

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

No.: **ICC-02/04-01/15**  
Date: **13 December 2019**

**TRIAL CHAMBER IX**

**Before: Judge Bertram Schmitt, Single Judge**

**SITUATION IN UGANDA**

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

**Public**

**Decision on Defence Request for Redactions to Rule 68(2)(b) Statement**

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**

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**Registrar**

Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Others**

**Judge Bertram Schmitt**, acting as Single Judge on behalf of Trial Chamber IX of the International Criminal Court, in the case of *The Prosecutor v. Dominic Ongwen*, having regard to Articles 64(6)(e) and 68(1) of the Rome Statute and Rule 81(4) of the Rules of Procedure and Evidence (the ‘Rules’), issues the following ‘Decision on Defence Request for Redactions to Rule 68(2)(b) Statement’.

1. On 16 October 2019, the Chamber decided that the prior recorded testimony of Defence witness D-0157 is to be introduced pursuant to Rule 68(2)(b) of the Rules.<sup>1</sup> The Chamber premised the introduction of the statement on receiving the declaration required under Rule 68(2)(b)(iii) of the Rules and ordered the Defence to propose a public redacted version of the prior testimony or indicate that it can be made public in its entirety.<sup>2</sup>
2. On 27 November 2019, the declaration required under Rule 68(2)(b)(iii) of the Rules was filed into the case record.<sup>3</sup>
3. On 6 December 2019, the Defence requested redactions to the prior recorded testimony of witness D-0157 (the ‘Request’).<sup>4</sup>
4. On 10 December 2019, the Office of the Prosecutor (the ‘Prosecution’) indicated via email that it does not oppose the redactions sought by the Defence.<sup>5</sup>
5. The Single Judge notes that in prior decisions on redaction requests, proposed redactions which were not opposed were granted without further discussion.<sup>6</sup> Having reviewed the redactions proposed in the Request, and bearing in mind that the Prosecution does not oppose any of these redactions, they are granted without further discussion.

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<sup>1</sup> Decision on Defence Request to Add D-0157 to its List of Witnesses, ICC-02/04-01/15-1639.

<sup>2</sup> Decision on Defence Request to Add D-0157 to its List of Witnesses, ICC-02/04-01/15-1639, p. 8.

<sup>3</sup> Registry Transmission of the Declaration made by Witness D-0157 pursuant to Rule 68(2)(b) of the Rules of Procedure and Evidence, ICC-02/04-01/15-1685 with confidential annex.

<sup>4</sup> Defence Request for Redactions to a Rule 68(2)(b) Statement, ICC-02/04-01/15-1692-Conf, with confidential annexes A and B. A public redacted version was filed on 12 December 2019, ICC-02/04-01/15-1692-Red. The response time limit was shortened to 11 December 2019; *see* email from Trial Chamber IX Communications, 6 December 2019, at 12:17.

<sup>5</sup> Email to Trial Chamber IX Communications, at 16:26.

<sup>6</sup> Decision on Defence Request for Redactions to Witness Statements, 12 April 2019, ICC-02/04-01/15-1498, para. 6; Decision on Defence Request for Redactions to Rule 68(2)(b) Statements, 2 December 2019, ICC-02/04-01/15-1689, para. 6.

6. Furthermore, the Single Judge notes that for the proposed redactions to be effective, additional redactions to the statement and one annex are necessary.<sup>7</sup> The Defence is therefore ordered to also implement these redactions.

**FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY**

**GRANTS** the Request; and

**ORDERS** the Defence to additionally implement the redactions as specified in paragraph 6 above.

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

  
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**Judge Bertram Schmitt, Single Judge**

Dated 13 December 2019

At The Hague, The Netherlands

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<sup>7</sup> Specifically, this concerns ICC-02/04-01/15-1692-Conf-AnxA, UGA-D26-0026-0757, at 0760 (p. 4), line 1 (title on that page, words 4-5); ICC-02/04-01/15-1692-Conf-AnxB, UGA-D26-0026-0767, at 0767, picture in right bottom corner.