

Pursuant to Trial Chamber IX 's instruction dated 26 February 2024 this document is reclassified as Public

**Cour
Pénale
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**International
Criminal
Court**

Original: English

No.: ICC-02/04-01/15
Date: 19 February 2024

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**

Confidential

**Registry's Report pursuant to the Chamber's Order Scheduling a Hearing for the
Delivery of the Reparations Order dated 13 February 2024
(ICC-02/04-01/15-2071 13-02-2024)**

Source: The Registry

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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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Ms Leonie von Braun

Counsel for the Defence

Mr Charles Achaleke Taku
Ms Beth Lyons
Mr Thomas Obhof

Legal Representatives of the Victims

Mr Joseph Akwenyu Manoba
Mr Francisco Cox

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda
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**The Office of Public Counsel for the
Defence**

States' Representatives

Trust Fund for Victims

Ms Deborah Ruiz Verduzco

REGISTRY

Registrar

Mr Osvaldo Zavala Giler

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

Other

Presidency

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I. Introduction

1. Pursuant to Trial Chamber IX's ("Chamber") "Order Scheduling a Hearing for the Delivery of the Reparations Order" ("Order") issued on 13 February 2024,¹ the Registry hereby submits its report on the "possibility of securing the attendance of the convicted person either physically at the seat of the Court or through the use of video technology."²

II. Procedural history

2. On 13 February 2024, the Chamber issued its Order scheduling a public hearing on Wednesday, 28 February 2024 at 15.00 to deliver its Reparation Order, by which it, *inter alia*, instructed the Registry to assess the possibility of securing the attendance of Mr Dominic Ongwen ("Mr Ongwen"), either physically at the seat of the Court or through the use of video technology and report back to the Chamber by Monday, 19 February 2024, at the latest.³

III. Classification

3. Pursuant to regulation 23 *bis* (1) of the Regulations of the Court ("RoC"), the Registry submits the present report as confidential as it refers to communications and consultations with State authorities and contains information on the Court's *modus operandi*.

IV. Applicable law

4. This report is submitted in accordance with rule 13 (1) and 144 of the Rules of Procedures and Evidence.

¹ Trial Chamber IX, "Order Scheduling a Hearing for the Delivery of the Reparations Order", 13 February 2024, ICC-02/04-01/15-2071.

² *Idem.*, p. 3.

³ *Ibid.*

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V. Submission

Consultations with the Kingdom of Norway (“Norway”), State in which Mr Ongwen is serving his sentence

5. On 14 February 2024, the Registry contacted a representative of the Directorate of the Norwegian Correctional Service (“Representative”) to i) inform of the Reparations Order, ii) consult the authorities about the feasibility of securing the attendance of Mr Ongwen either physically at the seat of the Court or through the use of video technology, and iii) request authorization for the Registry’s focal points to liaise with the prison in which Mr Ongwen is currently serving his sentence, in order to make the necessary tests on the use of video technology from the prison to the ICC Courtroom where the hearing will be held.
6. On 15 February 2024, the Representative informed the Registry that Mr Ongwen indicated that he would attend the hearing of 28 February 2024 through the use of video technology and that the Registry’s focal points could liaise directly with the prison in which Mr Ongwen is serving his sentence (“Prison”) for the testing of the video technology.
7. On 16 February 2024, the Prison authorities reiterated that Mr Ongwen was asked whether he wished to appear physically in court or remotely via video link for the purpose of the said hearing. They reported that Mr Ongwen indicated that he was willing to attend the hearing via video link, although his preference was to be present physically in court. The Prison authorities further explained that given the short notice, physical appearance at the seat of the Court would entail major practical challenges for the Prison linked to the complexity of the organization of a transfer operation and concluded therefore

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that they do not support this scenario, and that the best solution for the Prison would be a court hearing via video link.

8. On this same day, the Registry tested the use of video technology with the Prison and confirms that it stands ready to fully support Mr Ongwen's attendance via video link from the Prison, should the Chamber so decide.

Information to the host State

9. On 15 February 2024, the Registry informed the host State, by way of email of, i) the Reparations Order, ii) the ongoing Registry assessment to secure the attendance of Mr Ongwen either physically at the seat of the Court or through the use of video technology for the purpose of the hearing of 28 February 2024 as well as iii) the possibility of Mr Ongwen's transfer to the seat of the Court to attend the hearing. The Registry further informed the host State that should the Chamber decide that Mr Ongwen should be present physically at the seat of the Court, the Registry will communicate in due course an official request for cooperation to facilitate the temporary transfer of Mr Ongwen to the seat of the Court.
10. On 16 February 2024, the host State acknowledged receipt of the communication.
11. The Registry notes that should the temporary transfer of Mr Ongwen to the seat of the Court be required for the purpose of the hearing of 28 February 2024, a number of practical and logistical arrangements (including from a budgetary standpoint), in consultation with the relevant Dutch authorities, would have to be put in place, requiring therefore sufficient time, personnel and resources to support the implementation of such an operation.

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Information from the Defence for Mr Ongwen ("Defence")

12. On 14 and 15 February 2024, the Registry consulted with the Defence who indicated Mr Ongwen's preference to be present at The Hague for the purposes of attending the hearing in person. The Defence further indicated that "[...] after speaking with him, Mr Ongwen does wish to spend about a week in The Hague after the decision so that [his Counsel] can go through the decision with him as much as possible".⁴ The Defence has further indicated that it "[...] leaves it up to the Registry to determine the appropriate amount of time for Mr Ongwen to be present, of course, with the knowledge of Mr Ongwen's preferences".⁵ Following the initial information received for the Norwegian authorities on 15 February 2024 - as detailed above - that Mr Ongwen's preferred mode of appearance for the purposes of the hearing was through video-link, the Registry reached out again to the Defence to seek clarifications.
13. The latter reaffirmed on 16 February 2024 that Mr Ongwen " would like to come to The Hague for the reading of the Decision".⁶

Conclusion

14. Bearing in mind the preference of Mr Ongwen to appear physically at the seat of the Court but also considering the practical and operational challenges entailed by the organization of such an operation at short notice for the Norwegian Prison authorities, the Registry wishes to respectfully recommend to the Chamber the appearance of Mr Ongwen by way of video technology. This is supported by the positive outcomes of the feasibility assessment conducted on the use of video technology from the Prison.

⁴ Email from the Defence to the Registry, dated 14 February 2024, at 16:06.

⁵ Email from the Defence to the Registry, dated 15 February 2024, at 16:02.

⁶ Email from the Defence to the Registry, dated 16 February 2024, at 15:49.

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15. In light of the foregoing, the Registry stands ready to provide the support required to ensure the smooth appearance of Mr Ongwen by video technology at the hearing of 28 February 2024, or take any other action as ordered by the Chamber.



Marc Dubuisson

Director, Division of Judicial Services on behalf of
Osvaldo Zavala Giler, Registrar

Dated this 19 February 2024

At The Hague, the Netherlands