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No.: ICC-02/04-01/15
Date: 18 November 2016

TRIAL CHAMBER IX

Before: Judge Bertram Schmitt, Presiding Judge
Judge Péter Kovács
Judge Raul C. Pangalangan

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

Public

Third Decision on the Review of Dominic Ongwen's Detention

To be notified, in accordance with Regulation 31 of the Regulations of the Court, to:

The Office of the Prosecutor

Fatou Bensouda
James Stewart
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Counsel for the Defence

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Legal Representatives of the Victims

Joseph Akwenyu Manoba
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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

Trial Chamber IX ('Chamber') of the International Criminal Court, in the case of *The Prosecutor v. Dominic Ongwen*, having regard to Article 60(3) of the Rome Statute ('Statute') and Rule 118(2) of the Rules of Procedure and Evidence, issues the following 'Third Decision on the Review of Dominic Ongwen's Detention'.

1. On 27 November 2015, the Single Judge of the Pre-Trial Chamber ('PTC Single Judge') issued the 'Decision on the "Defence Request for the Interim Release of Dominic Ongwen"' ('Interim Release Decision'),¹ rejecting the Defence request that Mr Ongwen be released, and specifying the reasons why his detention was warranted, pursuant to Article 58(1)(b)(i) and (ii) of the Statute.²
2. Subsequently, on 23 March 2016, the PTC Single Judge issued the first decision reviewing Mr Ongwen's detention ('First Review Decision'),³ finding that there had not been any change in the circumstances requiring Mr Ongwen's detention since the issuance of the Interim Release Decision.⁴ The PTC Single Judge decided that Mr Ongwen must remain in detention.⁵
3. On 21 July 2016, the Chamber issued the second decision reviewing Mr Ongwen's detention ('Second Review Decision'),⁶ finding that there had not been any change in the circumstances requiring modification of the Interim Release Decision and that any conditions on a proposed release to Uganda would not adequately mitigate the risks that Mr Ongwen may abscond, or obstruct or endanger the investigation or court proceedings.⁷

¹ Decision on 'Defence Request for the Interim Release of Dominic Ongwen', 27 November 2015, ICC-02/04-01/15-349.

² Decision on Interim Release, ICC-02/04-01/15-349, paras 14-25.

³ Decision on the Review of Dominic Ongwen's Detention pursuant to Article 60(3) of the Statute, 23 March 2016, ICC-02/04-01/15-421.

⁴ First Review Decision, ICC-02/04-01/15-421, paras 4-7.

⁵ First Review Decision, ICC-02/04-01/15-421, page 5.

⁶ Decision on the Review of Dominic Ongwen's Detention and on the Restriction on Communication, ICC-02/04-01/15-503.

⁷ Second Review Decision, ICC-02/04-01/15-503, paras 10 and 15.

4. On 25 September 2016, the Single Judge of the Trial Chamber requested the participants' observations on Mr Ongwen's detention.⁸
5. The defence for Mr Ongwen ('Defence') did not submit any observations on Mr Ongwen's continued detention or release.⁹ On 21 October 2015, the Office of the Prosecutor ('Prosecution') filed its observations on Mr Ongwen's continued detention.¹⁰ On the same day, the Office of Public Counsel for Victims ('OPCV') also filed its observations.¹¹ The Prosecution and the OPCV argue that there has been no change in circumstances that would require or justify a modification of the measures currently in place.¹² The Defence did not file a response to the Prosecution and OPCV's observations.
6. On the basis of the submissions and the available information, the Chamber finds that there has been no change in the circumstances which would warrant a modification of its prior ruling on detention. The Chamber is also of the view that there is no need to consider conditional release, as no proposals have been presented or are self-evident.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY:

DECIDES that Dominic Ongwen shall remain in detention.

⁸ Order Requesting Observations on Dominic Ongwen's Detention, 26 September 2016, ICC-02/04-01/15-541. The Defence was to submit its observations, if any, on 7 October 2016. The Prosecution and the Legal Representatives of Victims were to submit their observations by 21 October 2016. The Defence was to submit a response to the other participants' observations, if any, by 28 October 2016.

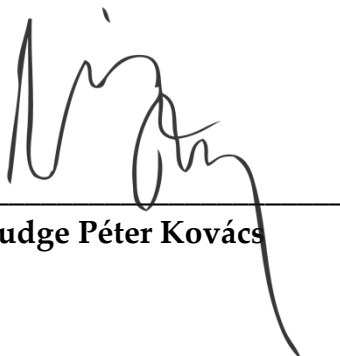
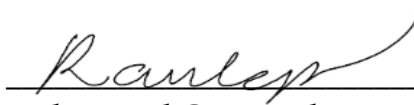
⁹ On 7 October 2016, the Defence requested a pre-trial detention hearing pursuant to Rule 118(3) of the Rules. Defence Request for a Hearing Pursuant to Rule 118(3) of the Rules of Procedure and Evidence, 7 October 2016, ICC-02/04-01/15-560. The Single Judge rejected this request in the 'Decision on Defence Request for a Hearing Pursuant to Rule 118(3) of the Rules of Procedure and Evidence', 17 October 2016, ICC-02/04-01/15-568.

¹⁰ Prosecution's observations on Mr Ongwen's detention, 21 October 2016, ICC-02/04-01/15-571.

¹¹ Observations on the periodic review of the Accused's detention, 21 October 2016, ICC-02/04-01/15-572.

¹² ICC-02/04-01/15-571, para. 3 and ICC-02/04-01/15-572, paras 4-5.

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


Judge Bertram Schmitt, Presiding Judge
Judge Péter Kovács
Judge Raul C. Pangalangan

Dated 18 November 2016

At The Hague, The Netherlands