

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/04-01/15
Date: 30 August 2017

TRIAL CHAMBER IX

Before: Judge Bertram Schmitt, Single Judge

SITUATION IN UGANDA

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

Public

Decision on LRV Request Concerning the Deaths of Participating 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 Victims

Joseph Akwenyu Manoba
Francisco Cox
Paolina Massidda

Legal Representatives of 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**

Others

Philipp Ambach

Judge Bertram Schmitt, acting as Single Judge on behalf of Trial Chamber IX ('Single Judge' and 'Chamber', respectively) of the International Criminal Court, in the case of *The Prosecutor v. Dominic Ongwen*, having regard to Article 68(3) of the Rome Statute, Rules 85 and 89 of the Rules of Procedure and Evidence and Regulation 34 of the Regulations of the Court, issues the following 'Decision on LRV Request Concerning the Deaths of Participating Victims'.

1. On 16 August 2017, the team of external legal representatives of victims ('LRV') notified the Chamber that seven participating victims in the case had died since January 2016 ('Request').¹ The LRV requests that the Chamber: (i) recognise these deaths and, if it so wishes, order the Registry to file an updated consolidated list of participating victims² and (ii) recognise that the reparations requests made by these victims are not extinguished by their deaths and may be continued on their behalf by appropriate successors.
2. No responses to the Request were filed.
3. The Single Judge recalls the applicable procedure for admission of victims to participate in the present case.³ The Single Judge also notes the Court's resumption of action jurisprudence, whereby closely-connected individuals may continue the action initiated by a participating victim who dies. To resume the action on behalf of a deceased victim, an applicant must provide sufficient evidence: (i) of the death of the victim; (ii) of his or her relationship to the victim; and, at least where the applicant cannot easily be presumed to be entitled to

¹ Notification concerning the deaths of seven participating victims, ICC-02/04-01/15-943. The deceased victims are: a/05007/15, a/05379/15, a/05491/15, a/06293/15, a/00430/16, a/00511/16 and a/00532/16.

² For the latest consolidated list, *see* Consolidated list of victims admitted to participate in the proceedings, 30 November 2016, ICC-02/04-01/15-614 (with one annex).

³ Order Scheduling First Status Conference and Other Matters, 4 May 2016, ICC-02/04-01/15-432, para. 4 n. 9, *citing* Decision concerning the procedure for admission of victims to participate in the proceedings in the present case, 3 September 2015, ICC-02/04-01/15-299.

resume the action, (iii) demonstrating his or her appointment by the deceased victim's family members.⁴

4. The Single Judge notes that the LRV does not advance any concrete resumption of action applications at this time. However, by way of the relief sought in the Request, the LRV effectively seeks guidance as to how deceased victims and resumptions of action will be recognised in this case. Going forward, the Single Judge sets the following procedure:
 - (i) When a participating victim dies, the victim's legal representative is to inform the Victims Participation and Reparations Section ('VPRS'). The VPRS is then to amend the consolidated list of participating victims accordingly. The VPRS need not formally file an updated list each time an amendment is required, but an updated consolidated list must be so filed at least twice per calendar year until the conclusion of the proceedings before this Chamber.
 - (ii) Resumption of action applications, including the necessary supporting materials, must be provided to the VPRS. The VPRS is then to transmit them to the Chamber and, at the same time, to the Office of the Prosecutor, defence for Mr Ongwen and legal representatives of victims. Redactions may be applied to the versions transmitted as necessary.
 - (iii) The time limit for any specific objections to the resumption of action is set at 14 days from notification of the relevant application(s).
 - (iv) In case any objection is raised, the Single Judge will assess the contested application. Conversely, and unless otherwise ordered, when no objection is raised the resumption of action is granted.
 - (v) Any granted resumption of action must be reflected in the updated list specified in point (i) above.

⁴ Trial Chamber III, *The Prosecutor v. Jean-Pierre Bemba Gombo*, Second decision on applications for resumption of actions initiated by deceased victims, 29 August 2017, ICC-01/05-01/08-3558, paras 3-4; Trial Chamber II, *The Prosecutor v. Germain Katanga*, Decision on the applications for resumption of action lodged by the family members of deceased victims a/0015/09, a/0032/08, a/0057/08, a/0166/09, a/0192/08, a/0225/09, a/0281/08, a/0282/09, a/0286/09, a/0298/09, a/0354/09, a/0361/09, a/0391/09, a/2743/10 and a/30490/15, 20 May 2016, ICC-01/04-01/07-3691-tENG, para. 7; Trial Chamber VI, *The Prosecutor v. Bosco Ntaganda*, Fourth decision on victims' participation in trial proceedings, 1 September 2015, ICC-01/04-02/06-805, paras 8, 12-13. See also Trial Chamber VIII, *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, Decision on LRV Request for Resumption of Action for Deceased Victim a/35084/16, 2 June 2017, ICC-01/12-01/15-223.

FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY

DIRECTS the parties, participants and Registry to proceed in accordance with paragraph 4 above for any resumption of action applications in this case.

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



Judge Bertram Schmitt, Single Judge

Dated 30 August 2017

At The Hague, The Netherlands