

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **6 May 2021**

TRIAL CHAMBER IX

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

SITUATION IN UGANDA

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

Public

Order for Submissions on Reparations

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

The Office of the Prosecutor

Ms Fatou Bensouda

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
Victims**

Ms Paolina Massidda

The Office of Public Counsel for the Defence

States Representatives

Competent authorities of the Republic of
Uganda

Trust Fund for Victims

Mr Pieter de Baan

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Mr Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

Others

Trial Chamber IX of the International Criminal Court, in the case of *The Prosecutor v. Dominic Ongwen* (the ‘Ongwen case’), having regard to articles 64 and 75 of the Rome Statute (the ‘Statute’), rule 103 of the Rules of Procedure and Evidence (the ‘Rules’), and regulations 24*bis*, 34 and 38(2) of the Regulations of the Court (the ‘Regulations’), issues the following Order for Submissions on Reparations (the ‘Order’).

1. On 4 February 2021, the Chamber convicted Mr Dominic Ongwen (‘Mr Ongwen’) for the commission of 61 counts of crimes against humanity and war crimes.¹
2. Today, the Chamber sentenced Dominic Ongwen to a joint sentence of 25 years of imprisonment.²
3. The Chamber notes that 4,095 victims were authorised to participate in the case pursuant to Article 68(3) of the Statute and are currently represented by two teams of legal representatives.³
4. The Chamber notes that significant information relevant to the five elements of the reparations order is already available in the case record. Having considered the interests of the victims and the convicted person, and noting that the crimes for which Mr Ongwen was convicted took place more than 15 years ago, the Chamber considers that the reparations phase of the proceedings should advance as efficiently and expeditiously as possible, avoiding unnecessary delays.
5. Accordingly, in order to ensure the fair and expeditious conduct of the reparations proceedings in the *Ongwen* case, the Chamber issues the following directions:
 - (i) The parties,⁴ the Registry, and the Trust Fund for Victims (‘TFV’) are instructed to make submissions, as specific as possible and of up to 50 pages each, by Monday 6 September 2021, at the latest, on either or all of the following issues:

¹ Trial Judgment, ICC-02/04-01/15-1762-Conf. A public redacted version was filed the on same day, [ICC-02/04-01/15-1762-Red](#).

² Sentence, ICC-02/04-01/15-1819-Conf. A public redacted version was filed the on same day, ICC-02/04-01/15-1819-Red.

³ Updated Consolidated List of Participating Victims, 29 June 2020, [ICC-02/04-01/15-1746](#).

⁴ For purposes of the reparations proceedings, the parties are the Defence and Legal Representatives of Victims.

- a. the need for the Chamber to consider additional principles on reparations, apart from those already established by the consistent jurisprudence of the Court,⁵ as recently adapted and expanded in the case of *The Prosecutor v. Bosco Ntaganda* (the ‘*Ntaganda* case’);⁶
- b. estimated total number of the direct and indirect victims of the crimes for which Mr Ongwen was convicted, who may be potentially eligible for reparations;
- c. any legal and factual issues relevant to the identification of eligible victims;
- d. any victims or groups of victims who may require prioritisation in the reparations process;
- e. specification of the types and extent of the harm suffered by the victims of the crimes for which Mr Ongwen was convicted;
- f. whether recourse to factual presumptions should be considered;⁷
- g. types and modalities of reparations appropriate to address the harm suffered by the victims of the crimes for which Mr Ongwen was convicted. In particular, the suitability of collective reparations with individualised components, the appropriate modalities to be included therein, and whether certain modalities can be expeditiously implemented;
- h. concrete estimates as to the costs to repair the harms suffered by the victims in light of the appropriate modalities for repairing them, including costs of running rehabilitation programmes in the region with the potential to address multi-dimensional harm of individual beneficiaries for the purposes of reparations;

⁵ Appeals Chamber, *Prosecutor v. Thomas Lubanga Dyilo*, Judgment on the appeals against the ‘Decision establishing the principles and procedures to be applied to reparations’ of 7 August 2012 with AMENDED order for reparations (Annex A) and public annexes 1 and 2, 3 March 2015, [ICC-01/04-01/06-3129](#), Annex A, Order for Reparations (amended), [ICC-01/04-01/06-3129-AnxA](#), paras 1-49; *Trial Chamber II, Prosecutor v. Germain Katanga*, Order for Reparations pursuant to Article 75 of the Statute (with public Annex I and confidential ex parte Annex II), 24 March 2017, [ICC-01/04-01/07-3728](#), paras 29-30; Trial Chamber VIII, *Prosecutor v. Ahmad Al Faqi Al Mahdi*, Reparations Order, 17 August 2017, [ICC-01/12-01/15-236](#), paras 26-50.

⁶ Trial Chamber VI, *The Prosecutor v. Bosco Ntaganda*, Reparations Order, 8 March 2021, [ICC-01/04-02/06-2659](#) (‘*Ntaganda* Reparations Order’), paras 30-103.

⁷ *See, inter alia*, *Ntaganda* Reparations Order, [ICC-01/04-02/06-2659](#), paras 140-147.

- i. information as to whether the victims of the crimes for which Mr Ongwen was convicted have received any form of compensation or reparations for the harm suffered as a result of these crimes; and
 - j. any additional information relevant to reparations.
- (ii) The Office of the Prosecutor (the ‘Prosecutor’) and the relevant authorities of the Republic of Uganda are also invited to make submissions of up to 20 pages each, on any of the issues listed above, by Monday 6 September 2021;
- (iii) Any persons or organizations, particularly with local expertise, interested in making submissions on the specific issues mentioned above, are invited to request leave from the Chamber, pursuant to article 75 of the Statute and rule 103 of the Rules, by Monday 7 June 2021. If the Chamber decides to grant any of these applications, these submissions should not exceed 20 pages and will equally have to be filed by Monday 6 September 2021;
- (iv) The Registry, with the assistance and cooperation of the LRVs as appropriate, is instructed to undertake a comprehensive mapping of direct and indirect victims potentially eligible for reparations in the present case, identifying (i) the main categories of victims; (ii) their current location; and (iii) all data that it may be able to obtain regarding the victims’ gender, age group, and particular vulnerabilities which may need to be taken into account by the Chamber when deciding on the reparations to be awarded. The Chamber stresses that the Registry is not expected or encouraged to register applicants or collect individual applications for reparations, considering that the types of reparations to be awarded has not yet been determined. Full compliance with the ‘do no harm’ principle should be ensured at all times.⁸ The Registry is instructed to submit a progress report by Monday 5 July 2021, and a final report by Monday 6 September 2021; and
- (v) The Registrar, assisted *inter alia* by the information that may be provided by the Prosecutor, is requested to submit, by Monday 6 September 2021 a report on Mr Ongwen current financial situation.

⁸ *Ntaganda* Reparations Order, [ICC-01/04-02/06-2659](#), paras 50-52.

6. The parties and the TFV can respond to any submissions on the specific points referred to in paragraph 5(i) above and submit any last arguments that they wish the Chamber to consider when rendering the reparations order. These responses and final submissions shall not exceed 30 pages in total each and shall be filed by Monday 4 October 2021.
7. The Chamber stresses the need for full collaboration and cooperation between the parties, the Registry, and the TFV, to benefit from their combined knowledge, expertise, and experience in assisting victims and dealing with reparations. Accordingly, and particularly for the purposes of estimating the total number of victims, mapping and identifying the extent of the harm suffered by the victims, the most appropriate types and modalities of reparations, and the costs to repair the harm, the Chamber encourages full cooperation and combination of the limited resources available, in order to facilitate the efficient and effective conduct of the reparations proceedings.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

INSTRUCTS the parties, the Registry, and the TFV to make submissions not exceeding 50 pages each on either or all of the issues referred to in paragraph 5(i) above, by Monday 6 September 2021;

INVITES the Prosecutor and the relevant authorities of the Republic of Uganda to make submissions not exceeding 20 pages each, in accordance with paragraph 5(ii) above, by Monday 6 September 2021;

INVITES interested persons or organisations, particularly with local expertise, to request leave to make submissions, in accordance with paragraph 5(iii) above, by Monday 7 June 2021;

INSTRUCTS the Registry, with the assistance and cooperation of the LRVs as appropriate, to undertake a mapping of victims potentially eligible for reparations, in accordance with paragraph 5(iv) above, and submit a progress report by Monday 5 July 2021, and a final report by Monday 6 September 2021;

INSTRUCTS the Registrar to review Mr Ongwen's current financial situation and report back to the Chamber by Monday 6 September 2021;

INSTRUCTS the Prosecution to transmit to the Registry any information relevant to Mr Ongwen's financial situation, as soon as practicable;

INVITES the parties and the TFV to respond to the submissions on the specific points listed in paragraph 5(i) and submit any last arguments no exceeding 30 pages in total each, by Monday 4 October 2021; and

ENCOURAGES the parties, the Registry, and the TFV to work in full collaboration and cooperation with each other, combining the limited resources available in order to facilitate the efficient and effective conduct of the reparation proceedings.

Done in both English and French, the English version being authoritative.



Judge Bertram Schmitt, Presiding Judge



Judge Péter Kovács



Judge Raul C. Pangalangan

Dated this Thursday, 6 May 2021

At The Hague, The Netherlands