

The Prosecutor v. Dominic Ongwen

Update: 4 February 2021

ICC-02/04-01/15

## Verdict in the Ongwen trial at the ICC 4 February 2021

### WHO IS DOMINIC ONGWEN?

Dominic Ongwen was a Brigade Commander of the Sinia Brigade of the Lord's Resistance Army ("LRA"). He was accused of 70 counts of crimes against humanity and war crimes.

On 4 February 2021, the Trial Chamber IX of the International Criminal Court ("ICC" or "Court") declared Dominic Ongwen guilty of 61 crimes characterized as war crimes and crimes against Humanity, committed in Uganda between 1 July 2002 and 31 December 2005.

### WHAT DID THE JUDGES DECIDE?

ICC Trial Chamber IX, composed of Judge Bertram Schmitt, Presiding Judge, Judge Péter Kovács and Judge Raul Cano Pangalangan found, beyond any reasonable doubt, that Mr Ongwen is guilty of the following 61 crimes:

- (i) attacks against the civilian population as such, murder, attempted murder, torture, enslavement, outrages upon personal dignity, pillaging, destruction of property and persecution; committed in the context of the four specified attacks on the Internally Displaced Persons camps ("IDP camps") Pajule (10 October 2003), Odek (29 April 2004), Lukodi (on or about 19 May 2004) and Abok (8 June 2004);
- (ii) sexual and gender based crimes, namely, forced marriage, torture, rape, sexual slavery, enslavement, forced pregnancy and outrages upon personal dignity he committed against seven women (whose names and individual stories are specified in the judgment) who were abducted and placed into his household;
- (iii) A number of further sexual and gender based crimes he committed against girls and women within the Sinia brigade, namely forced marriage, torture, rape, sexual slavery and enslavement; and
- (iv) The crime of conscripting children under the age of 15 into the Sinia brigade and using them to participate actively in hostilities.

The Chamber declared Mr Ongwen not guilty of other charges.

The Chamber found that these crimes were committed in the context of the armed rebellion of the Lord's Resistance Army (LRA) against the government of Uganda. The LRA, including Dominic Ongwen, perceived as associated with the government of Uganda, and thus as the enemy, the civilians living in Northern Uganda. This concerned in particular those who lived in government-established IDP camps.

### ON WHICH BASIS DID THE CHAMBER CONCLUDE THAT MR ONGWEN IS GUILTY?

The Chamber considered the applicable law and analysed the evidence submitted and discussed before it at trial.

Over the course of 234 hearings, the Office of the ICC Prosecutor, Fatou Bensouda, presented a total of 109 witnesses and experts, the Defence team lead by Krispus Ayena Odongo presented a total of 63 witnesses and experts and 7 witnesses and experts were called by the Legal Representatives of the Victims participating in the proceedings. The judges ensured the respect of the rights guaranteed by the Rome Statute to each of the parties, including the right to question the witnesses.

### IS THE VERDICT FINAL AND WHAT WILL BE THE NEXT STEPS?

Following this verdict, the Chamber will receive submissions of the parties and participants on the appropriate sentence to be imposed on Dominic Ongwen. A decision on the timeline of the proceedings leading to the imposition of the sentence has also been issued by the Chamber on 4 February 2021.

The Prosecution and the Defence may appeal the judgement and/or the decision on sentencing before the ICC's Appeals Chamber. Furthermore, a phase dedicated to the reparations for the victims will be opened.

### WAS MR ONGWEN'S ABDUCTION BY THE LRA WHEN HE WAS A CHILD CONSIDERED BY THE JUDGES IN DECIDING THE VERDICT?

The Chamber found that Dominic Ongwen committed these crimes as a fully responsible adult and as a commander of the LRA in his mid to late twenties. Furthermore, the Chamber did not find evidence that supported the claim he suffered from any mental disease or disorder during the period relevant to the charges or that he committed these crimes under duress or under any threats.

The Judges noted that Dominic Ongwen himself was abducted in 1987 at the age of around 9 by the LRA. They are aware that he experienced much suffering in his childhood and youth. The Chamber might have to evaluate this in a later context.

### WHAT SENTENCE MAY BE PRONOUNCED AGAINST MR ONGWEN?

The sentence will be pronounced by the judges in due course, after having received submissions from parties and participants on this matter.

The Judges may impose in a separate decision a prison sentence, to which a fine or forfeiture of the proceeds, property and assets derived directly or indirectly from the crime committed may be added. The maximum sentence is 30 years. However, when justified by the extreme gravity of the crime and the individual circumstances of the convicted person, the Court may impose a term of life imprisonment. There is no death penalty at the ICC.

### IN CASE OF APPEAL, CAN VICTIMS PARTICIPATE IN THIS APPEAL?

The victims' lawyers do not have the right to appeal a conviction/acquittal decision, but will be able to present the views and concerns of the victims before the Appeals Judges.

Should there be an appeal, the Appeals Chamber would then decide whether more possible victims would be then allowed to participate in the Appeals proceedings. Depending on this eventual decision, additional activities will then be planned to reach out to these victims to provide them with information and facilitate their participation should they decide to exercise their rights at that stage.

### HOW DID THE INTERNATIONAL CRIMINAL COURT COME TO UGANDA?

The Government of Uganda ratified the Rome Statute of the ICC in June 2002, making it a member of a permanent institution that was established to investigate and prosecute the perpetrators of the most heinous crimes.

The ICC does not replace national judicial systems, but it complements them, because the courts at the national level should be the first to deal with cases of serious violations. When national systems are unable or unwilling to genuinely investigate and prosecute such crimes, the ICC comes into play as a court of last resort.

In 2004, the Government of Uganda referred the situation on its territory since 1 July 2002 to the ICC. Since then, the ICC Office of the Prosecutor has investigated alleged war crimes and crimes against humanity committed in the context of an armed conflict predominantly between the Lord's Resistance Army and the national authorities, mainly in Northern Uganda. In 2005, a Pre-Trial Chamber issued arrest warrants for war crimes and crimes against humanity against five top LRA commanders: Joseph Kony, Vincent Otti, Okot Odhiambo, Raska Lukwiya, and Dominic Ongwen. Raska Lukwiya and Okot Odhiambo have both been confirmed dead and the ICC Judges have terminated proceedings against them; Vincent Otti and Joseph Kony remain at large.