:

During the reparations phase of this case, the Trial Chamber noted the principle of proportionality applied in the consideration of redactions to evidence submitted in the investigation phase and criminal trial and found that ‘the same principles apply to the reparations phase’. It is also noted that, in the context of victim participation in the criminal trial, Trial Chamber I applied the above-mentioned human rights principles, expressed as the ‘principle of proportionality’, to Mr Lubanga’s right to disclosure of victims’ applications and the protective measures that may be imposed. It stated that protective measures should: i) restrict the rights of the suspect or accused only as far as necessary, and ii) be put in place where they are the only sufficient and feasible measure. In the Impugned Decision, the Trial Chamber reiterated that it ‘must strike a fair balance between the divergent rights and interests of the victims on the one hand and those of the convicted persons on the other’. In this sense, the Appeals Chamber notes that the Trial Chamber correctly identified the relevant general considerations applicable to redactions to victims’ requests for reparations.

The Appeals Chamber would note that the guiding principle for trial chambers must be to ensure that the convicted person, as a party to the litigation, has a meaningful opportunity to challenge the information on the basis of which a chamber will make an award against him or her. In reaching a decision on redactions to any information that is before it, trial chambers should apply the principles recalled in the Al Mahdi

¹⁸ Trial Chamber II, *Decision on the Request on Behalf of the Convicted Person seeking communication of material by the Trust Fund for Victims and the lifting of redactions applied by the Registry and the Legal Representatives of Victims’ to the victims’ dossiers*, [ICC-01/04-02/06-2847](#), para. 21 [emphasis added]. See also Trial Chamber IX, *Decision on the Defence Request for an Order to Disclose the Names of the Victim Sample Pool of Participating Victims*, ICC-02/04-01/15-2043-Conf, para. 17; Appeals Chamber, *Judgment on the appeals against Trial Chamber II’s ‘Decision Setting the Size of the Reparations Award for which Thomas Lubanga Dyilo is Liable’*, [ICC-01/04-01/06-3466-Red](#), para. 253; and Appeals Chamber, *Judgment on the appeal of the victims against the “Reparations Order”*, [ICC-01/12-01/15-259-Red2](#), para. 90.

¹⁹ Appeals Chamber, *Judgment on the appeal of Mr Mathieu Ngudjolo against the decision of Pre-Trial Chamber I entitled “Decision on the Prosecution Request for Authorisation to Redact Statements of Witnesses 4 and 9”*, [ICC-01/04-01/07-521](#), para. 35 (cited in Appeals Chamber, *Judgment on the appeals against Trial Chamber II’s ‘Decision Setting the Size of the Reparations Award for which Thomas Lubanga Dyilo is Liable’*, [ICC-01/04-01/06-3466-Red](#), para. 253).

case above, weighing the different interests at stake. In doing so, the Appeals Chamber considers that in reparations proceedings, a trial chamber should also take into account the relevance of the information at issue and the purpose for which it will be relied upon, including whether, in reality, its non-disclosure affects the convicted person's rights. For example, if the information in the requests is considered with a view to deciding on collective reparations but not with a view to deciding on the merits of the individual requests, this may also be taken into account. What this means will depend on the circumstances of each case.²⁰

17. The Defence demonstrates below why the lifting of redactions in the requested 12 victim applications in the VSP is necessary to review and determine whether each person qualifies as a victim.

B. Submissions

18. The Defence requests the lifting of redactions to the following victim applications: a/01996/16, a/02006/16, a/06890/15, a/0326/07, a/01421/16, a/06710/15, a/07031/15, a/07032/15, a/07041/15, a/07042/15, a/07053/15 and a/07093/15.
19. The Defence asserts that the requested information is necessary to ensure a fair and impartial reparations proceeding on behalf of Mr Ongwen. Should some of these applicants be determined not to be victims of crimes for which Mr Ongwen was convicted, it would affect and alter the estimated number of victims for the crime sites and thematic crimes. The Defence has limited its request to those persons whom it determined may have claims, but it is unclear from the information contained in their victim applications.
20. The information is also necessary as it involves determining possible individual reparations and group reparations. As the Chamber is yet to make a decision on reparations, the Defence cannot state with certainty what type of reparations shall be given, and thus it must take the approach that both are available and possible. Should persons be deemed as not being victims of crimes for which Mr Ongwen was convicted, it will impact on the determination of the estimated number of potential beneficiaries and amount/type of reparations for the crime sites and thematic crimes.
21. Additionally, while some people may be eligible as victims of a crime site, the victim may be listed as a victim of a thematic crime and not be a victim of a thematic crime for which Mr Ongwen has been convicted. As an example, if a person was abducted from Pajule, but given

²⁰ Appeals Chamber, *Judgment on the appeals against Trial Chamber II's 'Decision Setting the Size of the Reparations Award for which Thomas Lubanga Dyilo is Liable'*, [ICC-01/04-01/06-3466-Red](#), paras 255-256 [internal citations omitted].

to a commander in Trinkle brigade or Control Altar by Otti Vincent, and then given as a forced wife later by a commander in one of those brigades, the person would be a victim of a crime for which Mr Ongwen was committed in relation to Pajule, but not for a thematic crime for which Mr Ongwen was convicted. This would influence the estimated number of potential beneficiaries of the thematic crimes.

22. Furthermore, by lifting these redactions, the applicants do not have legitimate concerns with their “safety, physical and psychological wellbeing, dignity [...] or] privacy [...]”. There have been no credible instances of any type of interference by the Defence or Mr Ongwen since June 2015.²¹ In fact, the Defence was extremely careful to report every instance of inadvertent contacts with witnesses to the Prosecution and did not speak with the clients of the CLRV/LRV unless they spoke to them first and agreed to meet. These redactions cannot be maintained merely because the applicants have an unfounded fear of Mr Ongwen and/or his family. **None of the applicants** have put forth a legitimate or objectively justifiable risk in having their names and identifying material disclosed to the Defence in a confidential manner. Finally, unlike in the *Ntaganda case* where there is a dire security situation in the Ituri region,²² the LRA no longer operates in Uganda or the territories surrounding Uganda’s northern borders, and northern Uganda is a family duty station. The applicants have no objectively justifiable reason to fear for their security or safety if their names and identifying material are disclosed to the Defence in a confidential manner. The Defence has no reason to seek these people out and shall not attempt to locate or contact any of them. It only wishes to use the eCourt system to explore the claims of the applicants with the information which is currently redacted in the victim applications.
23. Finally, the Defence must also stress that the applicants listed above and describe below are not the only applicants for which the Defence feels there may be cause to believe that they are not victims of crimes for which Mr Ongwen was convicted. These are merely the applicants which the Defence asserts that more information is needed to make a proper and informed decision.

²¹ [REDACTED].

²² Trial Chamber II, *Decision on the Request on Behalf of the Convicted Person seeking communication of material by the Trust Fund for Victims and the lifting of redactions applied by the Registry and the Legal Representatives of Victims’ to the victims’ dossiers*, [ICC-01/04-02/06-2847](#), para.18.

Application a/01996/16, ICC-02/04-01/15-2034-Conf-Exp-Anx20

24. The Defence requests the lifting of the redactions covering the name and date of birth of the applicant. The Defence intends to search the evidentiary database for any medical records related to this person to see if he visited any nearby medical facilities for his alleged injury. The Defence finds it highly questionable that [REDACTED]. [REDACTED].
25. Furthermore, as with the other two (2) persons from Pajule IDP Camp, the Ugandan Police disclosed many criminal complaints about the 10 October 2003 attack to the Office of the Prosecutor. Two (2) of these complaints were discussed during the testimony of P-0006²³ and D-0081.²⁴ [REDACTED], it is only natural that he may have filed a police report in October 2004 when the Ugandan Police were conducting its investigation. Such a contemporaneous document would give proof that the injury happened during the attack. Other than this alleged injury, the applicant does not describe a crime for which Mr Ongwen was convicted.

Application a/02006/16, ICC-02/04-01/15-2034-Conf-Exp-Anx21

26. The Defence requests the lifting of the of the redactions covering the name of the applicant. The Defence intends to search the evidentiary data base for any records related to this person from the [REDACTED] for his alleged injury, noting that the applicant stated that [REDACTED]. The applicant does not allege than any crimes were perpetrated against him or his immediate family, and the Defence is wary that this injury happened during this attack.

Application a/06890/15, ICC-02/04-01/15-2034-Conf-Exp-Anx28

27. The Defence requests the lifting of the redactions covering the name on the victim application and all redactions on the Amnesty Act Certificate (ICC-02/04-01/15-2034-Conf-Exp-Anx28, p. 3). [REDACTED]. The Defence seeks to use the databases from the reception centres and the Amnesty Commission to determine if she lied on the victim application and was abducted on a different date. As she acquired amnesty, it is highly likely that the databases from the reception centres and the Amnesty Commission will have more information. It is just as likely that she was abducted on 23 January 2003, but the Defence cannot make a proper determination without additional information.

²³ See UGA-OTP-0137-0236 and UGA-OTP-0270-1376 at [ICC-02/04-01/15-T-140-Red2](#), pp 19-20 and 62-63.

²⁴ See UGA-OTP-0137-0275 at [ICC-02/04-01/15-T-221-Red2](#), p. 54, lns 13-14.

Application a/0326/07, ICC-02/04-01/15-2034-Conf-Exp-Anx2

28. The Defence requests the lifting of all the redactions on pages 1, 3, 7 and 16-22. Firstly, the victim has a date of birth in 1989, meaning that he turned 15, and thus not a child soldier, during 2004. His date of birth is vital to know when he reached this age. Secondly, his name and other identifying material (parent's names and place of residence) will help to identify him further in the databases from the reception centres and Amnesty Commission. Thirdly, his description of what happened to him has a significant number of persons and locations redacted. From reading it with the redactions, Mr Ongwen's name does not appear once. Fourthly, Sinia Brigade appears once in the details of the description of what happened to him, but with locations and names redacted, the Defence cannot ascertain whether the victim had reached the age of 15 or if Mr Ongwen was in charge of Sinia Brigade at that time. [REDACTED]. Finally, the lifting of redactions on the final page will allow the Defence to search the Amnesty Commission records, along with the reception centres. As of right now, the Defence cannot make a proper determination if this person served under Mr Ongwen while he was under the age of 15, hence why the lifting of the redactions is necessary.

Application a/01421/16, ICC-02/04-01/15-556-Conf-Anx476-Red

29. The Defence requests the lifting of the redactions on the first page which covers her name, date of birth and the name of her forced husband. The Defence also requests the lifting of the redaction on the second page which lists the reception centre she went to in [REDACTED]. Considering that Mr Ongwen did not lead the attack on Pajule, and that there were several different brigades in attendance, the victim may have been given as a forced wife by a commander in a brigade other than the one of which Mr Ongwen was part. Having this information, and knowing the reception centre which she passed through, will give the Defence a better chance of determining whether she was a victim of a **thematic crime** for which Mr Ongwen was convicted. Being able to determine this will have bearing on the estimated potential beneficiaries of the thematic crimes and possible issues related to the type of reparations ordered by the Chamber.

Application a/06710/15, ICC-02/04-01/15-2034-Conf-Exp-Anx26

30. The Defence requests the lifting of the redactions which covers her name, date of birth and the names of her parents. The Defence requests this because Mr Ongwen was not convicted of attacking or abducting people from [REDACTED] IDP Camp in 2004, and he was not the

commander of Sinia Brigade until the Spring of 2004.²⁵ The applicant spent a short amount of time in the LRA (four months), and her story does not comport with the SGBC for which Mr Ongwen was convicted. With her name and other identifying material, the Defence shall search the databases at its disposal in an attempt to determine if she was ever with Mr Ongwen's group. This is important as she does not list Mr Ongwen as the one responsible for her abduction and treatment on page 1, and she does not list the commander to whom she was allegedly distributed. Finally, her story of being forced to have sex with men to whom she was not given is inconsistent with the practices of the LRA [REDACTED].

Application a/07031/15, ICC-02/04-01/15-365-Conf-Anx-788-Red

31. The Defence requests the lifting of the redactions which covers her name, date of birth, where she lived and where she was allegedly raped. Mr Ongwen was not convicted of attacking or abducting people in [REDACTED] in 2004 and her description of her alleged rape is not a type of SGBC for which Mr Ongwen was convicted. Mr Ongwen was convicted for being in Odek, which is a considerable distance from [REDACTED], in April 2004. This is also around the time which Mr Ongwen took over as the brigade commander of Sinia Brigade. If we can find her in one of the databases, we can make a determination if she qualifies as a victim of the case, but we need her identifying information.
32. Furthermore, Sinia Brigade was not in [REDACTED]. As decided by the Chamber, it was near Odek in late April 2004. She states she was abducted from [REDACTED].

Application a/07032/15, ICC-02/04-01/15-2034-Conf-Exp-Anx30

33. The Defence requests the lifting of the redactions which covers her name and date of birth. Mr Ongwen was not convicted of attacking or abducting people in [REDACTED] April 2004 and her description of her alleged rape is not a type of SGBC for which Mr Ongwen was convicted. Mr Ongwen was convicted for the attack on Odek, which is a considerable distance from [REDACTED], on 29 April 2004. While the Defence doubts that she is a victim of a crime for which Mr Ongwen was convicted, the Defence would still like to make sure by checking the evidence about her.

²⁵ Trial Chamber IX, *Trial Judgment*, [ICC-02/04-01/15-1762-Red](#), para. 137.

Application a/07041/15, ICC-02/04-01/15-2034-Conf-Exp-Anx31

34. The Defence requests the lifting of the redactions which covers her name, date of birth and the specific location of abduction. Mr Ongwen was not convicted of attacking or abducting people in [REDACTED] May 2004 and her description of her alleged rape is not a type of SGBC for which Mr Ongwen was convicted. Mr Ongwen was convicted for being in Odek, which is a considerable distance from [REDACTED], on 29 April 2004.
35. Furthermore, her additional statement²⁶ is dubious at best. Her attempt eight (8) years later to connect Mr Ongwen to the alleged crime cannot be believed by the Chamber. With this new information, as it was not available to the Defence on 16 April 2023, the Defence also requests that the redactions covering [REDACTED] be lifted so the Defence can search the reception centre databases and the Amnesty Commission to determine [REDACTED]. This information will aid the Defence determining the veracity of her supplemental statement.

Application a/07042/15, ICC-02/04-01/15-365-Conf-Anx-797-Red

36. The Defence requests the lifting of the redactions which covers her name and date of birth. Mr Ongwen was not convicted of attacking or abducting people in [REDACTED] April 2004 and her description of her alleged rape is not a type of SGBC for which Mr Ongwen was convicted. Mr Ongwen was convicted for being in Odek, which is a considerable distance from [REDACTED], on 29 April 2004.
37. Furthermore, her supplemental statement does not create a causal link between what allegedly happened to her that day and a crime for which Mr Ongwen was convicted.²⁷ The Defence requires her name to make an informed decision on her eligibility as a victim.

Application a/07053/15, ICC-02/04-01/15-365-Conf-Anx-808-Red

38. The Defence requests the lifting of the redactions which covers her name, date of birth and ethnicity. Also on page 2, the Defence requests that the redactions covering her Village, Parish and Sub-county be lifted. Mr Ongwen was not convicted of abducting people in [REDACTED] in 2003 and her description of her alleged rape is not a type of SGBC for which Mr Ongwen was convicted. This is important as Mr Ongwen was determined to be in sickbay for the first

²⁶ ICC-02/04-01/15-2041-Conf-Exp-Anx6-Red.

²⁷ ICC-02/04-01/15-2041-Conf-Exp-Anx7-Red.

part of 2003 and not able to walk,²⁸ was not in charge of Sinia Brigade during 2003²⁹ and was under arrest in Control Altar during another part of 2003.³⁰ Furthermore, [REDACTED], not Gulu. Mr Ongwen's sickbay was not in [REDACTED] in 2003.

39. If we can find her in one of the databases, we can make a determination if she qualifies as a victim of the case, but we need her identifying information. With her allegedly spending three (3) months with the LRA, it is likely that she is in one of the databases.

Application a/07090/15, ICC-02/04-01/15-365-Conf-Anx-827-Red

40. The Defence requests the lifting of the redactions in their entirety in question 1 of the application, including the information on page 2 (the continuation of question 1). The only redaction in question 1 that the Defence does not need is the [REDACTED]. Mr Ongwen was not convicted of abductions from [REDACTED] in 2003. While the witness states that she was given as a wife, there is no causal link to Mr Ongwen. Knowing the person's name, her movements and the person she purports to have been given as a wife to will significantly increase the Defence's ability to determine if she was given as a wife under Mr Ongwen's command. Also, the name of the group which she alleges to have been placed is redacted. This alone could include or exclude her quickly, but for some unknown reason, it is redacted. She lists two (2) persons in two (2) different brigades as being at fault. If Dominic abducted her, but [REDACTED] gave her as a wife, then she is not a victim of a crime for which Mr Ongwen was convicted. It is important for a fair and impartial proceeding that her group in the LRA be lifted. As it sits, it appears that it is redacted because she is not a victim of a crime for which Mr Ongwen has been convicted. Finally, this is also important as Mr Ongwen was determined to be in sickbay for the first part of 2003,³¹ was not in charge of Sinia Brigade at all during 2003³² and was under arrest in Control Altar during another part of 2003.³³

Application a/07093/15, ICC-02/04-01/15-365-Conf-Anx-830-Red

41. The Defence requests the lifting of the redactions in their entirety in question 1 of the application, including the information on page 2 (the continuation of question 1). The Defence also requests the lifting of redactions to the name on page 1 where it asks who is the most

²⁸ Trial Chamber IX, *Trial Judgment*, [ICC-02/04-01/15-1762-Red](#), para. 135.

²⁹ *Ibid*, para. 137.

³⁰ *Ibid*, para. 135.

³¹ *Ibid*, para. 135.

³² *Ibid*, para. 137.

³³ *Ibid*, para. 135.

responsible. Lifting this redaction may give some insight into which brigade she allegedly belonged.

42. Mr Ongwen was not convicted of attacking or abducting people in January 2003, especially noting that Mr Ongwen was injured and in sickbay at this time.³⁴ While the witness states that she was given as a wife, which is a crime for which Mr Ongwen was convicted, there is no causal link to Mr Ongwen, especially as the redactions hide the names of the alleged husband ([REDACTED]³⁵) and [REDACTED]. Question 1 is so heavily redacted that no one can make a reasonable determination if there is causal link between the crimes she alleges and Mr Ongwen.
43. If we can find her in one of the databases (which is likely because she states she went to a reception centre), the defence has a much greater chance to determine if she qualifies as a victim of the case. Her identifying information and other information which is currently redacted in question 1 is extremely important, including the question where she was asked who was the most responsible and the name of her alleged [REDACTED] husband in the LRA. The fact that this answer is still redacted is highly suspicious and gives the Defence serious reason to doubt that she is a victim of a crime for which Mr Ongwen was convicted.

C. Additional Submissions

44. The Defence requests to have one (1) week to write additional submissions on the 12 lesser redacted victim applications which the Chamber should grant pursuant to this request. The Defence still intends to submit other observations on 19 May 2023 as required pursuant to Decision 2027, but any determination made from these 12 victim applications will have bearing on the overall estimated potential beneficiaries of the crimes and the Defence, with respect, must be able to supplement its 19 May 2023 submissions with this additional information.

VI. REQUEST RELIEF

45. For the abovementioned reasons, the Defence respectfully requests Trial Chamber IX
 - a. to order VPRS to disclose unredacted versions of the 12 victim applications in the VSP as described above; and

³⁴ *Ibid.*

³⁵ [REDACTED].

- b. to grant the Defence seven (7) days to supplement its submission which are due on 19 May 2023 with a maximum of ten (10) pages.

Respectfully submitted,



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Chief Charles Achaleke Taku
On behalf of Dominic Ongwen

Dated this 22nd day of May, 2023
At The Hague, Netherlands