

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 9 August 2016

**TRIAL CHAMBER IX**

**Before:** Judge Bertram Schmitt, Single Judge  
Judge Péter Kovács  
Judge Raul C. Pangalangan

**SITUATION IN UGANDA**

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

**Public**

**Defence Notification Pursuant to Rule 79(2) of the Rules of Procedure and  
Evidence**

**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**

Fatou Bensouda, Prosecutor  
James Stewart, Deputy Prosecutor  
Benjamin Gumpert, QC

**Counsel for the Defence**

Krispus Ayena Odongo  
Chief Charles Achaleke Taku

**Legal Representatives of the Victims**

Joseph Akwenyu Manoba  
Francisco Cox

**Common Legal Representatives of the Victims**

Paolina Massidda  
Jane Adong

**Unrepresented Victims**

**The Office of Public Counsel for Victims**

Paolina Massidda  
Caroline Walter  
Orchlon Narantsetseg

**The Office of Public Counsel for the Defence**

Xavier-Jean Keïta

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Herman Von Hebel

**Counsel Support Section**

**Victims and Witnesses Unit**

Nigel Verrill

**Detention Section**

**Victims Participation and Reparations Section**    **Other**

## I. INTRODUCTION

1. The Defence for Dominic Ongwen ('Defence') hereby notifies Trial Chamber IX ('Chamber'), the Prosecution and the Legal Representatives for Victims<sup>1</sup> that the Defence intends to raise the existence of a possible Article 31(1)(a) affirmative defence.

## II. SUBMISSIONS

2. The Defence hereby notifies the Chamber, Prosecution and Legal Representatives for Victims that the Defence is pursuing a defence under Article 31(1)(a) of the Rome Statute.
3. The Defence contracted experts to examine Mr Ongwen to determine if Mr Ongwen suffered from a mental disease or defect that destroyed his capacity to appreciate the unlawfulness or nature of his conduct, or capacity to control his conduct to conform to the requirements of the law.
4. The process is still ongoing. The Defence expects a full report, with submissions and a list of experts intending to testify as to Mr Ongwen's mental disease or defect, to be submitted during the beginning of October 2016.
5. Should the possibility of such a defence not arise, the Defence shall inform the Chamber, Prosecution and Legal Representatives for Victims as such. Furthermore, should the submission be completed before October 2016, the Defence shall notify the aforementioned groups

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<sup>1</sup> The Defence uses this phrase to encompass both the Common Legal Representative for Victims and the Legal Representative for the Victims.

### III. CONCLUSION

6. The Defence hereby notifies the Chamber, Prosecution and Legal Representatives for Victims of the Defence's intent to produce an Article 31(1)(a) affirmative defence by early October 2016.

Respectfully submitted,



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Hon. Krispus Ayena Odongo  
On behalf of Dominic Ongwen

Dated this 9<sup>th</sup> day of August, 2016

At Lira, Uganda