



Original: English

No.: ICC-02/04-01/15
Date: 14 November 2016

TRIAL CHAMBER IX

Before: Judge Bertram Schmitt, Single Judge

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

Public

**Decision on Registry's Request for Clarification on the Issue of Legal Assistance
Paid by the Court for the Legal Representatives of Victims**

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

Joseph Akwenyu Manoba
and Francisco Cox
Paolina Massidda

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

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Judge Bertram Schmitt, acting as Single Judge on behalf of Trial Chamber IX ('Single Judge' and 'Chamber', respectively) of the International Criminal Court ('Court'), in the case of *The Prosecutor v. Dominic Ongwen*, having regard to Rule 90 of the Rules of Procedure and Evidence ('Rules') and Regulations 83 and 85 of the Regulations of the Court ('Regulations'), issues the following 'Decision on Registry's Request for Clarification on the Issue of Legal Assistance Paid by the Court for the Legal Representatives of Victims'.

1. The Single Judge is seized with a request whereby the Registry seeks 'the guidance of the Chamber on the issue of eligibility' for legal aid for the legal representation provided by Joseph Akwenyu Manoba and Francisco Cox ('LRVs') to a number of victims participating in the present case.¹ The Registry also notifies the Chamber that it is its intention to decide 'subject to any guidance received from the Chamber' on a renewed application for legal assistance paid by the Court which was submitted by the LRVs on 10 October 2016.²
2. The Single Judge recalls that, on 26 May 2016, prompted by a request by the LRVs,³ he determined that 'the legal representation provided by the LRVs [...] is not eligible for being covered by legal aid funds'.⁴ This determination was made on the grounds that: (i) as a matter of fact, the LRVs were individually chosen by the victims concerned in the exercise of their rights under Rule 90(1) to choose their legal representative, and were not common legal representatives chosen by the Court within the meaning of Rule 90(5) of the Rules; (ii) as a matter of law, the plain contextual and teleological interpretation of Rule 90(5) makes it clear that victims who individually choose their own legal

¹ Registry's request for clarification on the issue of legal assistance paid by the Court for the Legal Representatives of Victims, 1 November 2016, ICC-02/04-01/15-581, para. 12.

² ICC-02/04-01/15-581, para. 2.

³ Request for a determination concerning legal aid, 13 May 2016, ICC-02/04-01/15-434-Corr.

⁴ Decision on the 'Request for a determination concerning legal aid' submitted by the legal representatives of victims, 26 May 2016, ICC-02/04-01/15-445.

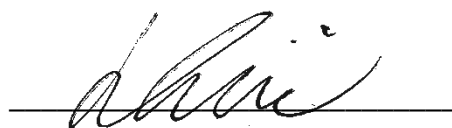
representatives do not qualify for financial assistance as a matter of right from the Court; and (iii) to accept that all Rule 90(1) legal representatives be given legal assistance would result in ‘an inevitably unwieldy system’ whereby the Court, when upholding the right of victims to appoint counsel of their own choice, would also be obligated to provide financial assistance to any legal representative appointed by any victims’ group, even if this results in dozens of such representatives being part of the legal aid scheme for a single case.⁵

3. At the same time, the Single Judge does not consider that a new or amended guidance on the matter be given by the Chamber if the Registry deems it necessary to decide on its own the LRVs’ further request for legal assistance paid by the Court according to Regulation 85(1) of the Regulations. The LRVs may seize the Presidency for review as provided for in Regulation 85(3) of the Regulations.

FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY

DECIDES that no further guidance is warranted.

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



Judge Bertram Schmitt
Single Judge

Dated 14 November 2016

At The Hague, The Netherlands

⁵ ICC-02/04-01/15-445, paras 6-12.