

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/04-01/15
Date: 19 December 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 Request for Reports on the Resources of the Parties to the Case and
Order for Additional Resources to the Defence**

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

The Office of the Prosecutor

Fatou Bensouda
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Counsel for the Defence

Krispus Ayena Odongo

Legal Representatives of the Victims

Joseph Akwenyu Manoba and Francisco
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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

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 67(1) the Rome Statute ('Statute') and Regulations 24(5) and 83 of the Regulations of the Court ('Regulations'), issues the following 'Decision on Request for Reports on the Resources of the Parties to the Case and Order for Additional Resources to the Defence'.

A. Background and submissions

1. On 11 December 2017, the Defence for Mr Ongwen ('Defence') filed a request related to the provision of resources it is allocated to conduct its work ('Request').¹ Therein, citing Article 67 of the Statute, the Defence requests the Chamber to order the Office of the Prosecutor ('Prosecution') to provide a report listing all its resources 'including but not limited to, personnel named on the Ongwen Prosecution Team, budgetary information, supplemental and ancillary resources which are available to the Ongwen Prosecution Team within the ICC Office of the Prosecutor as well as within the Ugandan Government'.² Additionally, it requests that the Registry be ordered to submit a report on the resources provided to the Defence³ and that the Chamber order additional resources for the Defence 'to ensure that the Defence is treated in full equality with the Prosecution'.⁴
2. On 15 December 2017, the Prosecution provided its response, submitting that the Request should be rejected ('Response').⁵ It argues that there is no legal basis to

¹ Defence Observations on Fair Trial and Request for Orders on Prosecution Resources and Additional Defence Resources, ICC-02/04-01/15-1098.

² Request, ICC-02/04-01/15-1098, para. 40 a).

³ Request, ICC-02/04-01/15-1098, para. 40 b).

⁴ Request, ICC-02/04-01/15-1098, para. 40 c).

⁵ Prosecution's response to "Defence Observations on Fair Trial and Request for Orders on Prosecution Resources and Additional Defence Resources", ICC-02/04-01/15-1098, ICC-02/04-01/15-1110.

request a report on the Prosecution's resources⁶ and that the Defence should direct its request for additional resources to the Registrar.⁷

3. On 18 December 2018, the Defence filed a request for leave to reply ('Leave to Reply Request').⁸

B. Analysis

4. As a preliminary matter, the Single Judge considers that no replies are necessary to rule on the Request. Accordingly, the Leave to Reply Request is dismissed.⁹
5. The Single Judge notes that, in essence, the Defence requests that the Chamber allocates it more resources for Mr Ongwen's legal assistance. The other limbs of the application, regarding the various reports on resources of the parties, are submitted to facilitate this request.
6. Regulation 83(1) of the Regulations clearly states that the Registrar determines the scope of the legal assistance. Further, Regulation 83(3) of the Regulations requires a beneficiary of legal assistance to apply to the Registry in order to obtain additional means. Pursuant to Regulation 83(4) of the Regulations, the Chamber's jurisdiction is confined to reviewing the decision made by the Registrar.
7. Accordingly, the Defence must first submit a specific and reasoned application with the Registrar. Should it become necessary, the Chamber will rule on any subsequent application for review of the Registrar's decision with the fullest regard for the Defence's rights pursuant to Article 67 of the Statute.

⁶ Response, ICC-02/04-01/15-1110, paras 11-13.

⁷ Response, ICC-02/04-01/15-1110, para. 14.

⁸ Defence Request for Leave to Reply to Prosecution's Response to "Defence Observations on Fair Trial and Request for Order on Prosecution Resources", ICC-02/04-01/15-1111.

⁹ Given this ruling, it is considered that no responses pursuant to Regulation 34(c) of the Regulations are necessary. Further, the Single Judge notes that the Defence, rather than just asking for leave to reply, included its submissions in its filing. The Single Judge reminds the parties that the request for leave to reply and the substantive content must be filed in two separate submissions.

8. Equally, should the Defence be of the view that it requires information in order to submit a request pursuant to Regulation 83(3) of the Regulations, it needs to consult with the Registry.

FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY

REJECTS the Leave to Reply Request; and

REJECTS the Request.

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



Judge Bertram Schmitt, Single Judge

Dated 19 December 2017

At The Hague, The Netherlands