



International Criminal Court
Bar Association | Association du Barreau près
la Cour Pénale Internationale

ICCBA NEWSLETTER

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Brought to you by the following contributors:

- Shalini Jarayaj
- Dominic Kennedy
- Doreen Kiggundu
- Jad Khalil
- Audrey Mateo
- Sara Pedroso
- Kamil Ziolkowski

Design by Nadim Mansour

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OUDE WAALSORPERWEG
10, 2597 AK, THE HAGUE



INFO@ICCBA-ABCPi.ORG



WWW.ICCBA-ABCPi.ORG



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MESSAGE FROM THE PRESIDENT

Dear Members,

I am delighted to present this edition of the ICCBA Newsletter which includes news from the ICCBA committees and updates on the cases currently on-going at the ICC.

In June 2019, I was honoured to be elected as the President of the ICCBA and I look forward to working with the Executive Council and all committees for the benefit of the Association and its membership over the coming year.

At the commencement of my mandate, I met with the Registrar and the President of the ICC and had fruitful discussions on several issues and how the ICCBA can work together with the ICC for the benefit of all members of the Association.

I am aware that an issue which is of concern to many members is that of taxation of defence and victims' team members in the Netherlands. This is an issue which the ICCBA has engaged with the ICC Registrar on and is striving to find a resolution. There have been two meetings between the ICCBA and representatives of the Registry in July and August. Additionally, I met with the Ambassador of Canada in August, who is the facilitator on legal aid for the Assembly of States Parties and discussed the issue of both taxation and legal aid. I subsequently met with representatives of the Committee of Budget and Finance to raise the concerns which have been expressed by members. At the present time, it appears that the proposed changes to the legal aid policy are being put on hold pending a resolution of the taxation issue, this is something which the ICCBA advocated for. I would like to emphasize that the issues of taxation and legal aid are of high priority for the ICCBA and we will continue to keep members updated on developments.

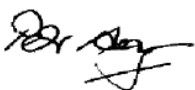
In June, at the General Assembly Meeting, many issues were discussed and a decision was made that the ICCBA Constitution would be reviewed as a whole and amendments would be put forward for a vote to members by the end of 2019. I would encourage all members to read the proposals when they are distributed in the coming weeks and provide any comments you may have. Also at the General Assembly a special award was presented to the Counsel Support Staff Committee for their work throughout the last term. Support staff are invaluable to the defence and victims teams at the ICC and their work is highly valued.

In July, as part of the ICCBA's outreach activities, I was invited to speak at the Pan Africa Lawyers' Union Annual Conference in Lome, Togo. This was an opportunity to speak about the work of the ICCBA and the ICC and to engage with lawyers from across Africa, photos from the event are available here. Representatives of the ICCBA also met with the Chair of the Bar Council of England and Wales in June and discussed the mandate of the ICCBA, training initiatives and the practical application of the Code of Professional Conduct and we look forward to working with them in the future. The ICCBA has also been invited to hold a panel discussion at this year's Congress of the International Association of Lawyers (UIA) which will be held in Luxembourg in November; members who are interested in joining for the Congress can find further information and registration on the UIA website.

The Executive Council have already held two meetings and intend to hold regular monthly meetings throughout the year. If you have any issues which you would like to raise with the Executive Council, please do not hesitate to contact the ICCBA Executive Director at: executivedirector@iccba-abcpi.org

To keep updated with news from the ICCBA, please keep check of our website: www.iccba-abcpi.org

Best wishes,



Peter Haynes Q.C.
President





COUNSEL SUPPORT STAFF COMMITTEE

The Counsel Support Staff Committee welcomes all Support Staff to another great ICCBA calendar year. The Committee thanks everyone that took part in this year's General Assembly and who exercised their right to vote for its representation. During its first meeting, the Committee nominated Dov Jacobs as its general observer to the Executive Council general meetings.

The Committee shall be working during the week of 16 September to finalise the proposed amendment to the ICCBA Constitution. The Committee shall have the amendment, with any updates, to the Executive Council before its next scheduled meeting and will request that the amendment be voted upon by the members at the first possible instance.

The Committee notifies its constituents and non ICCBA members of the Committee's Work Plan for the upcoming year. The Committee shall continue to pressure the ICC and ICCBA on issues related to the prevention and punishment of workplace bullying and harassment. The ICC and ICCBA made concerted efforts during the previous year to educate

persons about bullying and harassment, but the Committee plans to further these accomplishments by lobbying for mechanisms to handle these issues should it arise in the workplace.

Likewise, the Committee will continue its pursuit for better working conditions for Support Staff. The previous Committee pushed for minimum wages, mandatory vacation, no taxes and maternity/paternity leave, and the current Committee shall do the same. With the new Legal Aid Policy being discussed, the Committee continues to advocate for these basic minimum rights as well as improvements for the conditions of work underpinning the well-being for all persons covered by the LAP.

Finally, the Committee this year endeavors to work with the Training Committee with hopes to design training sessions carried out every two months. It is the intention of the Committee to propose two- to three-hour training sessions which are both relevant and necessary for work performed at the ICC-PP.

TRAINING COMMITTEE

For the last quarter of 2019, the Training Committee decided to examine the different forms that training could take so that it could reach as many ICCBA members as possible. We are working on the possibility of having training courses accessible at a distance. In the meantime, we suggest that members vote on topics that may be of priority interest to them through an online doodle survey. The link is as follows: <https://doodle.com/poll/ztbkcxvhviuure4q> The deadline for the survey is Monday, October 7, 2019.

We propose to organize a first training session in The Hague on Saturday 30 November 2019 to take advantage of

the attendance generated by the General Assembly of States Parties to be held in the city from 2 to 6 December. The location and subject remain to be determined, but we will communicate these elements as soon as possible. This first training should take place over half a day.

We also plan to organize a second training session by spring 2020 in a longer format. Again, we look forward to the feedback of ICCBA members on the Doodle survey. Feel free to leave your comments and suggestions. More information will follow soon.



CASE UPDATES



PROSECUTOR V. GBAGBO & BLÉ GOUDÉ (ICC-02/11-01/15)

Acquittal of Laurent Gbagbo and Charles Blé Goudé

On 15 January 2019, Trial Chamber I, by majority, Judge Herrera Carbuccion dissenting, orally acquitted Laurent Gbagbo and Charles Blé Goudé of all charges, namely, crimes against humanity allegedly committed in Abidjan, Côte d'Ivoire, during the post-electoral crisis between December 2010 and April 2011. The Majority found that "the Prosecutor has failed to satisfy the burden of proof to the requisite standard as foreseen in Article 66 of the Rome Statute" and granted the Defence motions for acquittal from all charges against Mr Laurent Gbagbo and Mr Charles Blé Goudé ([ICC-02/11-01/15-T-232-Eng](#)).



Gbagbo & Blé © ICC

Following litigation before the Trial Chamber and before the Appeals Chamber, Laurent Gbagbo and Charles Blé Goudé were released with conditions pending appellate proceedings.

Written reasons for the oral Decision

On 16 July 2019, Trial Chamber I issued its "Reasons for oral decision of 15 January 2019 on the Requête de la Défense de Laurent Gbagbo afin qu'un jugement d'acquiescement portant sur toutes les charges soit prononcé en faveur de Laurent Gbagbo et que sa mise en liberté immédiate soit ordonnée, and on the Blé Goudé Defence no case to answer motion" ([ICC-02/11-01/15-1263](#)). The combined written Majority and Dissenting reasons amount to a total of 1366 pages, which includes the Reasons of Judge Geoffrey Henderson (Annex B), the Opinion of Judge Cuno Tarfusser (Annex A) and the Dissenting Opinion of Judge Herrera Carbuccion (Annex C).

Decision on Prosecution's request for an extension of time to file the notice of appeal and appeal brief ([ICC-02/11-01/15-1268](#))

On the same day of the issuance of the Trial Chamber's written reasons, the Prosecution filed its "Urgent request for extension of time limits under rule 150(1) and regulation 58(1)' of 16 July 2019" ([ICC-02/11-01/15-1264](#)). In support of its request, the Prosecution argued *inter alia* the complexity of the Decision as well as its length. Moreover, the Prosecution noted that the period during which it would have to prepare the notice of appeal and appeal brief included the three-week judicial recess. The Appeal Chamber partially granted the



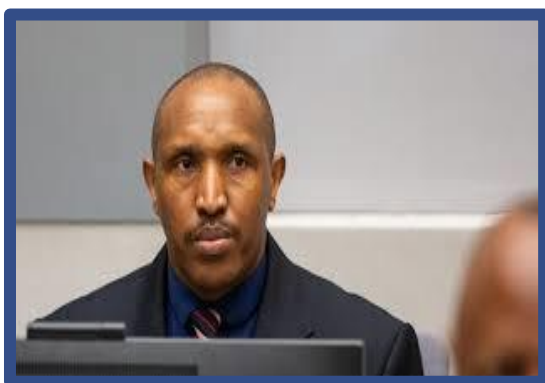
Prosecution's request, by extending the deadline for the Prosecution's filing of its notice of appeal by 30 days; however, the Appeals Chamber rejected the Prosecutor's request for an extension of the time limit for the filing of the appeal brief, concluding that the Prosecution did not show "good cause" pursuant to regulation 35(2) of the Regulations of the Court.

PROSECUTOR v. BOSCO NTAGANDA (ICC-01/04-02/06)

On 8 July 2019, the Chamber convicted Mr Ntaganda of several crimes against humanity and war crimes. That same day, the Chamber ordered the Office of the Prosecutor ('Prosecution'), the Defence and the LRVs to file any requests to submit further evidence or to call witnesses in relation to sentencing by 29 July 2019, with any responses to follow by 5 August 2019.

On 11 July 2019, the Chamber notified the parties and participants of its intention to schedule the hearing of further evidence and/or submissions relevant to the sentence for the first or second week of September 2019

On 29 July 2019, the Prosecution requested, *inter alia*, to call one expert witness ('Proposed Expert Witness') to provide *viva voce* evidence relevant to sentencing, for whom it also requested in-court protective measures, and that monitoring of Mr Ntaganda's contacts be increased until the sentencing phase of the case is complete.



Ntaganda © ICC

On the same day, the Defence requested, *inter alia*, to call three *viva voce* witnesses, the evidence of two of them to be presented either pursuant to Rule 68(3) of the Rules or entirely *viva voce*.

The Defence also requested protective measures for one of its proposed witnesses.

The LRVs both informed the Chamber that they did not intend to request leave to submit further evidence or to call witnesses for the purposes of the sentencing proceedings

On 5 August 2019, the Prosecution, the Defence and the LRVs filed their respective responses. The Prosecution requested, *inter alia*, that the Chamber limit the scope of the evidence to be adduced by two of the witnesses to be called by the Defence and reject the Defence's request to use Rule 68(3) of the Rules with these witnesses. It also opposed the Defence's request for protective measures for one of its witnesses. The Defence opposed, *inter alia*, the Prosecution's request to call the Proposed Expert Witness and the Prosecution's request for increased monitoring of Mr Ntaganda's contacts. The LRVs, *inter alia*, supported the Prosecution's requests to call the Proposed Expert Witness and for protective measures in relation to the witness, as well as its request for increased monitoring of Mr Ntaganda's contacts, and opposed the Defence's request to call the three proposed *viva voce* witnesses.

On the same day, the Defence supplemented its request for protective measures for one of its proposed witnesses.

On 6 August 2019, the VWU provided the Chamber with its protective measures assessment in relation to the witnesses proposed by the Prosecution and the Defence, supporting the measures requested, as well as with an update concerning the security situation in eastern Democratic Republic of the Congo

On 7 August 2019, the Defence requested leave to reply to three issues arising from the Prosecution Response. On the same day, the Prosecution requested leave to reply to three issues arising from the Defence Response. On 8 August 2019, the Chamber rejected the Defence's aforementioned request for leave to reply, noting that it would not be assisted by further submissions on the issues



identified.

Also on 8 August 2019, in line with the deadline set by the Chamber, the Prosecution responded to the Defence Protective Measures Request, not opposing it, and requesting a variation of the time limit to respond to the Defence's request to introduce D-0306's evidence under Rule 68(3) of the Rules and submitting that the proposed witness's evidence be heard entirely *viva voce*. The LRVs informed the Chamber that they did not intend to respond to the Defence Protective Measures Request.

That same day, the Defence requested leave to reply to the Prosecution Protective Measures Response and Further Requests and opposed the Prosecution's request for a variation of time limit. On 9 August 2019, the Chamber rejected the Defence's request for leave to reply, noting that it would not be assisted by further submissions on the issues identified. It also granted the Prosecution Request for Leave to Reply in relation to one issue arising from the Defence Response and rejected its request for leave to reply in relation to the two other identified issues, noting that it would not be assisted by further submissions thereon.

On 20 August 2019 Trial Chamber VI, pursuant to Articles 64(2), 67, 68, 69(2), 76 and 78(1) of the Rome Statute, Rules 68(3), 86, 87, 140 and 143 of the Rules of Procedure and Evidence and Regulations 35(2), 43, 44 and 101(2) of the Regulations of the Court, issued a Decision on the requests to call witnesses in relation to sentencing and for increased monitoring of Mr Ntaganda's contacts and scheduling the sentencing hearing. The Chamber's decision was as follows: 'PLACES ON THE RECORD the First Decision Rejecting Leave to Reply, the Second Decision Rejecting Leave to Reply and the Decision Granting Partial Leave to Reply; REJECTS the request to hear the testimony of the Proposed Expert Witness; GRANTS the request to hear the testimony of Witnesses D-0047, D-0305 and D-0306 and DECIDES that their testimony be heard entirely *viva voce*; GRANTS the request for in-court protective measures in the form of face and voice distortion during the testimony of Witness D-0306, and the use of a pseudonym for the purposes of the trial; REJECTS the request that Mr Ntaganda's contacts be subjected to increased monitoring until the completion of the sentencing phase and that Mr

Ntaganda be ordered to speak in either Kinyarwanda or Swahili so as to permit effective monitoring; SCHEDULES a hearing for 17, 18 and 20 September 2019 to hear the testimony of Witnesses D-0305, D-0047 and D-0306, and the preliminary closing submissions of the parties and the participants; and DIRECTS the Registry to make the necessary arrangements for hearing the testimony of Witnesses D-0047 and D-0306 via video-link'.

PROSECUTOR V. ALFRED YEKATOM & PATRICE-EDOUARD NGAÏSSONA (ICC-01/14-01/18)

Overview

Alfred Yekatom and Patrice-Edouard Ngaïssona were accused of war crimes and crimes against humanity, allegedly committed in the Central African Republic since at least September 2013 until at least December 2014. Pre-Trial Chamber II found reasonable grounds to believe that Alfred Yekatom, as a military commander, committed or otherwise ordered, solicited, induced and facilitated the commission of the alleged crimes in various locations in the CAR, including Bangui and the Lobaye Prefecture, between 5 December 2013 and August 2014. It also found that there were reasonable grounds to believe that Patrice-Edouard Ngaïssona committed jointly with others and/or through others or aided, abetted or otherwise assisted in the commission or attempted commission of the crimes, in various locations in the



Yekatom & Ngaïssona © ICC



CAR, including Bangui, Bossangoa, the Lobaye Prefecture, Yaloké, Gaga, Bossemptélé, Boda, Carnot and Berberati, between at least 5 December 2013 and at least December 2014.

Postponement of the confirmation of charges hearing

On 1 May 2019, the Prosecution submitted the "Prosecution's Request to Postpone the Confirmation Hearing and all Related Disclosure Deadlines" ([ICC-01/14-01/18-168](#)), requesting that the confirmation of charges, which had been scheduled for 18 June 2019, be postponed for September 2019. It argued that it was unable to meet the 17 May 2019 disclosure deadline and that more time was needed, *inter alia*, to ensure the proper implementation of witness protection activities, such as unique pseudonyms, and to complete the review of its evidence collection in accordance with the Chamber's redactions protocol.

The Defence for Mr Yekatom ([ICC-01/14-01/18-194-Red](#)) and the Defence for Mr Ngaïssona ([ICC-01/14-01/18-192-Red](#)) strongly opposed the Prosecution's request. Both Defence teams requested that the Chamber reject the Prosecution's request for postponement, *inter alia*, to prevent any further pre-trial detention for Mr Yekatom and Mr Ngaïssona. The Defence teams also raised the significant number of redactions in the Prosecution's Request which effectively prevent the Defence from presenting full observations, as well as the delayed nature of the request.

On 15 May 2019, the Chamber granted the Prosecution's request for a postponement of the confirmation of charges hearing ([ICC-01/14-01/18-199](#)).

Victims participation

On 23 May 2019, the Pre-Trial Chamber issued its Decision on the Legal Representation of Victims ([ICC-01/14-01/18-205](#)) deciding, *inter alia*, that the common legal representation of victims "strikes an appropriate balance between the resources available to the Court and the duty to allow victims to participate meaningfully in the proceedings before the Chamber" and that proceeding by way of common legal representation would ensure the effectiveness

of the proceedings. Moreover, the Pre-Trial Chamber adopted the Registry's proposal that the victims should be divided into two groups: the "Former Child Soldiers" and the "Victims of Other Crimes", given their potential divergent interests. The Chamber appointed the OPCV to represent the "former child soldiers".

Document containing the charges and confirmation of charges hearing

On 19 August 2019, the Prosecution submitted its public Notification of Filing of the Document Containing the Charges and List of Evidence ([ICC-01/14-01/18-282](#)). The DCC is classified as confidential, as well as confidential annexes A through J. The annexes include the Prosecution's list of evidence, maps referenced through the DCC, and a timeline of major events.

The confirmation of charges hearing started on 19 September 2019. The parties and participants had the opportunity to make oral submissions. On 25 September 2019, the Chamber ordered the Prosecution to submit written arguments responding to the issues raised orally by the Defence teams and ordered the Defence to submit its response, if any, no later than 10 October 2019. The hearings to hear the parties and participants' closing statements was postponed to 11 October 2019.

Motions for disclosure, lifting of redactions, and other related matters

The Defence team for Mr Yekatom submitted several motions seeking *inter alia*, disclosure of evidence including Rule 76 material, the inspection of evidence material to the preparation of the Defence, and lifting of redactions (see *inter alia* ICC-01/14-01/18-285-Conf; ICC-01/14-01/18-295-Conf; ICC-01/14-01/18-297-Conf; ICC-01/14-01/18-290; ICC-01/14-01/18-294; ICC-01/14-01/18-301-Conf). The Defence of Mr Yekatom also submitted a request for an extension of time to file its list of evidence ([ICC-01/14-01/18-298](#)), which the Defence for Mr Ngaïssona moved to join (ICC-01/14-01/18-303-Conf), requesting an extension of fifteen days from the completion of the Prosecution's disclosure. On 3 September, the Chamber rendered a Decision on the requests for an extension of time as well as several Defence motions



(ICC-01/14-01/18-315-Conf) directing inter alia, the “Prosecutor to disclose to the Defence any screening notes for witnesses upon whom she intends to rely for confirmation purposes” and “to verify whether she has in her possession any further evidence that may fall within rule 76 of the Rules, and to disclose this to the Defence as soon as possible”. It also directed the Prosecutor to “either disclose or allow the Defence to inspect all RFAs submitted by the Prosecutor to obtain the mobile telephone records referenced in the DCC and its annexes and the resulting judicial or administrative orders from domestic jurisdictions”. The Chamber rejected the Defence requests for an extension of time to file the list of evidence “in so far as it concerns information already in the possession of the Defence” but allowed the Defence teams “to amend their lists of evidence, if necessary, by 16 September 2019 at the latest” in light of its findings with respect to the other disclosure motions.

PROSECUTOR V. DOMINIC ONGWEN (ICC-02/04-01/15)

In June and July 2019, five defence witnesses testified about the 2003 attack on Pajule internally displaced persons (IDP) camp. All five were survivors of the 2003 attack on Pajule and testified about Ongwen’s alleged role in the attack. With the court’s lenses focused on their village during the trial, community members in Pajule recounted their memories of the attack and expressed mixed optimism on whether this would translate into justice for victims and survivors/

On 17 July 2019, the Appeals Chamber issued its judgment on the interlocutory appeal filed by Mr Dominic Ongwen against the Trial Chamber’s decision of 7 March 2019, ‘Decision on Defence Motions Alleging Defects in the Confirmation Decision’. Mr Ongwen alleged that

The trial chamber violated his fair trial right to notice. The appeals Chamber confirmed the trial Chamber decision which was correct in finding that the issues raised by Mr Ongwen should have been raised in time, in the period prior the commencement of the trial, in order to guarantee the expeditiousness of the proceedings. Also, the Trial Chamber was reasonable in determining that Mr Ongwen did not advance good cause, nor exceptional circumstances, for raising the



Krispus Ayena Odongo @ ICC

challenges 3 years after that the confirmation decision was issued.

On 23 July 2019, Ongwen’s defence team held an outreach meeting in Gulu, northern Uganda. Present at this outreach event was lead Counsel Krispus Ayena Odong who presented his wife Hilder who had visited Ongwen several times at the detention center in The Hague and who would provide a personal account regarding Ongwen’s welfare. Hilder spoke of her encounters with Ongwen, describing him as charming, among other attributes. Counsel Ayena explained that the defence was “defending a very special person” and that Ongwen’s case is setting a precedence in international law. He revealed that the defence may conclude their case in approximately three months after the court recess in August, having already called 50 witnesses to the stand and had only 15 witnesses left to testify in the Ongwen case. He urged the people of northern Uganda to prepare to receive Ongwen in the event he was acquitted or returned after serving a sentence that might be imposed on him because he did not intend to do what he finally did.

On 30 July 2019, the judges of Trial Chamber IX deferred a decision on the quality of evidence Dominic Ongwen’s lawyers need to present as grounds for excluding his criminal responsibility and to prove their client is not responsible for the crimes he has been charged with. This follows the submission that Ongwen’s lawyers made previously asking the Trial Chamber to make “an immediate ruling” on the issue of the burden of proof they needed to satisfy



and what standard of proof they needed to meet as they lay out their case before the chamber.

On 13 August 2019, Krispus Ayena Odongo told the court that some defence witnesses had been intimidated after testifying at the ICC while others on its witness list have been too scared to testify before the court. He told the Court that the defence team had been threatened, without specifying further. He also spoke about the threats and intimidation when he made a personal statement to the Court about his arrest and release last month in Uganda in an unrelated case and then thanked the Court for giving him time to resolve the matter.

That same day, the Trial Chamber granted the defence request to add one witness, D-13, to its list of witnesses and related documents to its list of evidence; and denied the request with respect to another witness, D-158 ("Impugned Decision"). On 6 September, the Trial Chamber rejected the defence's request for reconsideration in relation to D-158 and its alternative request for leave to appeal the Impugned Decision.

On 20 August 2019, the Prosecution requested the Trial Chamber to grant its requests to (i) call Christopher Blattman (P-453) as a prosecution expert witness in rebuttal to defence expert witness D-133 on one discrete and narrow issue relating to the manner in which LRA members left the armed group; and (ii) introduce the prior recorded testimony of P-0453 and associated materials into evidence pursuant to Rule 68(2)(b) of the Rules, or, alternatively, pursuant to Rule 68(3) of the Rules.

On 21 August 2019, the Single Judge issued an order for evidence related requests ('Order'). The Order set the deadline of 30 September 2019 for any motions concerning 'new requests related to the introduction of evidence or any other matter concerning evidence at this stage of the proceedings'. Following a defence request for clarification, the Single Judge clarified on 23 August that requests for leave to add new items to its list of evidence, new witnesses to its list of witnesses, 'bar table motions' or requests under Rule 68(2)(b) of the Rules of Procedure and Evidence fall under the Order.

Defence witness testimonies

On 21 May 2019, witness D-118, a former long-standing member of the Lord's Resistance Army (LRA) testified that she overheard from LRA fighters, while she and Ongwen were being treated in one of the LRA sick bays, that LRA leader Joseph Kony ordered for Dominic Ongwen's capture and execution because Kony believed Ongwen wanted to escape the LRA.

On 27 May 2019, defence expert witness Adam Branch testified about research on the reasons why the conflict in northern Uganda between the LRA and the Ugandan military went on for about 20 years. The witness stated that there was research that alleged corruption in the Ugandan military was one explanation for why the conflict lasted so long. Branch said there was other research that alleged the Ugandan government used the conflict as a way of containing Acholi opposition to it by letting the conflict continue but restricted to northern Uganda. Later in his testimony, Branch elaborated further on the issue of ghost soldiers, that is, people who were listed as UPDF soldiers but who did not exist. He said this information was mainly in an article by Andrew Mwenda, a Ugandan investigative journalist, that was published in a book edited by Tim Allen called LRA Myth and Reality.

On 6 June 2019, witness D-81, a survivor of an LRA attack on the Pajule IDP camp testified that he does not recall seeing Dominic Ongwen among the commanders who met after the attack. The witness denied that a year after the Pajule attack he told Ugandan police Ongwen was one of the commanders he saw meet after the attack.

On 13 June 2019, Christopher Oloya, a former escort to Dominic Ongwen testified to the Court that Ongwen did not help plan or participate in an LRA attack on the Pajule IDP camp 15 years ago. Witness told the court he took part in the Pajule attack, and Ongwen was at the sick bay where he was being treated for a gunshot wound in one of his thighs. Oloya also said Ongwen had been demoted to the rank of private by the time of the Pajule attack. The witness told the court that he took part in the attack on Pajule, and the LRA attacked it in two groups. The witness was in the group led by a commander called Bogi, which attacked the Ugandan army barracks



close to the camp. He said Raska Lukwiya led the other group, which attacked the IDP camp.

Around 26 June 2019, a former subordinate of Dominic Ongwen and who was a long-time member of the Oka battalion that Ongwen led told the Court that Ongwen regularly talked with and bought things from civilians while he was an LRA battalion commander, and this was a source of tension with his brigade commander.

Witness D-25 who testified via video link told the Court that that Dominic Ongwen did not participate in an LRA attack on the Pajule IDP camp 15 years ago. The witness stated that Ongwen was present during meeting hours before the attack, but he was not allowed to go to battle because he was injured at the time.

Witness D-84, a former local leader of Uganda's governing party described seeing bodies, burned homes, and no soldiers when he went to the Abok IDP camp he morning after an LRA attack 15 years ago. The witness told the court that the people in the area of Abok reported seeing LRA fighters in the vicinity during the day the attack took place. The witness said that when they got to Abok, they learned from the survivors at Abok that the UPDF officer who was in charge of protecting Abok was absent. The witness stated that, "When people were fleeing, Mugabe [the UPDF officer] ran away like an ordinary civilian."

On 20 August 2019, a former rebel commander and former Uganda People's Army (UPA) Joseph Patrick Okilan told the Court that about a year after leaving the LRA he took the Ugandan army to LRA bases in Sudan during a military offensive called Operation Iron Fist. Okilan is the third former UPA member to testify in Ongwen's trial. Former UPA members who have testified already include Nathan Iron Emory, who was a bodyguard of the late Ugandan president Milton Obote, and Richard Ebuju who testified about LRA activities that occurred before July 2002, before the period covered by the charges against Ongwen.

A retired Ugandan army soldier Emmanuel Ewicho told the Court that Dominic Ongwen was not in the eastern Ugandan sub-region of Teso when the LRA was active there about 16 years ago. The witness who described himself as a spy, told the court on that he worked with the Uganda People's Defence Forces



Ongwen © ICC

(UPDF) and the Arrow Boys, a militia group the UPDF supported in Teso. He testified that Ongwen was not among the LRA commanders they knew were active in Teso in 2003. The witness stated that if Ongwen had been in Teso then he would have been among the LRA commanders killed in Anyara, "because we had a really dangerous army that was ready to fight the rebels."

Other developing issues surrounding the Ongwen trial

The trial of Thomas Kwoyelo, a former LR) commander, continued before the International Crimes Division (ICD) of the High Court of Uganda sitting in Gulu. The court heard testimony from four prosecution witnesses. The trial has now been adjourned to September 30 to allow the prosecution to make redacted disclosure of information to the defence.

THE PROSECUTOR V. THOMAS LUBANGO DYILO (ICC-01/04-01/06)

Judgment on the appeals against Trial Chamber II "Decision setting the size of the reparations award for which Thomas Lubanga Dyilo is liable"

On 15 January 2018, Thomas Lubanga Dyilo and some victims, both appealed the trial Chamber decision on reparations ('Decision Setting the Size of the Reparations Award for which Thomas Lubanga Dyilo is Liable') of 15 December 2017. In its Decisions, The





Lubanga @ ICC

Trial Chamber estimated the average value of harm suffered by each 425 victims at USD 8000. It also stated that 48 victims were ineligible for reparations.

On 18 July 2019, the appeals Chamber confirmed in its judgment the trial Chamber decision. It confirmed the principle of the discretionary powers of the trial Chamber regarding the conduct of reparations proceedings and at the same time presented several key findings on the limitations of such an exercise. The Trial Chamber will then monitor and review the decisions taken by the TFV regarding eligible beneficiaries. It has to be stressed that the Appeals Chamber emphasized the rights of the convicted persons in the reparations proceedings with a right to fair and impartial proceedings.

SITUATION IN THE ISLAMIC REPUBLIC OF AFGHANISTAN NO. ICC-02/17

On 12 April 2019, Pre-Trial Chamber II rejected the Prosecutor's request under article 15(3) of the Statute for authorisation of an investigation into the situation in the Islamic Republic of Afghanistan (PTC Decision). On 7 June 2019, the Prosecutor requested leave to appeal the PTC Decision and on 10 June 2019, the legal representatives of 82 victims and two organizations in the situation in Afghanistan ('LRV 1'), the legal representative of six victims in the situation in Afghanistan ('LRV 2') and the legal representatives of an individual victim ('LRV 3') filed also notices of appeal.

On 27 September 2019, the Appeals Chamber decided to organise hearings in December 2019 in order to hear the arguments on 3 issues: 1) whether the 'Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Islamic Republic of Afghanistan' is one that may be considered to be a 'decision with respect to jurisdiction or admissibility' within the meaning of article 82(1)(a) of the Statute; 2) the standing of victims to bring an appeal under article 82(1)(a) of the Statute; and 3) the merits of the appeals filed by the Prosecutor and the victims. In addition the Appeals Chamber invited interested States to submit their observations, Professors of criminal procedure and/or international law, including international human rights law, as well as organisations with specific legal expertise in human rights.



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