

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original : **English**

N°: **ICC-02/04-01/15**  
Date: **02 October 2020**

**TRIAL CHAMBER IX**

**Before: Judge Bertram Schmitt, Single Judge**

**SITUATION IN UGANDA**

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

**Public  
With Public Annexes I to XVII**

**Registry's Report Filing in the Record of the Case Decisions issued by way of  
email from January 2020 to July 2020**

**Source: Registry**

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 Dominic Ongwen**

Mr Kripus Ayena Odongo  
Mr Charles Achaleke Taku

**Legal Representatives of the Victims**

Mr Joseph Akwenu Manoba  
Mr Francisco Cox  
Ms Paolina Massidda

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants  
(Participation/Reparation)**

**The Office of Public Counsel for  
Victims**

Ms Paolina Massidda  
Ms Caroline Walter  
Mr Orchlou Narantsetseg

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

**States' Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Mr Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

## I. Introduction

1. The Registry hereby submits the present report and its 17 annexes consisting of email decisions (“Report”) pursuant to the “Decision on Publicity of Case Record” (“Decision”),<sup>1</sup> issued on 7 February 2017 by the Single Judge of Trial Chamber IX (“Single Judge” and “Chamber” respectively).

## II. Procedural history

2. On 7 February 2017, the Single Judge issued the Decision directing the Registry to file in the record of the case a monthly report containing all decisions issued by way of email (‘Monthly Report’).<sup>2</sup> Additionally, the Single Judge provided criteria for the application of redactions to the email decisions.<sup>3</sup>
3. The Chamber directed the parties and participants to: a) frame their requests made by email in a way that make their publicity possible; b) indicate the need for specific redactions to certain portions of the emails to the Registry sufficiently in advance of the filing of the Monthly Reports and; c) indicate in the email when emails cannot be made public at all.<sup>4</sup>
4. The Single Judge clarified in the Decision that emails related to the submission of evidence should not be part of the Monthly Reports.<sup>5</sup>

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<sup>1</sup> Trial Chamber IX, “Decision on Publicity of Case Record”, 7 February 2017, ICC-02/04-01/15-700.

<sup>2</sup> *Ibid.*, par. 4.

<sup>3</sup> Trial Chamber IX, Annex to the Decision on Publicity of Case Record, 7 February 2017, ICC-02/0401/15-700-AnxA, footnote 1.

<sup>4</sup> ICC-02/04-01/15-700, para 4.

<sup>5</sup> *Ibid.*, par. 5.

5. On 21 March 2017, the Registry filed its report on the implementation of the Decision (“Registry’s Report”),<sup>6</sup> which included the additional guidelines that were provided by the Chamber and the procedure that was followed to enable the participants to suggest specific additional redactions.<sup>7</sup>
6. On 24 July 2020, the Registry compiled email decisions issued by the Chamber<sup>8</sup> following the report filed in February 2020.<sup>9</sup>

### III. Applicable law

7. For the purpose of the present submission, the Registry considered articles 64(7), 64(10) and 67(1) of the Rome Statute and rule 137 of the Rules of Procedure and Evidence.

### IV. Submission

8. In the Decision, the Single Judge provided the Registry with guidance as to the application of redactions, where applicable:

The name of the staff member sending the email on behalf of the Chamber shall be redacted from the body of the email. Further, any private email address shall be redacted. When a decision concludes a chain of emails, these emails shall also be filed in the record of the case. Should the participants wish that specific redactions be applied thereto it shall indicate them to the Chamber and the Registry in a timely manner.<sup>10</sup>

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<sup>6</sup> Registry, “Registry’s Report implementing the “Decision on Publicity of Case Record””, 22 March 2017, ICC-02/04-01/15-780.

<sup>7</sup>*Ibid.*, paras 8 and 9.

<sup>8</sup> Email sent by the Head Judicial Operations Unit on 24 July 2020 at 20:03.

<sup>9</sup> Registry, “Registry’s Report Filing in the Record of the Case Decisions issued by way of email from June 2019 to January 2020”, ICC-02/04-01/15-1714, 4 February 2020.

<sup>10</sup> Trial Chamber IX, Annex A to the Decision on Publicity of Case Record, 7 February 2017, ICC-02/04-01/15-700-AnxA, footnote 1.

9. In addition, as mentioned in the Registry's Report, the Chamber directed that redactions be implemented on: the "from", "to" and "cc" lines of the email headings, except for the reference to the email address "Trial Chamber IX communications" and; the names of Registry staff members and team members of the parties and participants, except for the Counsel and the Senior Trial Lawyer.<sup>11</sup>
10. In order to enable the parties and participants to suggest specific additional redactions, the Registry followed the procedure that was adopted for the purposes of the Registry's Report. Hence, the Registry liaised with the Office of the Prosecutor ("Prosecution"), the Defence, the Office of Public Counsel for Victims ("OPCV") and the Legal Representatives of Victims ("LRV") by email.<sup>12</sup> Redaction proposals were received and considered.<sup>13</sup>
11. Accordingly, the Registry applied redactions to emails set forth in the following 17 annexes:
- **Annex I:** email on 09 January 2020, "Decision on proposed redactions in 'Decision on Submitted Materials for D-0013' and 'Decision on Submitted Materials for D-0134'" at 13:52;
  - **Annex II:** email on 30 January 2020, "Order to submit a formal filing for an extension of time and shortening of response deadline" at 18:34;

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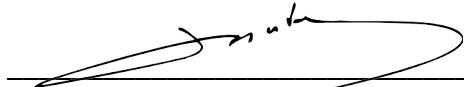
<sup>11</sup> Registry, "Registry's Report implementing the "Decision on Publicity of Case Record", 22 March 2017, ICC-02/04-01/15-780, para. 9.

<sup>12</sup> Email sent by the Head Judicial Operations Unit on 24 July 2020 at 20:03 containing annexes I to XVII.

<sup>13</sup> The Registry received proposals for further redactions from the Defence in relation to Annexes I, IX, X, XV and suggestions in relation to Annexes III, IV, VIII, XII on 25 July 2020 at 11:36. The parties and participants joined the proposals communicated by the Defence as follows, emails sent by the LRV on 29 July 2020 at 12:07, OPCV on 28 July 2020 at 8:15, OTP on 27 July 2020 at 11:37.

- **Annex III:** email on 14 February 2020, "decision on Prosecution Request for Extension of Deadline to File Responses to ICC-02/04-01/15-1718-Conf" at 14:19;
- **Annex IV:** email on 24 February 2020, "Decision on the Request of extension of time pursuant to Regulation 35" at 14:55;
- **Annex V:** email on 25 February 2020, "disclosure regarding information used by the Defence in its Closing Brief" at 12:33;
- **Annex VI:** email on 26 February 2020, "responses for relief requested in paragraph 731 of the Defence Closing Brief" at 18:09;
- **Annex VII:** email on 03 March 2020, "RE: disclosure regarding information used by the Defence in its Closing Brief" at 14:29;
- **Annex VIII:** email on 04 March 2020, "Prosecution request to re-classify 5 filings as 'confidential'" at 09:19;
- **Annex IX:** email on 09 March 2020, "RE: Request for Visitors to Mr Ongwen" at 14:57;
- **Annex X:** email on 09 March 2020, "RE: Request for Visitors to Mr Ongwen" at 17:34;
- **Annex XI:** email on 18 March 2020, "Decision on Request for clarification and possible variation of deadline and page-limit," at 09:22;
- **Annex XII:** email on 06 April 2020, "RE: Defence request for correction of transcript T-258" at 14:57;
- **Annex XIII:** email on 16 March 2020, "Decision to vary deadline for reply granted in ICC-02/04-01/15-1727" at 15:34;
- **Annex XIV:** email on 29 April 2020, "reclassification of filing ICC-02/04-01/15-1724-Conf" at 17:39;
- **Annex XV:** email on 23 June 2020, "RE: request for leave to file a combined response and reply to Defence filing 1743" at 17:38;
- **Annex XVI:** email on 14 July 2020, "reclassification of filing ICC-02/04-01/15-620-Conf-AnxB" at 17:25 and;

- **Annex XVII:** email on 21 July 2020, "Reclassification of filings ICC-02/04-01/15-248-Conf-Exp and ICC-02/04-01/15-1747-Conf" at 15:31.



Marc Dubuisson, Director of Division of Judicial Services  
On behalf of Peter Lewis, Registrar

Dated this 02 October 2020

At The Hague, The Netherlands