

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 13 October 2017

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*

Confidential

Decision on Judicial Site Visit to the Republic of Uganda

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

Trial Chamber IX ('Chamber') of the International Criminal Court ('Court'), in the case of *The Prosecutor v. Dominic Ongwen*, having regard to Articles 64 and 69 of the Rome Statute ('Statute'), issues the following 'Decision on Judicial Site Visit to the Republic of Uganda'.

1. On 18 July 2016, following a request by the Office of the Prosecutor ('Prosecution') to conduct a judicial site visit ('Site Visit') before the trial commencement, the Chamber considered that 'a determination of whether a judicial site visit in northern Uganda would be of material assistance to its evaluation of the evidence should be made at a later stage of the proceedings, after having heard, at least in part, the evidence to be presented at trial'.¹
2. On 19 May 2017, the Single Judge requested observations on a Site Visit.²
3. Accordingly, on 16 June 2017, the Prosecution,³ the defence for Mr Ongwen ('Defence'),⁴ the Registry⁵ and the Legal Representatives for the Victims ('LRVs')⁶ filed their observations.
4. The parties and participants all state that they are in favour of a Site Visit, covering the four charged crime scenes (Pajule, Odek, Lukodi and Abok). The Defence proposes a number of further 'ancillary locations' the Chamber should visit.⁷ The LRVs submit that the accused should not take part in the Site Visit.⁸
5. The Chamber takes note of the submitted observations and the evidence received to date and is of the view that a Site Visit to the four charged crime

¹ Decision Concerning the Requests to Recommend Holding Proceedings *In Situ* and to Conduct a Judicial Site Visit in Northern Uganda, ICC-02/04-01/15-499, para. 4.

² Order Inviting Observations on a Judicial Site Visit, ICC-02/04-01/15-834-Conf.

³ Prosecution Observations on a Judicial Site Visit, ICC-02/04-01/15-877-Conf with confidential annex A, ICC-02/04-01/15-877-Conf-AnxA ('Prosecution Observations').

⁴ Defence Observations on a Judicial Site Visit, ICC-02/04-01/15-879-Conf ('Defence Observations').

⁵ Registry's Observations on a Judicial Site Visit, ICC-02/04-01/15-881-Conf, with two confidential annexes, ICC-02/04-01/15-881-Conf-AnxI and ICC-02/04-01/15-881-Conf-AnxII ('Registry Observations').

⁶ Victims' Joint Submissions on Judicial Site Visit, ICC-02/04-01/15-878-Conf ('LRV Observations').

⁷ Defence Observations, ICC-02/04-01/15-879-Conf, para. 9.

⁸ LRV Observations, ICC-02/04-01/15-878-Conf, para. 17.

scenes underlying counts 1 to 49 in the decision on the confirmation of the charges⁹ would be useful and appropriate in this case.

6. With regard to the ancillary locations proposed by the Defence, the Chamber is of the view that the advantage gained by visiting these locations is outweighed by the additional time and resources required. The Chamber considers that the four charged crime scenes and their immediate surroundings are sufficient for purposes of a site visit.
7. The Chamber hereby announces that the Site Visit will take place in approximately June 2018, with the exact date to be confirmed at a later point in time.
8. Regarding the presence of the accused, the Chamber notes the submission by the Registry that direct communication between the accused and the Defence can be arranged during the Site Visit.¹⁰ The Chamber does not therefore consider it necessary that the accused is present during the Site Visit. The rights of the accused are fully ensured by Mr Ongwen having opportunities to provide instructions to his counsel before the visit and to communicate with counsel during the Site Visit, should the need arise.
9. Regarding the size of the group, and considering the logistical scope and constraints of a Site Visit,¹¹ the Chamber considers it appropriate that two persons per party and one person per LRV team accompany the Chamber on the Site Visit. More detailed instructions with regard to the Site Visit will be provided at a later point in time.

⁹ See underlying locations of counts 1 to 49 in the Public Redacted Version Decision on the confirmation of charges against Dominic Ongwen, ICC-02/04-01/15-422-Red, pages 73- 89.

¹⁰ Registry Observations, ICC-02/04-01/15-881-Conf, para. 24.

¹¹ See also, Registry Observations, ICC-02/04-01/15-881-Conf, para. 20.

10. Lastly, the Chamber emphasises the necessity of maintaining the confidentiality of this decision.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY


DECIDES that a Site Visit shall be carried out to the following sites:

- Pajule IDP camp;
- Odek IDP camp;
- Lukodi IDP camp; and
- Abok IDP camp;

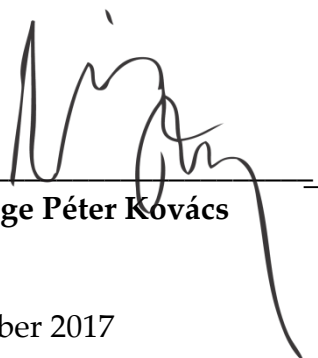
ANNOUNCES that the Site Visit shall take place in approximately June 2018, with the exact date to be confirmed; and

SPECIFIES that the Site Visit will be executed under the conditions stated in paragraphs 8 and 9 above.

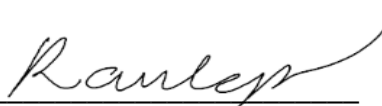
Done in both English and French, the English version being authoritative.



Judge Bertram Schmitt,
Presiding Judge



Judge Péter Kovács



Judge Raul C. Pangalangan

Dated 13 October 2017

At The Hague, The Netherlands