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

Date of original: **21 October 2015**

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PRE-TRIAL CHAMBER II

Before: Judge Cuno Tarfusser, Single Judge

SITUATION IN UGANDA

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

Public redacted

Decision on the “Defence Request to Amend the Schedule of the Second Article 56 of the Rome Statute Hearing Pursuant to ICC-02/04-01/15-316-Conf”

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

Nigel Verrill

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 decision on the “Defence Request to Amend the Schedule of the Second Article 56 of the Rome Statute Hearing Pursuant to ICC-02/04-01/15-316-Conf” (ICC-02/04-01/15-321-Conf), filed on 19 October 2015.

1. On 12 October 2015, the Single Judge issued the “Decision on the ‘Second Prosecution application to the Pre-Trial Chamber to preserve evidence and take measures under article 56 of the Rome Statute’” (ICC-02/04-01/15-316-Conf), deciding that witnesses P-99, P-101, P-198, P-214, P-235 and P-236 would, subject to their willingness, give testimony commencing on 2 November 2015, and specifying that sessions would be held, as necessary, in the first three weeks of November 2015.

2. The Defence requests postponement of the commencement of the taking of testimony by a week, *i.e.* to 9 November 2015, due to its “resource constraints” related to the fact that the Assistant to Counsel has had to take unexpected leave to [REDACTED] and the fact that the Case Manager had a prior arranged leave scheduled from 25 October to 7 November 2015. In addition, the Defence submits that during previous hearings of a similar kind Dominic Ongwen “had a hard time following witness’ testimony which caused him distress” and requests that the hearings be scheduled with one day of break between successive witnesses. Finally, the Defence also requests that hearings are scheduled in a way to enable Dominic Ongwen to attend his English classes.

3. The Prosecutor did not respond to the Defence request by the time limit of 20 October 2015, which had been communicated by way of email.

4. The Single Judge, upon verification of the availability of a courtroom and associated services, considers it appropriate in the present circumstances

to postpone the commencement of the taking of testimonies of the six witnesses by one week. It is emphasised that this postponement is solely on the ground that the Assistant to Counsel has had to take unexpected leave due to [REDACTED].

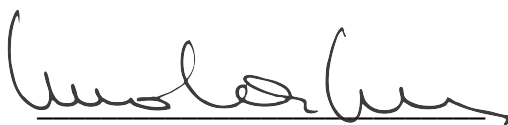
5. The other reasons put forward by the Defence either for the requested postponement or for an adjustment to the schedule of the taking of testimony are not such that they can have impact on the conduct of judicial proceedings. This is manifestly the case with the Case Manager's leave plans and with Dominic Ongwen's schedule of English lessons. As for Dominic Ongwen's ability to follow the proceedings comfortably, it is his Defence team's responsibility to assist him in doing so.

6. Accordingly, the taking of testimony of the six witnesses will commence on 9 November 2015 (14.30 – 19.00), and continue, as necessary, on 10 (14.30 – 19.00), 11 (9.00 – 13.30), 16 (14.30 – 19.00), 17 (14.30 – 19.00), 18 (14.30 – 19.00), 19 (9.00 – 13.30), 23 (9.30 – 16.00), 24 (14.30 – 19.00), 25 (9.30 – 16.00), 26 (9.30 – 16.00) and 27 November 2015 (9.30 – 16.00). The first witness to testify will be [REDACTED] (P-101), and the order of the remaining witnesses, which is subject to their availability, will be communicated to the parties in due course.

FOR THESE REASONS, THE SINGLE JUDGE

DECIDES that the taking of testimony of witnesses [REDACTED] (P-99), [REDACTED] (P-101), [REDACTED] (P-198), [REDACTED] (P-214), [REDACTED] (P-235) and [REDACTED] (P-236) shall commence on 9 November 2015 and continue as specified at paragraph 6 above.

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

A handwritten signature in black ink, appearing to read 'Cuno Tarfusser', written over a horizontal line.

Judge Cuno Tarfusser
Single Judge

Dated this 21 October 2015

At The Hague, the Netherlands