



Parliamentarians for Global Action
Parlamentarios para la Acción Global
Action Mondiale des Parlementaires
برلمانيون من أجل التحرك العالمي

Dear Mr. Registrar,

17 November 2016

Re: Legal Aid for Victims in the Ongwen case

We are writing to you out of concern for the situation of the 2,607 victims who are participating in the *Ongwen* case and currently not benefiting from legal aid. The trial against Dominic Ongwen is scheduled to start in only a few weeks, on 6 December 2016. Their request for legal aid must therefore be considered urgently, and should take into account the high number of victims, their financial situation and their choice of counsel. Any decision on legal aid will have significant consequences regarding the need for intensive consultations, adequate preparations and an increased workload for their representatives.

Our organisations note that the Single Judge of Trial Chamber IX in his decision of 14 November 2016 considered that victims who chose counsel, as provided for in Rule 90(1), do not qualify for financial assistance *as a matter of right*. According to the Single Judge in this case, only Court-chosen counsel should be entitled to legal assistance paid by the Court. However, we also note that the decision recognises that the Registrar can make an independent determination on the LRV's application for legal aid. In sum, the decision importantly upholds the Registrar's prerogative to decide on legal aid for victims, as envisaged in the Rules and Regulations of the Court and of the Registry.

In deciding whether to grant legal aid for the LRV's in this case, we urge you to consider that from a practical perspective, it is simply not possible for victims to exercise their participation rights effectively without legal aid. It is unsustainable for a legal team to act *pro bono* from the opening of the trial onwards and for the entire duration of a case, which is likely to span many years. The workload involves, among other, consulting with and informing over 2,600 victims, reviewing evidence, attending trial sessions, questioning witnesses, preparing motions, and responding to filings.

The history of victims' engagement in Uganda is unprecedented. Victims have been mobilized for 12 years and have responded in masses to the call for applications to participate in proceedings. They have also independently appointed counsel of their own choice, including an experienced national advocate from their country. Victims in Uganda care deeply about the proceedings at the ICC. Upholding their rights and enabling them to participate meaningfully in the trial will have a crucial impact on how the ICC is perceived in northern Uganda. We believe that listening to victims' choices of legal representation and supporting such choice is a pre-condition for their genuine participation in the ICC proceedings.

This is a crucial time for the role of the ICC in Africa and the Court's deep concern for African victims must not be rhetorical. Victims are the Court's main constituency and fundamental allies in its mission to fight impunity for the most serious crimes.

Our organisations support granting legal aid to the 2,607 victims in this case and call upon you to consider the specific circumstances of this case to ensure that victims can meaningfully exercise their participation rights.

We thank you for your attention to this pressing issue.

Sincerely,

Antoine Bernard, Directeur Général, Fédération Internationale des Droits de l'Homme (FIDH)

Aurélie Roche-Mair, Director, Hague Office, International Bar Association (IBA)

Alison Smith, International Criminal Justice Director, No Peace Without Justice (NPWJ)

Dr. David Donat-Cattin (Secretary-General), Parliamentarians for Global Action (PGA)

Carla Ferstman, Director, REDRESS