



Original: **English**

No.: ICC-02/04-01/15  
Date: 7 December 2015

**PRE-TRIAL CHAMBER II**

**Before: Judge Cuno Tarfusser, Single Judge**

**SITUATION IN UGANDA**

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

**PUBLIC**

**With**

**840 Confidential annexes *EX PARTE* only available to the Registry  
and the Prosecutor**

**840 Confidential redacted annexes  
And one Confidential annex**

**Fourth Report on Applications to Participate in the Proceedings**

**Source: Registry**

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

**The Office of the Prosecutor**

Ms. Fatou Bensouda, Prosecutor

Mr. James Stewart

Mr. Benjamin Gumpert

**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**

**Amicus Curiae**

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**REGISTRY**

**Registrar**

Mr. Herman von Hebel

**Counsel Support Section**

**Deputy Registrar**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

Ms. Fiona McKay

**Other**

**The Registrar of the International Criminal Court (the “Court”);**

**NOTING** the decision of the Single Judge of Pre-Trial Chamber II notified on 4 March 2015 (the “Decision of 4 March 2015”), establishing principles on the victims’ application process in the pre-trial proceedings in the case *The Prosecutor v. Dominic Ongwen* (the “Case”);<sup>1</sup>

**NOTING** the decision of the Single Judge of Pre-Trial Chamber II (the “Single Judge”), notified on 3 September 2015 (the “Decision of 3 September 2015”),<sup>2</sup> ordering the Registry to assess and transmit to the Chamber, the Prosecutor and the Defence,<sup>3</sup> by 18 September 2015, all complete victim applications received and collected as of 3 September 2015 which have been assessed against the factual parameters of the Case as set out in the warrant of arrest for Dominic Ongwen (the “Warrant of Arrest”),<sup>4</sup> and, thereafter, on a rolling basis and by 7 December 2015, all complete applications received and falling within the scope of the present Case, including in light of the Prosecutor’s concise statement of the facts underlying the crimes with which the Prosecutor intends to charge Dominic Ongwen;<sup>5</sup>

**NOTING** the Prosecutor’s Notice of intended charges against Dominic Ongwen, notified on 18 September 2015 (the “Prosecutor’s Notice”);<sup>6</sup>

**NOTING** the Registry’s first three transmissions of 209, 336 and 663 applications for participation in the proceedings, each filed together with a report to the Single Judge

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<sup>1</sup> ICC-02/04-01/15-205.

<sup>2</sup> ICC-02/04-01/15-299.

<sup>3</sup> Redacted, as appropriate.

<sup>4</sup> ICC-02/04-01/05-10.

<sup>5</sup> ICC-02/04-01/15-299, para. 10.

<sup>6</sup> A public redacted version was notified on 25 September 2015, ICC-02/04-01/15-305-Red2.

and the Parties and notified, respectively, on 18 September 2015,<sup>7</sup> 26 October 2015 and 27 October 2015,<sup>8</sup> and 18 November 2015 and 19 November 2015;<sup>9</sup>

**NOTING** articles 68(1) and (3) of the Rome Statute, rules 16, 85, 89 and 90 of the Rules of Procedure and Evidence (the “Rules”), and regulations 23*bis* and 86(5) of the Regulations of the Court (the “Regulations”);

**CONSIDERING** that to date the Registry has received in The Hague 2,086 applications for participation in the proceedings related to the current Case,<sup>10</sup> 1,208 of which have been transmitted to the Single Judge and the Parties with the first three transmissions of applications, and 840 further applications which have been assessed as complete and linked to the Case are being transmitted with the present transmission (the “Applications”);

**CONSIDERING** that, pursuant to regulation 23*bis*(1) of the Regulations, the annexes to the present document which include the Registry’s assessment of the Applications against the requirements of rule 85 of the Rules,<sup>11</sup> as well as both redacted and unredacted versions of these Applications, are respectively notified with the status “Confidential” and “Confidential *EX PARTE*, only available to the Registry and the Prosecutor”, since they contain information which may lead to the identification of the applicants;

**TRANSMITS** in accordance with the Decision of 3 September 2015 the present report on 840 applications for participation in the proceedings (the “Report”) along with:

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<sup>7</sup> ICC-02/04-01/15-303 and ICC-02/04-01/15-304.

<sup>8</sup> ICC-02/04-01/15-327-Conf-Exp-Anxs and Conf-Anxs-Red.

<sup>9</sup> ICC-02/04-01/15-344-Conf-Exp-Anxs and Conf-Anxs-Red.

<sup>10</sup> This figure includes duplicate applications, as well as 47 applications which were received before 2015 related to the Situation in Uganda and that are linked to the current Case.

<sup>11</sup> In compliance with the Single Judge’s instructions provided to the Victims Participation and Reparations Section on 19 October 2015.

- Confidential *EX PARTE* Annexes 1 to 840 which contain unredacted versions of the Applications,
- Confidential Annexes 1 to 840 which contain redacted versions of the Applications,<sup>12</sup>
- Confidential Annex 841 which contains the Registry's assessment of the Applications against the requirements of rule 85 of the Rules.

## Introduction

1. The Registry transmits to the Single Judge and the Parties 840 Applications together with the present Report, pursuant to regulation 86(5) of the Regulations.<sup>13</sup> The Applications filed with the present transmission fall within the following groups:<sup>14</sup> 86 applications belonging to the group "Attack on the Pajule IDP camp", 107 applications belonging to the group "Attack on the Odek IDP camp", 456 applications belonging to the group "Attack on the Lukodi IDP camp", 117 applications belonging to the group "Attack on the Abok IDP camp", 22 applications belonging to the group "Persecution", 42 applications belonging to the group "Sexual and gender based crimes" and 10 applications belonging to the group "Conscription and use of child soldiers".
2. In compliance with the Decision of 3 September 2015, the Registry transmits only those applications which it assesses as complete and in which the applicant alleges to have personally suffered harm, whether direct or indirect, as a result of

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<sup>12</sup> ICC-02/04-01/15-299, para. 6. As explained in the Registry's report filed with its first transmission of applications, applications are transmitted to the Defence in redacted form, ICC-02/04-01/15-303, paras. 18-20.

<sup>13</sup> Including 4 duplicates which were merged with their relevant master applications: a/06285/15, a/05049/15, a/05602/15, and a/05238/15. The Registry notes that applications a/0326/07, a/0375/08, a/2923/10, a/2926/10, and a/40015/14 received by the Registry between 2007 and 2014, used Standard Application Forms for participation, as opposed to the Simplified Form adopted for the purpose of participation in the present case (ICC-02/04-01/15-205, paras. 14-22).

<sup>14</sup> Following the issuance of the Prosecutor's Notice on 18 September 2015 and in accordance with the Decision of 4 March 2015 (ICC-02/04-01/15-205, para. 29), the Registry organises the applications received into 4 groups according to the main incidents laid out in the Notice: Pajule IDP camp, Odek IDP camp, Lukodi IDP camp, Abok IDP camp; and 3 additional groups corresponding to categories of alleged crimes as separately outlined in the Notice: Persecution, Sexual and gender based crimes, and Conscription and use of child soldiers. Each application has been allocated to one group, even in cases where they could have fallen into more than one group.

one or more crimes with which Dominic Ongwen is charged,<sup>15</sup> as laid out in the Warrant of Arrest and the Prosecutor's Notice. In assessing the Applications against the requirements of rule 85 of the Rules, the Registry has continued to follow the approach described in the Registry's reports filed with the first three transmissions of applications.<sup>16</sup> As regards the crimes of persecution, sexual and gender based crimes, and conscription and use of child soldiers the Registry has assessed as falling within the scope of the Case applications where these crimes are alleged to have been committed at the date and locations listed in the Prosecutor's Notice<sup>17</sup> or in which there is a mention of, or a link to, Dominic Ongwen and/or the Sinia Brigade.

3. The Registry notes that with this fourth transmission of applications, all complete applications received in relation to the present Case have now been assessed and transmitted to the Single Judge and the Parties in accordance with the deadline set out in the Decision of 3 September 2015. A further 30 applications received<sup>18</sup> have been assessed by the Registry as either incomplete or as falling outside of the scope of the Case, and are therefore not transmitted to the Single Judge and the Parties.

### **Information on the Applicants' Views on Legal Representation**

4. At least 645 applicants<sup>19</sup> whose applications for participation are filed with the present transmission have indicated either directly in their application forms or in a separate power of attorney their wish to be represented by two lawyers, Mr.

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<sup>15</sup> ICC-02/04-01/15-299, para. 4.

<sup>16</sup> ICC-02/04-01/15-303, paras. 6-17, ICC-02/04-01/15-327, para. 2, and ICC-02/04-01/15-344, para. 2. Following the approach detailed in the Registry's report filed with its first transmission of applications (ICC-02/04-01/15-303, footnote 14), the Registry transmits applications a/06615/15 and a/06787/15 which were submitted by 17-year old applicants applying on their own behalf.

<sup>17</sup> ICC-02/04-01/15-305-Red2, paras. 30-31, 35, 49 and 52.

<sup>18</sup> In compliance with the Decision of 3 September 2015 (ICC-02/04-01/15-299), para.5. This figure refers to applications received in 2015 in the context of the admission process for participation in the current Case and does not take into account applications received before 2015 in the context of the Situation in Uganda.

<sup>19</sup> The Registry is still in the process of matching powers of attorney received with applications for participation.

Francisco Cox and/or Mr. Joseph Akwenyu Manoba.<sup>20</sup> These two lawyers are registered on the ICC List of Counsel and have been chosen as legal representatives by some participating victims in the Case.<sup>21</sup> The Registry further notes that applicants a/0326/07, a/0375/08, a/2923/10, a/2926/10 and a/40015/14 are currently represented by the OPCV in the context of the Situation in Uganda.<sup>22</sup>

5. The Registry has continued to compile answers provided by applicants regarding their preference with regards to legal representation<sup>23</sup> with a view to providing information relevant, *inter alia*, for the number and composition of legal team(s) representing the victims. As has been the case with the previous transmissions, the great majority of applicants included in the present transmission do not object to the possibility of one legal representative (or one team of lawyers) representing all the victims participating in the Case; and the Registry has not identified a conflict of interest necessitating more than one group of victims for the purpose of common legal representation.
6. The great majority of applicants have not provided further views on the skills or qualities they wish for in a legal representative other than stating that they have chosen to be represented by Mr. Cox and/or Mr. Akwenyu Manoba.<sup>24</sup> Otherwise, the most common answers are that applicants wish to be represented by someone who has ethical integrity,<sup>25</sup> who shows qualities such as kindness or a

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<sup>20</sup> 9 applicants only indicated their wish to be represented by Mr. Joseph Akwenyu Manoba.

<sup>21</sup> ICC-02/04-01/15-350.

<sup>22</sup> ICC-02/04-191, para. 30.

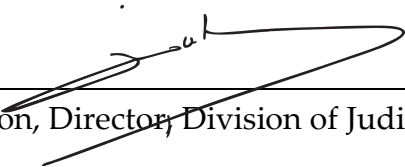
<sup>23</sup> The Registry's consultation of applicants on their preference regarding legal representation is further described in the Registry's report filed with its first transmission of applications, ICC-02/04-01/15-303, para. 21. The Registry notes that applicants a/0326/07, a/0375/08, a/2923/10, a/2926/10 and a/40015/14 were not consulted on their preferences regarding legal representation, since their application forms were filled in and received by the Registry prior to the current admission process for participation in the present Case.

<sup>24</sup> Around 625 applicants.

<sup>25</sup> Around 110 applicants out of around 215 applicants who have answered this question.

sense of caring for them and their situation,<sup>26</sup> and/or has the required competence or experience.<sup>27</sup>

**RESPECTFULLY SUBMITTED,**

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Marc Dubuisson, Director, Division of Judicial Services  
*per* delegation of  
Herman von Hebel, Registrar

Dated this 7 December 2015

At The Hague, the Netherlands

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<sup>26</sup> Around 55 applicants.

<sup>27</sup> Around 80 applicants.