

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **30 July 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 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

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

The Office of the Prosecutor

Mr 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
Victim**

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

Victims and Witnesses Unit

Mr Nigel Verrill

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

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

I. PROCEDURAL HISTORY

1. On 6 May 2021, the Chamber issued the ‘Order for Submissions on Reparations’ (the ‘Order’),¹ in which it, *inter alia*, instructed the Registry, with the assistance and cooperation of the Legal Representatives of Victims (‘LRVs’), to undertake a comprehensive mapping of victims potentially eligible for reparations.²
2. On 27 July 2021, the LRVs submitted 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 its Progress Report on Mapping and Request for Extension of Time (‘Request’),³ requesting the Chamber’s authorisation to grant the Registry, specifically the Victims Participation and Reparations Section (‘VPRS’), access to confidential material in the record of the case for the purposes of conducting the mapping of victims potentially eligible for reparations.
3. As instructed by the Chamber,⁴ the Office of the Prosecutor (‘Prosecution’) submitted observations informing the Chamber that it had no concerns with the material being shared with the VPRS.⁵ The Office of the Public Counsel for Victims (‘OPCV’) informed the Chamber of their support to the LRV’s Request and that no response would be filed.⁶ The Defence responded that it had no substantive submissions on the Request.⁷

¹ Order for Submissions on Reparations, 6 May 2021, [ICC-02/04-01/15-1820](#), (‘Order’).

² Order, [ICC-02/04-01/15-1820](#), para. 5 (iv).

³ 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 (‘Request’), 27 July 2021, ICC-02/04-01/15-1867.

⁴ Email from the Chamber’s Legal Officer to the Prosecution and the parties, 27 July 2021, at 18:57 hrs.

⁵ Email from the Prosecution to Trial Chamber IX Communications, 28 July 2021, at 17:00 hrs.

⁶ Email from the OPCV to the Chamber’s Legal Officer, 28 July 2021, at 22:10 hrs.

⁷ Defence Response to Request ICC-02/04-01/15-1867, 29 July 2021, ICC-02/04-01/15-1868-Conf (a public redacted version was filed on the same date, ICC-02/04-01/15-1868-Red).

II. ANALYSIS

4. The LRVs submit that, during meetings held with the Registry to discuss cooperation in conducting the mapping, they realised that in the record of the case there is confidential material disclosed by the Prosecution that would be of great value for such mapping exercise.⁸ In particular, the LRVs identify three witness statements⁹ and four lists¹⁰ (the ‘documents’) which, they argue, relate to evidence provided by witnesses that had been involved in the administration of the IDP camps in Lukodi and Odek, and may prove vital for the mapping of former residents of the IDP camps and to complement other official records.¹¹

5. The LRVs indicate that, owing to the sensitivity and confidential nature of the documents, they have consulted and obtained informal approval from the Prosecution to give the Registry access to the documents.¹² The Prosecution confirmed to the Chamber that it had no concerns with the referenced documents being shared with the VPRS, noting that the witnesses at issue were dual-status individuals represented by the LRVs.¹³

6. The Chamber notes that the Prosecution, 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. The Chamber also notes that the Court as a whole, including the Registry as one of its organs, shall take the appropriate measures for the protection of victims and witnesses. Further, when required for reasons of safety and security of victims the Registry shall take all necessary measures within its powers to ensure the confidentiality of information.

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

⁸ Request, ICC-02/04-01/15-1867, para. 10.

⁹ Witness statements of P-0274 (UGA-OTP-0283-1307 and UGA-OTP-0283-1320) and witness statement of P-0060 (UGA-OTP-0283-0826.riv).

¹⁰ Lukodi Lists (UGA-OTP-0069-0092 and UGA-OTP-0069-0054) and Camp Leaders Lists (UGA-OTP-0267-0182-R01 and UGA-OTP-0267-0180-R01).

¹¹ Request, ICC-02/04-01/15-1867, paras 11-13.

¹² Request, ICC-02/04-01/15-1867, para. 16.

¹³ Email from the Prosecution to Trial Chamber IX Communications, 28 July 2021, at 17:00 hrs.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

GRANTS the LRVs' Request to authorise the Registry's access to the documents referred to in paragraph 4 above.

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 Friday, 30 July 2021
At The Hague, The Netherlands