

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 22 May 2015

PRE-TRIAL CHAMBER II

Before: Judge Cuno Tarfusser, Single Judge

SITUATION IN UGANDA

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

Public

Order reclassifying documents in the record of the case

Decision to be notified, in accordance with regulation 31 of the Regulations of the Court, to:

The Office of the Prosecutor

Fatou Bensouda

James Stewart

Benjamin Gumpert

Counsel for the Defence

Krispus Ayena Odongo

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

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

States Representatives

Amicus Curiae

REGISTRY

Registrar

Herman von Hebel

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Judge Cuno Tarfusser, Single Judge exercising the functions of the Chamber in the present case, issues this order reclassifying documents in the record of the case under regulation 23 *bis* (3) of the Regulations of the Court.

1. The Single Judge notes articles 54(3)(f), 57(3)(c) and 68(1) of the Rome Statute. For the purpose of issuance of the present order, the Single Judge has reviewed the record of the case and taken into account the submissions of the Prosecutor of 7 May 2015 (ICC-02/04-01/15-231 and annexes) and a report of the Registrar dated 8 May 2015 (ICC-02/04-01/15-233 and annexes). Given that supplementary submissions are still expected of the Prosecutor, the present order does not address all filings in the record of the case. The Single Judge will decide on the appropriate level of classification of the remaining non-public documents upon receipt of the Prosecutor's supplementary submissions.

2. A number of documents in the record of the case are to be reclassified as "public", "confidential" or "confidential, *ex parte*, only available to the Prosecutor and/or the Defence", as specified below. In respect of documents which originate in the record of the case of *The Prosecutor v. Joseph Kony et al.*, the level of classification is adapted in both records.

3. For documents which require a stricter level of classifications, the parties should file confidential or public redacted versions as appropriate. Any public redacted versions of documents copied from the record of the *Kony et al.* case should also be filed in that record.

4. For the sake of clarity of the record, the Single Judge notes that in spite of the Prosecutor's submissions certain documents need not be reclassified as they are already available to the Defence and their reclassification as public does not appear appropriate (ICC-02/04-01/15-3-Conf-Exp-AnxA, ICC-02/04-01/15-3-Conf-Exp-AnxB, ICC-02/04-01/15-3-Conf-Exp-AnxC, ICC-02/04-01/15-

3-Conf-Exp-AnxD, ICC-02/04-01/15-3-Conf-Exp-AnxE, ICC-02/04-01/15-3-Conf-Exp-AnxF, ICC-02/04-01/15-3-Conf-Exp-AnxG, ICC-02/04-01/15-3-Conf-Exp-AnxI, ICC-02/04-01/15-3-Conf-Exp-AnxI1, ICC-02/04-01/15-3-Conf-Exp-AnxI2, ICC-02/04-01/15-3-Conf-Exp-AnxI3, ICC-02/04-01/15-3-Conf-Exp-AnxI4, ICC-02/04-01/15-3-Conf-Exp-AnxI5, ICC-02/04-01/15-3-Conf-Exp-AnxJ, ICC-02/04-01/15-3-Conf-Exp-AnxL, ICC-02/04-01/15-3-Conf-Exp-AnxM, ICC-02/04-01/15-3-Conf-Exp-AnxU, ICC-02/04-01/15-3-Conf-Exp-AnxX, ICC-02/04-01/15-136-Conf-Exp-AnxD and ICC-02/04-01/15-136-Conf-Exp-AnxE).

5. Upon the Prosecutor's suggestion, it is also appropriate to copy into the record of the case certain other annexes, relevant to the present case, to the Prosecutor's application under article 58 of the Statute, and to make them available to the Defence.

6. The record currently contains two confidential redacted versions of the Prosecutor's application for a warrant of arrest under article 58 of the Statute (ICC-02/04-01/15-3-Conf-Red and ICC-02/04-01/15-3-Conf-Red2) each of which contains several redactions which are not present in the other. It is therefore necessary that the Prosecutor review both documents and file in the record of the case a third redacted version which redacts only information which is redacted in both current redacted versions.

FOR THESE REASONS, THE SINGLE JUDGE

ORDERS the Registrar to reclassify as "public" the following documents:

- ICC-02/04-01/15-15-US-Exp, ICC-02/04-01/15-15-US-Exp-tFRA, ICC-02/04-01/05-23-US-Exp and ICC-02/04-01/05-23-US-Exp-tFR;
- ICC-02/04-01/15-50-US-Exp and ICC-02/04-01/05-74-US-Exp;
- ICC-02/04-01/15-86-Conf-Exp and ICC-02/04-01/05-149-Conf-Exp;

- ICC-02/04-01/15-87-Conf-Exp, ICC-02/04-01/15-87-Conf-Exp-tFRA, ICC-02/04-01/05-151-Conf-Exp and ICC-02/04-01/05-151-Conf-Exp-tFR;
- ICC-02/04-01/15-92-Conf-Exp and ICC-02-04-01/05-167-Conf-Exp;
- ICC-02/04-01/15-92-Conf-Exp-Anx and ICC-02/04-01/05-167-Conf-Exp-Anx;
- ICC-02/04-01/15-93-Conf-Exp, ICC-02/04-01/15-93-Conf-Exp-tFRA, ICC-02/04-01/05-213-Conf-Exp and ICC-02/04-01/05-213-Conf-Exp-tFR;
- ICC-02/04-01/15-98-Conf-Exp, ICC-02/04-01/15-98-Conf-Exp-tFRA, ICC-02/04-01/05-227-Conf-Exp and ICC-02/04-01/05-227-Conf-Exp-tFR;
- ICC-02/04-01/15-100-Conf-Exp, ICC-02/04-01/15-100-Conf-Exp-tFRA, ICC-02/04-01/05-235-Conf-Exp and ICC-02/04-01/05-235-Conf-Exp-tFRA;
- ICC-02/04-01/15-101-Conf-Exp, ICC-02/04-01/15-101-Conf-Exp-tFRA, ICC-02/04-01/05-237-Conf-Exp and ICC-02/04-01/05-237-Conf-Exp-tFRA;
- ICC-02/04-01/15-102-Conf-Exp, ICC-02/04-01/15-102-Conf-Exp-tFRA, ICC-02/04-01/05-240-Conf-Exp and ICC-02/04-01/05-240-Conf-Exp-tFRA;
- ICC-02/04-01/15-122-Conf and ICC-02/04-01/05-329-Conf;
- ICC-02/04-01/15-126-Conf-Exp and ICC-02/04-01/05-334-Conf-Exp;
- ICC-02/04-01/15-128-Conf-Exp and ICC-02/04-01/05-336-Conf-Exp;
- ICC-02/04-01/15-136-Conf-Exp-AnxB and ICC-02/04-01/05-347-Conf-Exp-AnxB;
- ICC-02/04-01/15-136-Conf-Exp-AnxC and ICC-02/04-01/05-347-Conf-Exp-AnxC;
- ICC-02/04-01/15-159-Conf-Exp and ICC-02/04-01/05-380-Conf-Exp;
- ICC-02/04-01/15-186-Conf-Anx and ICC-02/04-01/05-416-Conf-Anx;
- ICC-02/04-01/15-187-Conf-Exp and ICC-02/04-01/05-417-Conf-Exp;

- ICC-02/04-01/15-188-Conf-Exp-Anx and ICC-02/04-01/05-418-Conf-Exp-Anx;
- ICC-02/04-01/15-191-Conf-Anx-Red and then to copy said document into the record of the *Kony* et al. case as ICC-02/04-01/05-421-Anx-Red (“public”);
- ICC-02/04-01/15-201-Conf-AnxIV;
- ICC-02/04-01/15-T-3-CONF-EXP-ENG and ICC-02/04-01/15-T-3-CONF-EXP-FRA; and
- ICC-02/04-01/15-T-5-CONF-EXP-ENG and ICC-02/04-01/15-T-5-CONF-EXP-FRA;

ORDERS the Registrar to reclassify as “confidential” the following documents:

- ICC-02/04-01/15-17-US-Exp;
- ICC-02/04-01/15-57-US-Exp-Anx1; and
- ICC-02/04-01/15-195-Conf-Exp-AnxA;

ORDERS the Registrar to reclassify as “confidential, *ex parte*, only available to the Prosecutor and the Defence” the following documents:

- ICC-02/04-01/15-3-Conf-Exp-AnxH;
- ICC-02/04-01/15-3-Conf-Exp-AnxK; and
- ICC-02/04-01/15-3-Conf-Exp-AnxV;

ORDERS the Registrar to reclassify as “confidential, *ex parte*, only available to the Prosecutor” the following documents:

- ICC-02/04-01/15-3-US-Exp;
- ICC-02/04-01/15-9-US-Exp;
- ICC-02/04-01/15-16-US-Exp;
- ICC-02/04-01/15-26-US-Exp;
- ICC-02/04-01/15-36-US-Exp;

- ICC-02/04-01/15-38-US-Exp; and
- ICC-02/04-01/15-49-US-Exp;

ORDERS the Registrar to reclassify as “confidential, *ex parte*, only available to the Defence” document ICC-02/04-01/15-194-Conf-Exp;

ORDERS the Prosecutor to file, as appropriate, public and/or confidential redacted versions of the following documents:

- ICC-02/04-01/15-91-Conf-Exp;
- ICC-02/04-01/15-95-Conf-Exp; and
- ICC-02/11-01/15-99-Conf-Exp;

ORDERS the Prosecutor to file in the record of the case a new redacted version of document ICC-02/04-01/15-3-US-Exp redacting only information which is redacted in both document ICC-02/04-01/15-3-Conf-Red and document ICC-02/04-01/15-3-Conf-Red2;

ORDERS the Registrar to file, as appropriate, public and/or confidential redacted versions of the following documents:

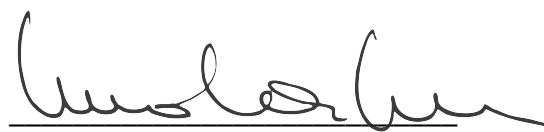
- ICC-02/04-01/15-94-Conf-Exp;
- ICC-02/04-01/15-218-Conf-Exp; and
- ICC-02/04-01/15-230-Conf-Exp;

ORDERS the Registrar to copy the following documents into the record of the case, as “confidential, *ex parte*, only available to the Prosecutor and the Defence”:

- ICC-02/04-01/15-3-Conf-Exp-AnxN;
- ICC-02/04-01/15-3-Conf-Exp-AnxO;
- ICC-02/04-01/15-3-Conf-Exp-AnxP;
- ICC-02/04-01/15-3-Conf-Exp-AnxQ1;
- ICC-02/04-01/15-3-Conf-Exp-AnxQ2;

- ICC-02/04-01/15-3-Conf-Exp-AnxQ3;
- ICC-02/04-01/15-3-Conf-Exp-AnxQ4;
- ICC-02/04-01/15-3-Conf-Exp-AnxQ5;
- ICC-02/04-01/15-3-Conf-Exp-AnxQ6;
- ICC-02/04-01/15-3-Conf-Exp-AnxQ7;
- ICC-02/04-01/15-3-Conf-Exp-AnxQ8;
- ICC-02/04-01/15-3-Conf-Exp-AnxQ9;
- ICC-02/04-01/15-3-Conf-Exp-AnxQ10;
- ICC-02/04-01/15-3-Conf-Exp-AnxQ11;
- ICC-02/04-01/15-3-Conf-Exp-AnxQ12;
- ICC-02/04-01/15-3-Conf-Exp-AnxQ13;
- ICC-02/04-01/15-3-Conf-Exp-AnxQ14;
- ICC-02/04-01/15-3-Conf-Exp-AnxQ15;
- ICC-02/04-01/15-3-Conf-Exp-AnxR;
- ICC-02/04-01/15-3-Conf-Exp-AnxR1;
- ICC-02/04-01/15-3-Conf-Exp-AnxR2;
- ICC-02/04-01/15-3-Conf-Exp-AnxR3;
- ICC-02/04-01/15-3-Conf-Exp-AnxR4; and
- ICC-02/04-01/15-3-Conf-Exp-AnxS.

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



Judge Cuno Tarfusser
Single Judge

Dated this 22 May 2015

At The Hague, The Netherlands