

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: **31 January 2022**

**APPEALS CHAMBER**

**Before:** Judge Luz del Carmen Ibáñez Carranza, Presiding Judge  
Judge Piotr Hofmański  
Judge Solomy Balungi Bossa  
Judge Reine Alapini-Gansou  
Judge Gocha Lordkipanidze

**SITUATION IN UGANDA**

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

**PUBLIC**

**Defence Motion against CLRV Filing ICC-02/04-01/15-1965**

**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**

Karim A.A. Khan, QC, Prosecutor  
James Stewart, Deputy Prosecutor  
Helen Brady

**Legal Representatives of the Victims**

Joseph Akwenyu Manoda  
Francisco Cox

**Registrar**

Peter Lewis

**Amici Curiae**

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Southwell, Dr Beatrice Krebs, Jennifer Keene-  
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Dr Erin Baines, Anne-Marie de Brouwer, Annie  
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Gorana Mlinarević, Angela Mudukiti, Cynthia T.  
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Getegen Kestenbaum, Maxine Marcus, Gorana  
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UN Special Rapporteur Siobhán Mullally

## I. INTRODUCTION

1. The Defence for Dominic Ongwen ('Defence') hereby requests the Appeals Chamber to disregard the response *Common Legal Representative of Victims' Response to Amicus Curiae Observations No. ICC-02/04-01/15-1958 in the Defence's Appeals against the Conviction and the Sentence* ('CLR V Response')<sup>1</sup> submitted by the Common Legal Representative for Victims ('CLR V'). The CLR V exceeded the allotted page-limit given by the Appeals Chamber by nearly two (2) pages.<sup>2</sup> There is no evidence on the record that either the CLR V was granted a 2-page extension prior to her submission of the CLR V Response or that she requested a page-limit extension in the CLR V Response.

## II. PROCEDURAL HISTORY

2. On 18 January 2022, UN Special Rapporteur on trafficking in persons, especially women and children, Siobhán Mullally requested leave to intervene in the case of *The Prosecutor vs Dominic Ongwen* as an *amicus curiae* pursuant to Rule 103(1) of the Rules of Procedure and Evidence.<sup>3</sup>
3. On 20 January 2022, the Appeals Chamber granted UN Special Rapporteur Mullally leave to file observations by 16h00 CET on 21 January 2022 with a page-limit of 10 pages.<sup>4</sup> The Appeals Chamber gave the Parties and Participants until 16h00 on 28 January 2022 to file responses and gave them a page-limit of three (3) pages.<sup>5</sup>
4. On 21 January 2022, UN Special Rapporteur Mullally filed her observations pursuant to Rule 103(1) of the Rules of Procedure and Evidence in conformity with the stipulations order by the Appeals Chamber.<sup>6</sup>

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<sup>1</sup> Appeals Chamber, *Common Legal Representative of Victims' Response to Amicus Curiae Observations No. ICC-02/04-01/15-1958 in the Defence's Appeals against the Conviction and the Sentence*, [ICC-02/04-01/15-1965](#).

<sup>2</sup> Appeals Chamber, *Decision on the request for leave to file observations pursuant to rule 103 of the Rules of Procedure and Evidence*, [ICC-02/04-01/15-1955](#), para. 17.

<sup>3</sup> Appeals Chamber, *Request for Leave to File an Amici Curiae Brief on sexual slavery and defence of duress Pursuant to Rule 103 of the Rules of Procedure and Evidence*, [ICC-02/04-01/15-1954](#).

<sup>4</sup> Appeals Chamber, *Decision on the request for leave to file observations pursuant to rule 103 of the Rules of Procedure and Evidence*, [ICC-02/04-01/15-1955](#), para. 15.

<sup>5</sup> *Ibid.*, para. 17.

<sup>6</sup> Appeals Chamber, *Observations on the crimes of sexual slavery, enslavement and trafficking in persons, and on the grounds for excluding criminal responsibility: defence of duress, mental defect or disease and the non-punishment principle*, [ICC-02/04-01/15-1958](#).

5. On 28 January 2022, the CLRV filed the CLRV Response.<sup>7</sup> Pursuant to Regulation 36 of the Regulations of the Court, the CLRV Response was five (5) pages.<sup>8</sup>

### III. SUBMISSION

6. The Appeals Chamber ordered “the Defence, the Prosecutor and the participating victims to submit their responses, **of no more than three pages**, to the written observations of the Applicant, by 16h00 on Friday, 28 January 2022.”<sup>9</sup>
7. The CLRV Response violates the order given by the Appeals Chamber relating to the page-limit for responses to the UN Special Rapporteur Mullally’s observations. The CLRV wrote nearly two (2) pages more than the allotted page-limit granted by the Appeals Chamber.<sup>10</sup> As such, the Defence requests the Appeals Chamber to disregard the CLRV Response in its entirety.

### IV. REQUEST RELIEF

8. The Defence for Dominic Ongwen requests the Appeals Chamber to disregard the CLRV Response as it violated the clear instructions of the Appeals Chamber.

Respectfully submitted,



.....  
Hon. Krispus Ayena Odongo

On behalf of Dominic Ongwen

Dated this 31<sup>st</sup> day of January, 2022

At Kampala, Uganda

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<sup>7</sup> See [CLRV Response](#).

<sup>8</sup> See Regulation 36 of the [Regulations of the Court](#).

<sup>9</sup> Appeals Chamber, *Decision on the request for leave to file observations pursuant to rule 103 of the Rules of Procedure and Evidence*, [ICC-02/04-01/15-1955](#), para. 17. [Emphasis added.]

<sup>10</sup> The Defence estimates that the final page was approximately 9/10 of a page.