

**PUBLIC REDACTED**  
**VERSION OF**  
**ANNEX D**



## Detained Person's Complaint to the Chief Custody Officer

## FORM 1.1

**PART A – To be completed by the Detained Person** (if he or she refuses or is unable to fill in this form, the Chief Custody Officer should do so for her/him.) For complaints with respect to Regulation 157, sub-regulations 9 and 11, a separate complaints form is provided.

## 1. Personal details

Full name  
(First and  
last names)

Dominic Ongwen

## Details of the Complaint

*INTRODUCTION*

1. Pursuant to Regulation 217(1) of the Regulations of the Registry ('RoR'), the Defence Team for Dominic Ongwen ('Defence') lodges this complaint in response to the continued isolation of Mr Ongwen at the International Criminal Court Detention Centre ('ICC-DC').
2. Under Regulation 99(1)(i) of the Regulations of the Court ('RoC'), "every detained person shall be entitled [...] to communicate by letter or telephone with his or her family and other persons". Under Regulation 100(1) of the RoC, "a detained person shall be entitled to receive visits". However, Mr Ongwen's right to family life, which encompasses the right to receive visits from and communicate with his family and other persons, is being violated because of events related to the SARS-CoV-2 / COVID-19 pandemic ('Pandemic'). Indeed, the ICC-DC did not ensure the preservation of Mr Ongwen's right by ensuring he had access to video-link technology with his family and other persons. Despite the Pandemic, fundamental liberty rights continue to apply, and accommodations should be made by the ICC-DC to facilitate these rights.
3. The Defence requests that Mr Ongwen be allowed to call family members through video-link technology as his rights to visitations from family has been cancelled since 13 March 2020 due to the worldwide Pandemic. Specifically, the Defence requests at least one video-conference call per month, preferably twice per month, to his family members.
4. The Defence has prepared this document for Mr Ongwen pursuant to Regulation 217(3)(a) of the

RoR. Mr Ongwen has been explained the nature of the content by his Defence Team over the past week and agrees to have his signature placed on electronically.

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### *CONFIDENTIALITY*

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5. Pursuant to Regulation 218(2) of the RoR, the Defence files this complaint **CONFIDENTIAL**, ICC-DC, Registrar and Office of the Director of DJS only. The contents of this complaint contain privileged communications related to Mr Ongwen. The Defence, through its Client, reserves the right to release a public redacted version of this complaint.

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### *LEGAL ISSUES*

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#### *The Kosovo Specialist Chambers*

6. Under Detention Rule 4.2 of the Detention Rules of the Kosovo Specialist Chambers<sup>1</sup>, “the Registrar may adopt practice directions and instructions on the basis of and consistent with these Rules”. On 23 September 2020, the Registrar adopted the “General Restrictions on Visits Due to COVID-19.”<sup>2</sup> This instruction was issued by the Registrar pursuant to Detention Rule 4.2 in order to protect the health of detainees who are held in the Detention Facilities of the Specialist Chambers (‘KSC-DF’). Under Chapter II, section 4 of the General Restrictions on Visits Due to COVID-19, “in lieu of in-person visits, **video visits shall be permitted** in accordance with the Registry Instruction on Video Visits, adopted pursuant to Detention Rule 4.”<sup>3</sup> Under section 1 of the Registry Instruction on Video Visits, “the primary purpose of video visits is to provide Detainees with additional means of maintaining family relationships while restrictions are in place limiting in-person visits.”
7. Thus, the documents adopted by the Registrar of the Kosovo Specialist Chambers show that the detainees' well-being and right to family life during detention is seen as a fundamental right. The Defence is unaware though of the implementation of the order by the Kosovo Specialist Chambers Detention Management Unit (‘KSC-DMU’).

#### *The United Nations International Residual Mechanism for Criminal Tribunals*

8. Pursuant to the President's Decision on Request for Review of Registrar's Decision on Video Communications of 16 April 2020, the Registry of the UN International Residual Mechanism for

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<sup>1</sup> See [Rules of Detention](#), adopted by the Registrar, Kosovo Specialist Chambers, 23 September 2020, KSC-BD-08-Rev1.

<sup>2</sup> See [General Restrictions on Visits Due to COVID-19](#), adopted by the Registrar, Kosovo Specialist Chambers, 23 September 2020, KSC-BD-35.

<sup>3</sup> See [Registry Instruction: Video Visits](#), adopted by the Registrar, Kosovo Specialist Chambers, 23 September 2020, KSC-BD-34.

Criminal Tribunals affirmed on 14 May 2020 that it was **trying to implement an interim solution for video communication in the United Nations Detention Unit** ('UNDU').<sup>4</sup> Furthermore, on 14 May 2020, the UNDU declared that its personnel was actively taking forward the implementation against the background of COVID -19 restrictions.<sup>5</sup> In conclusion, the UNDU said that they were on their way to implement the interim solution despite challenges such as the restrictions implemented in the UNDU aiming at preventing the spread of the COVID -19.

9. The solution was expected to be in place by the end of May 2020. However, no information could be found on the IRMCT's website whether the solution is now in place. It shows nonetheless that the IRMCT's Registry, the Presidency and the UNDU were all aware of the video communication issue in the UNDU and were trying to implement a viable video call system for the detainees.

### ***The International Criminal Court Detention Centre***

10. On 12 May 2020, the ICC Registry affirmed that it was "contemplating the feasibility of video-conferencing communications, not only for Mr Al Hassan but for all detained persons."<sup>6</sup> However, to this day, no video-conferencing to the detainee's family was implemented within the ICC-DC, which clearly indicates that no further effort was made to accelerate the process and thus demonstrates a lack of consideration of detainees' basic human rights.
11. More recently, the Defence inquired – on behalf of its Client – about the implementation of this process. On 21 January 2021, the Defence received a response to this inquiry and it appears that the Registry is no closer today than it was on 12 May 2020 in implementing video communication between detainees and their families.<sup>7</sup> Once implemented, the Registrar foresees 24 video-conference calls per year, equating to three calls per year per detainee.<sup>8</sup>

### ***The Mandela Rules***

12. Under Rule 2 of the United Nations Standard Minimum Rules for the Treatment of Prisoners ('Mandela Rules'),<sup>9</sup> **"...the present rules shall be applied impartially. There shall be no discrimination** on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or any other status. The religious beliefs and moral precepts

<sup>4</sup> International Residual Mechanism for Criminal Tribunals, *Prosecutor v. Radovan Karadzic*, [Registrar's Submission Pursuant to the President's Decision on Request for Review of Registrar's Decision on Video Communications of 16 April 2020](#), date of 14 May 2020, MICT-13-55-ES.

<sup>5</sup> International Residual Mechanism for Criminal Tribunals, [Internal Memorandum on Video Calls for Detainees, Progress Report to Registrar on Implementation of Interim Access, Operational Challenges and Technical Matters, from the Commanding Officer of the United Nations Detention Unit, 14 May 2020](#).

<sup>6</sup> *Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, [Public Redacted Version of the Registry's Observations on the Urgent Defence Request for Interim Release \(ICC-01/12-01/18-680-Conf-Exp\)](#), para. 18, 12 May 2020.

<sup>7</sup> Email from [REDACTED] on behalf of Marc Dubuisson to Thomas Obhof, *RE: Question as to Virtual Family Calling / Visits for Detainees*, received on 21 January 2021 at 00h10 CET.

<sup>8</sup> *Ibid.*

<sup>9</sup> [United Nations Standard Minimum Rules for the Treatment of Prisoners \(the Nelson Mandela Rules\)](#) revised, Resolution A/RES/70/175 of the General Assembly, 17 December 2015.

of prisoners shall be respected.”

13. Regarding the Guidance Document on the Nelson Mandela Rules,<sup>10</sup> “[p]risons can enable meaningful contact with the outside world in many ways. In addition to the standard system of visits, phone calls and emails or letters, prison administrations could consider consulting family members or friends if a prisoner is depressed or suicidal, or if the prisoner has behavioural issues.”<sup>11</sup>
14. The Guidance Document on the Nelson Mandela Rules further states that, “[t]he increased use of email and internet-based chat and calling programmes, such as Skype, instead of regular mail can be beneficial for prisoners and their families in terms of costs, speed and frequency of communication. However, it should be noted that letters, phone calls and other forms of remote communication are not substitutes for in-person visits.”<sup>12</sup>
15. Thus, in applying the Mandela Rules, among which the right to meaningful contact between the detainees and the outside world, there shall active facilitation by the Registry for meaningful contact with the outside world<sup>13</sup> – especially with family members – and be void of discrimination.

### ***The International Covenant on Civil and Political Rights***

16. Under Article 4 of the International Covenant on Civil and Political Rights<sup>14</sup> (‘ICCPR’), “in time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that **such measures are not inconsistent with their other obligations under international law and do not involve discrimination** solely on the ground of race, colour, sex, language, religion or social origin”.
17. Under Article 23(1) of the ICCPR, “the family is the natural and fundamental group unit of society and is entitled to protection by society and the State”. This Article guarantees the right to family life and family unity.
18. Thus, even in time of emergency, limiting the right to family life must comply with the States' obligation to not discriminate.

### ***The European Convention on Human Rights***

19. Under Article 14 of the European Convention on Human Rights,<sup>15</sup> **“the enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination** on any ground such as sex, race, colour, language, religion, political or other opinion, national or social

<sup>10</sup> [Guidance Document on the Nelson Mandela Rules](#), produced by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) and Penal Reform International (PRI), and which provides guidance for implementing the revised Nelson Mandela Rules.

<sup>11</sup> *Ibid*, p. 122.

<sup>12</sup> *Ibid*, p. 122.

<sup>13</sup> The Guidance Document on the Nelson Mandela Rules defines “meaningful contact” on p. 106, paras 50-51.

<sup>14</sup> [International Covenant on Civil and Political Rights](#), Resolution 2200A (XXI) of the General Assembly, 16 December 1966, entry into force 23 March 1976.

<sup>15</sup> See Article 14 of the [European Convention on Human Rights](#), 4 November 1950.

origin, association with a national minority, property, birth or other status”. Regarding the case *Biao v. Denmark* of the European Court of Human Rights,<sup>16</sup> even though Article 14 does not provide a definition of what constitutes indirect discrimination, the expression “indirect discrimination” describes disproportionately prejudicial effects of a general policy or measure which, though formulated in neutral terms, has a particular discriminatory effect on a particular group. When deciding cases of discrimination, the Court applies a test. It first asks whether there has been a difference in treatment and then wonders if such a difference is objectively justified.<sup>17</sup>

20. Under Article 8§1, “everyone has the right to respect for his private and family life, his home and his correspondence”. Regarding the European Court of Human Rights' case-law<sup>18</sup> and as a part of prisoners' right to respect for private and family life, it is essential that the authorities enable prisoners or, if needed, assist them in maintaining contact with their close family. The Court attaches a great importance to the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (‘CPT’), which noted that long-term prison regimes “should seek to compensate for the desocialising effects of imprisonment in a positive and proactive way.”<sup>19</sup> In the case *Ciupercescu v. Romania*, the Court considered that Article 8 could not be interpreted as guaranteeing prisoners the right to communicate with the outside world by way of online devices, particularly where facilities for contact by alternative means were available and adequate. Thus, **if such alternative means are not available**, online communication should be guaranteed by Article 8.
21. Any interference in the right to private and family life must be justified pursuant to Article 8§2 of the European Convention on Human Rights. This requirement is not met when the law confers the authorities unrestricted discretion to grant or refuse prison visits to detainees, even more if the restriction is intrinsically justified by discriminatory reasons.
22. Once again, though it is possible to limit the right to family life, it should be without discrimination.

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### *SUBMISSIONS*

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***The current practice of the ICC-DC of not allowing detainees to talk to family members through video-calls violates Mr Ongwen's rights to a family life.***

23. The current situation faced by the ICC-DC is exceptional. In the COVID-19 pandemic context, the ICC-DC was obliged to take strict measures to ensure the health and safety of detainees and the staff of the facility. However, the measures taken must comply with human rights, and thus be non-discriminatory. As it has been demonstrated, the principles of non-discrimination and the right to a

<sup>16</sup> See European Court of Human Rights, Grand Chamber, *Case of Biao v. Denmark*, 24 May 2016, n°38590/10, para. 103.

<sup>17</sup> See European Court of Human Rights, Grand Chamber, *Case of Fabris v. France*, 7 February 2013, n°16574/08, para. 56.

<sup>18</sup> See European Court of Human Rights, Grand Chamber, *Case of Khoroshenko v. Russia*, 30 June 2015, n°41418/04, para. 110.

<sup>19</sup> *Ibid*, para. 144.

family life are fundamental in many international treaties. All the treaties prohibit the former and guarantee the later, and under no circumstances it is possible to derogate to these principles.

24. Thus, when we analyse the different international criminal tribunals' practices on video-communication between detainees and their family and compare those to the ICC-DC's practice, it appears that the ICC-DC has not managed to implement measures that are human rights compliant. By preventing Mr Ongwen from having meaningful contact with his family through video-communication, a measure which fully complies with the sanitary context, the ICC-DC violates his right to a family life.

***The current practice of the ICC-DC of not allowing detainees to contact family members with video-calls discriminates against Mr Ongwen.***

25. Once again, it is necessary to highlight the fact that the ICC-DC was obliged to take strict measures to face the Pandemic. However, as we already affirmed, the measures taken must comply with human rights, and thus be non-discriminatory.
26. Under the definition of the European Court of Human Rights, the ICC-DC acted in a discriminatory manner. Indeed, discrimination is characterized when there are disproportionately prejudicial effects of a general policy or measure which, though formulated in neutral terms, has a particular discriminatory effect on a particular group.
27. The discrimination stems from the fact that the KSC-DMU allows detainees to make video-calls to their family, and it appears that the UNDU also allows video-calls, while the ICC-DC does not. Whether the discrimination is intentional is irrelevant; it is whether discrimination happens. What the detainees at the ICC-DC see is **white Europeans** being treated different and better than **persons of colour from Africa**.
28. It is also irrelevant that the KSC-DF, ICC-DC and UNDU are under different jurisdictions. All facilities should be operating to the highest standards, yet the African detainees, and especially Mr Ongwen – who was allegedly called a “fucking African” in September 2016 by security guards – see white people from Europe being treated better than persons of colour from Africa.
29. Thus, the sanitary measures implemented by the ICC-DC because of the Pandemic have had a disproportionate prejudicial effect on Mr Ongwen within the ICC-DC by preventing him to enjoy his right to a family life. Discrimination is in this case determined by a biased and selective approach of the detainees' rights engaged by the ICC-DC.

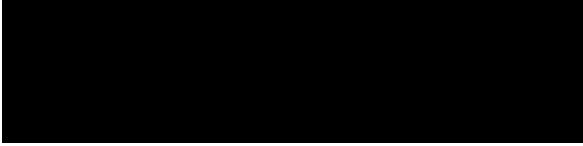
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***Requested Relief***

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30. For the abovementioned reasons, the Defence requests the Acting CCO to authorise immediately video-calls for Mr Ongwen to his family at least once a month, but preferably twice a month.

Signature  
detained person



Date

26 January 2021

Signature of  
Chief Custody  
Officer or  
delegated official

H. Tjonk  
Acting CCO

A handwritten signature in blue ink, appearing to read 'H. Tjonk', is written over the printed name.

Date

26-Jan-21



**PART B – To be completed by the Chief Custody Officer****1. Date and time the complaint was received:**

Sent by email from Defence on 26 January 2021 at 16:42, received by CCO on 26 January 2021 at 17:17

**2. Time used to deal with the complaint:**

- ☐ Within 7 calendar days
- ☒ Within 14 calendar days

**3. Decision:**

- Date: 10 February 2021

☐ **Complaint was justified**

- Reasons for the decision:

- ☐ The matter is to be rectified within 14 calendar days and the detained person shall be informed thereof accordingly.

- ☐ The matter will take longer than 14 days to rectify and, after consultation with the Registrar, that fact shall be notified to the Presidency and the detained person and they shall be kept informed of what action is being taken.

☒ **Complaint was not justified**

- The detained person will be notified about the rejection of the complaint in writing.
- Reasons for the decision:

1. This Decision is issued by the acting Chief Custody Officer (“CCO”) pursuant to regulation 218 of the Regulations of the Registry (“RoR”) in response to the complaint (“Complaint”) submitted by the Defence team for Mr Dominic Ongwen (“Defence” and “Mr Ongwen” respectively) on 26 January 2021, pursuant to regulation 106 of the Regulations of the Court (“RoC”) and regulation 217 (1) of the RoR. The Defence indicate that they have explain the content of the Complaint to Mr Ongwen, who agreed to have his signature added to the complaint.<sup>1</sup>

### **Applicable Law**

2. This Decision is based on regulations 90, 91, 96, 99, and 101 of the ROC.

### **Procedural History**

3. On 26 January 2021, the Defence addressed a complaint on behalf of Mr Ongwen to the CCO of the International Criminal Court’s Detention Centre (“Court”, “ICC” and “ICC DC”). The Defence request that Mr Ongwen benefit from video-conferencing with his family once or twice a month, due to the fact that family visits have been cancelled since March 2020 as a result of the COVID-19 pandemic. The Complaint also alleged discrimination against Mr Ongwen.
4. As the Defence points out,<sup>2</sup> on 21 January 2021, the Office of the Director of the Division of Judicial Services Section (“DJSS”) responded to an inquiry of the Defence, informing that the Registry was looking into the feasibility of video-conferencing for detained persons with family members. The Office confirmed that timelines were not known but the Defence would be kept informed, and asked for patience and understanding as the Registry implemented a new policy.<sup>3</sup>
5. The present Complaint is the first request that the CCO has received from Mr Ongwen or his Defence team for video-conferencing with his family.

### **Decision**

6. As the Defence points out,<sup>4</sup> family visits are properly suspended under regulation 96 (2) of the Regulations of the Court, following consultations between the Registrar and the Presidency, due to the ongoing COVID-19 pandemic.
7. The Defence submits their complaint based on an assertion that the fact that a video-conferencing policy is

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<sup>1</sup> Complaint, para. 3.

<sup>2</sup> Complaint, para. 11.

<sup>3</sup> Email from the Registry to the Defence on 21 January 2021 at 00:11.

<sup>4</sup> Complaint.

not yet in place means that no movement has taken place.<sup>5</sup> As a basis for this, the Defence refers to one paragraph in a public Registry submission in another case, specific to the case of the *Prosecutor vs Mr Al Hassan*, where the Registry indicated “contemplation” of assessing feasibility for video-conferencing for all detained persons should family visits not be possible in the future. In that submission Registry stated:

“This notwithstanding, and despite the complexity of this matter and related security challenges, should no family visits be possible in the future, the Registry is still contemplating the feasibility of video-conferencing communications, not only for Mr Al Hassan but for all detained persons. The limited capacity of all Registry country offices will have to be taken into account for the purpose of any feasibility assessment.”<sup>6</sup>

8. Contrary to the Defence submissions,<sup>7</sup> the Detention Section and the Registry are working hard on both assessing feasibility and implementing a video-conferencing policy. A mere five days had passed since Office of the Director of DJSS confirmed that the Registry was working on a new policy to the Defence and the submission of this Complaint. The Defence Complaint is thus premature.
9. The Defence declare that the DC is “preventing Mr Ongwen from having meaningful contact with his family through video-conference,”<sup>8</sup> and against “the current practice of the ICC DC to not allow video calls with family members”.<sup>9</sup> Mr Ongwen cannot be prevented from participating in a method of communication that is currently 1) not envisaged in the framework of the Court and also 2) has not been denied to him, but rather already explained that a novel policy was forthcoming.
10. The Defence is reminded that the legal texts of the ICC do not provide detained persons with the right or entitlement to video-conferencing. Detained persons are entitled to communicate by letter or telephone with their family, and entitled to receive physical visits.<sup>10</sup> Letter and telephone communication remains possible, while physical visits are currently suspended under regulation 96 (2).<sup>11</sup> The framework of the Court simply does not envisage video-conferencing, so it is not being denied to him, and the Defence has also not made a proper request, rather just a Complaint.
11. On the issue of the right to family life, as the Defence and Mr Ongwen already know, a family visit funded by the Trust Fund for Family Visits had already been planned, and money had been earmarked for Mr Ongwen’s family visit, set to take place tentatively in January 2020. Mr Ongwen later wished to change the composition of family members to visit, and unfortunately the new family members did not have passports and travel documents and were in the process of obtaining these. Therefore several months of

<sup>5</sup> Complaint, para. 10.

<sup>6</sup> Registry, “Public Redacted Version of the ‘Registry’s Observations on the ‘Urgent Defence Request for Interim Release’ (ICC-01/12-01/18-680-Conf-Exp)”, 12 May 2020, ICC-01/12-01/18-698-Red3, para. 18.

<sup>7</sup> Email from [REDACTED] on behalf of Marc Dubuisson to Thomas Obhof, RE: Question as to Virtual 12 May 2020.

<sup>8</sup> Complaint, para. 10.

<sup>9</sup> Complaint, para. 24.

<sup>10</sup> Complaint, page 5.

<sup>11</sup> Regulation 99 (1)(i) and 100 of the Regulations of the Court (“RoC”).

<sup>12</sup> See e.g., CCO Memo, DS/2021/005/HT/mb, 15 January 2021.

time were lost while documents were being procured, arriving at March 2020, when a visit still hadn't been scheduled due to this reason, and thus the suspension of the planned family visit. The CCO has not received information if the documentation is now in order for the family members visit.

12. Finally, the Defence has been involved for the past several years in the Detention Centre's organizing for Mr Ongwen the judicially ordered 1) telephone calls with his children following a judicial order and 2) video-conference for one of Mr Ongwen's children, on the basis of the medical situation of that child. The Defence knows that each telephone call is an resource intensive process that requires approximately 2-3 days of mission by the country office in the field. Similarly, organizing video-conferences with family members of detained persons will requires financial, logistical and staff resources, as the Defence can well appreciate given the personal experience for Mr Ongwen. Implementing the policy and video-conference will therefore take time. The challenges faced by the ICC are not comparable to the challenges faced by other international detention facilities, and the solutions will be specific to the ICC as well.

#### *Allegations of discrimination*

13. The Defence alleges that the ICC-DC and the CCO are discriminating against Mr Ongwen and "persons of color from Africa" in favor of "white Europeans"<sup>12</sup> by not allowing video-conferencing with family members. The Defence appears to alleges discrimination against Mr Ongwen on the basis that the ICC is the same institution as the other international detention facilities with "white European" detained persons who may provide video-conferencing.
14. The Defence argument is without legal merit for two reasons. The first is because the ICC-DC and the CCO do not have "white Europeans" in custody at the DC, therefore it would be impossible for him to discriminate against Mr Ongwen and African detained persons in favor of these non-existent "white European" detained persons. The second is because each institution named by the Defence is a distinct and separate judicial and legal entity. It would be impossible for the CCO to be discriminating against Mr Ongwen based on perceived entitlements and policies in a separate judicial institution, with separate legal frameworks, policies, management and facilities. It is also worth mentioning that the other international courts do not have a Trust Fund for Family Visits, or similar, to allow funded in person family visits to indigent detained persons.
15. Finally, and most concerning to the CCO, the Defence for Mr Ongwen make serious allegations, without producing any evidence or context to the allegation. The Defence states that *"All facilities should be operating to the highest standards, yet the African detainees, and especially Mr Ongwen- who was allegedly called a "fucking*

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<sup>12</sup> Complaint, para. 27.

*African” in September 2016 by security guards- see white people from Europe being treated better than persons of colour from Africa.”<sup>13</sup>*

16. The CCO states unequivocally that this language and behavior would not be tolerated among his staff.
17. The CCO has searched his records. In September 2016 there was an incident of a use of force against Mr Ongwen under regulation 204 (2)(b)(ii) of the RoR. During the application of the use of force, both the CCO and Deputy CCO were present, in the cell and on the wing respectively, and did not hear such language or behavior being used. Rather, after the use of force custody officers made professional and positive efforts to calm Mr Ongwen and deescalate the tensions. At the time, the Defence raised the matter to the Trial Chamber, who ordered that the Defence raise any matters concerning Mr Ongwen’s detention directly with the Registry.<sup>14</sup> The CCO does not have any information that the Defence raised it again with the Registry.
18. The CCO will not detail further the events in this complaint, however he wishes to express his disappointment that the Defence would bring an allegation up in this manner five years later in relation to a complaint on video-conferencing. Furthermore, ICC-DC custody staff have built respectful relations and open communication with Mr Ongwen over his years of his custody at the DC. In fact custody staff take a special interest in Mr Ongwen’s wellbeing, which is another reason why the allegations of discrimination and slurs against against Mr Ongwen are surprising and without basis. The Defence allegation is not demonstrative of the respectful and caring interactions occurring on a daily basis between Mr Ongwen and ICC DC staff, both of whom appear to treat each other with mutual respect and understanding.
19. The Complaint on a request for video-conferencing is rejected as moot, as the Registry already confirmed through the Office of the Director of DJSS that a video-conferencing policy was forthcoming, therefore it is not being denied to Mr Ongwen. The Complaint on discrimination is also dismissed as baseless and without merit.

### **Conclusion**

20. For the above reasons, the Complaint is not justified.
21. The CCO informs the Defence that his Decision is confidential and he does not consent to any version of this Decision being public without express authorization of the Registry, as it contains confidential information and operational matters.

<sup>13</sup> Complaint, para. 28.

<sup>14</sup> Defence, Decision on Defence Request for Preservation of Video Material Related to an Alleged Incident, ICC-02/04-01/15-559-Conf-Exp, 7 October 2016.

**4. Action taken to rectify the matter:**

Signature H. Tjonk, Acting CCO

Date 10-Feb-21

**PART C – To be completed by the Detained Person** (Or signed by the Officer who witnesses the informing process if he/she refuses. In this case the Officer should also write his/her name in CAPITAL LETTERS below the signature).

I am aware of the decision taken by the Chief Custody Officer with regard to my complaint dated \_\_\_\_\_ and the reasons for it.

I understand that if I am not satisfied with the decision taken by the Chief Custody Officer, I am entitled to address the Registrar on this matter.

I understand that I have the right to raise any concerns with regard to any matters related to my detention, at any time during an inspection of the Detention Centre by the independent inspecting authority.

Signature  
Detained Person

Date 10-Feb-21

Signature  
Detention Officer

H. Tjonk, Acting CCO

Date

10-Feb-21 @ ± 1706