

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/04-01/15
Date: 8 September 2017

TRIAL CHAMBER IX

Before: Judge Bertram Schmitt, Single Judge

SITUATION IN UGANDA

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

Public redacted version of

Decision on Second Request for Protective Measures for Witness P-97

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

Krispus Ayena Odongo

Legal Representatives of Victims

Joseph Akwenyu Manoba
Francisco Cox
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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

Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Others

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(1) and (2) of the Statute and Rule 87 of the Rules of Procedure and Evidence ('Rules'), issues the following 'Decision on Second Request for Protective Measures for Witness P-97'.

1. On 29 November 2016, the Chamber issued a decision on an application by the Office of the Prosecutor ('Prosecution') for protective measures for a number of Prosecution witnesses.¹ Therein, it rejected protective measures for Witness P-97 on the grounds that the request was 'based exclusively on the witness's young age at the time of abduction and a perceived general fear of retaliation'.²
2. On 31 August 2017, the Prosecution and Common Legal Representative of Victims filed a joint request seeking that the use of pseudonym and image distortion be granted as protective measures for P-97 ('Request').³ The applicants explain that, as of this moment, [REDACTED].⁴ [REDACTED]. The witness has expressed apprehensions about the public attention his testimony – and in consequence he himself – will receive.⁵
3. On 6 September 2017, the defence for Mr Ongwen ('Defence') filed its Response to the Request, stating that it does not object to the protective measures as long as the private sessions are kept to an absolute minimum.⁶
4. The Single Judge notes that the initial request for protective measures was denied notwithstanding 'any order under Rule 87 of the Rules should new or

¹ Decision on the "Prosecution's application for in-court protective and special measures", ICC-02/04-01/15-612-Conf, a public redacted version was filed on the same day, ICC-02/04-01/15-612-Red.

² ICC-02/04-01/15-612-Red, para. 31.

³ Joint Prosecution and Common Legal Representative of Victims' Request for Protective Measures for Witness P-0097, ICC-02/04-01/15-966-Conf. A public redacted version was filed on 7 September 2017.

⁴ Request, ICC-02/04-01/15-966-Red, para. 8.

⁵ Request, ICC-02/04-01/15-966-Red, para. 5.

⁶ Defence Response to the Joint Renewed Request for Protective Measures for P-0097, ICC-02/04-01/15-972-Conf, para.17.

additional information be made available.’⁷ Considering the additional information on the living situation of the witness, [REDACTED], as well as the fact that the Defence does not oppose the Request, the Single Judge grants the Request.

FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY

GRANTS the Request; and

ORDERS that P-97 be referred, in his capacity as witness in these proceedings, only by his pseudonym in public filings and public sessions of the trial, and provide his testimony before the Chamber with face distortion *vis-à-vis* the public.

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



Judge Bertram Schmitt, Single Judge

Dated 8 September 2017

At The Hague, The Netherlands

⁷ ICC-02/04-01/15-612-Red, para. 12.