



Original: English

**No. ICC-02/04-01/15 A A2
Date: 28 January 2022**

THE APPEALS CHAMBER

**Before: Judge Luz del Carmen Ibáñez Carranza, Presiding
Judge Piotr Hofmański
Judge Solomy Balungi Bossa
Judge Reine Alapini-Gansou
Judge Gocha Lordkipanidze**

SITUATION IN UGANDA

IN THE CASE OF THE PROSECUTOR v. DOMINIC ONGWEN

Public

Directions on the conduct of the hearing

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

The Office of the Prosecutor

Mr Karim A. A. Khan, Prosecutor
Ms Helen Brady

Counsel for the Defence

Mr Krispus Ayena Odongo
Chief Charles Achaleke Taku
Ms Beth Lyons

Legal Representatives of Victims

Mr Joseph Akwenyu Manoba
Mr Francisco Cox

Ms Paolina Massidda

Others

Dr. Mohammad Hadi Zakerhossein

Felicity Gerry QC, Wayne Jordash QC, Ben Douglas-Jones QC, Anna McNeil, Philippa Southwell, Dr. Beatrice Krebs and Jennifer Keene-McCann

Erin Baines, Anne-Marie de Brouwer, Annie Bunting, Eefje de Volder, Kathleen M. Maloney, Melanie O'Brien, Osai Ojigho, Valerie Oosterveld, Indira Rosenthal

Louise Arimatsu, Adejoké Babington-Ashaye, Kirsten Campbell, Danya Chaikel, Christine Chinkin; Carolyn Edgerton, Priya Gopalan; Gorana Mlinarević, Angela Mudukuti, Cynthia T. Tai

Sareta Ashraph, Stephanie Barbour, Kirsten Campbell, Alexandra Lily Kather, Jocelyn Getgen Kestenbaum, Maxine Marcus, Gorana Mlinarević, Valerie Oosterveld, Kathleen Roberts, Susana SáCouto, Jelja Sané, Hyunah Yang

Professor Jean Allain, Monash University, Castan Centre for Human Rights Law

Prof. Dr. Mario H. Braakman

Mr Arpit Batra

Professor Bonita Meyersfeld and the Southern African Litigation Centre Trust

Ms Ardila, Mariana; Ms Fernández-Paredes, Teresa; Ms Ibáñez, María Cecilia; Ms Kravetz, Daniela; Ms SáCouto, Susana; Ms Seoane, Dalila

Dr. Rosemary Grey, Global Justice Center (GJC); Amnesty International (AI), Women's Initiatives for Gender Justice (WIGJ)

NIMJ - National Institute of Military Justice

Tina Minkowitz, Robert D. Fleischner

Public International Law & Policy Group

Justice Francis M. Ssekandi

Professor Erin Baines, Professor Kamari M. Clarke, Professor Mark A. Drumbl

Dr. Paul Behrens, University of Edinburgh

Association of Defence Counsel Practicing before the International Courts and Tribunals (ADC-ICT)

Siobhán Mullally, UN Special Rapporteur on Trafficking in Persons, especially women and children

REGISTRY

Registrar

Mr Peter Lewis

The Appeals Chamber of the International Criminal Court,

In the appeal of the Defence against the decision of Trial Chamber IX entitled “Trial Judgment” of 4 February 2021 (ICC-02/04-01/15-1762-Red),

In the appeal of the Defence against the decision of Trial Chamber IX entitled “Sentence” of 6 May 2021 (ICC-02/04-01/15-1819-Red),

Noting the “Order scheduling a hearing before the Appeals Chamber” of 17 November 2021 (ICC-02/04-01/15-1909), wherein the Appeals Chamber scheduled a hearing on these appeals from 14 to 18 February 2022,

Noting the “Decision on the requests for leave to file observations pursuant to rule 103 of the Rules of Procedure and Evidence” of 24 November 2021 (ICC-02/04-01/15-1914),

Issues the following

DIRECTIONS

1. The Appeals Chamber invites the parties and the legal representatives of victims to address the Defence’s grounds of appeal relating to Mr Dominic Ongwen’s conviction and sentence at the hearing, which, due to the ongoing COVID-19 restrictions, will be held on a partially virtual basis.
2. The Appeals Chamber also invites the *amici curiae* listed in paragraph 11 below to participate in the hearing,
3. A list of questions on selected issues to be addressed by the parties, the legal representatives of victims, and the *amici curiae* participating in the hearing, is set out in paragraph 13 below. The oral submissions of the parties, the legal representatives of victims, and the *amici curiae* participating in the hearing shall be guided by those questions.
4. The Registrar is ordered to liaise with the parties, the legal representatives of victims and the *amici curiae* participating in the

hearing, as to any technical parameters with respect to the form of the hearing.

5. The parties, the legal representatives of victims, and the *amici curiae* participating in the hearing will be invited to address the Appeals Chamber according to the schedule set out in paragraph 14 below.

REASONS

I. PROCEDURAL HISTORY

1. On 4 February 2021, Trial Chamber IX (hereinafter: “Trial Chamber”) convicted Mr Ongwen of crimes against humanity and war crimes (hereinafter: “Conviction Decision”).¹
2. On 6 May 2021, the Trial Chamber, by majority, sentenced Mr Ongwen for the aforementioned crimes for which he was convicted (hereinafter: “Sentencing Decision”) to a total period of imprisonment of 25 years as a joint sentence.²
3. On 17 November 2021, the Appeals Chamber scheduled a hearing from Monday, 14 February 2022, to Friday, 18 February 2022, to hear submissions and observations by the parties and participants on the merits of the appeals.³
4. On 25 October 2021, the Appeals Chamber issued an order inviting expressions of interest as *amici curiae* in judicial proceedings on the legal questions presented in the same order (hereinafter: “Order inviting expressions of interest”).⁴
5. On 24 November 2021, the Appeals Chamber granted leave to 18 individuals or groups of individuals to submit, by 23 December 2021, written observations of no more than 15 pages, on the issues identified in paragraph 19 of the Order inviting

¹ [Trial Judgment](#), ICC-02/04-01/15-1762-Red (original confidential version filed on the same day, ICC-02/04-01/15-1762-Conf).

² [Sentence](#), ICC-02/04-01/15-1819-Red (original confidential version filed on the same day, ICC-02/04-01/15-1819-Conf).

³ [Order scheduling a hearing before the Appeals Chamber](#), ICC-02/04-01/15-1909.

⁴ [Order inviting expressions of interest as amici curiae in judicial proceedings \(pursuant to rule 103 of the Rules of Procedure and Evidence\)](#), ICC-02/04-01/15-1884 (hereinafter: “Order inviting expressions of interest”).

expressions of interest.⁵ The Defence, the Prosecutor and the participating victims were allowed to submit consolidated responses, of no more than 25 pages, to the written observations of the *amici curiae*, by Monday, 17 January 2022.⁶

6. On 23 December 2021, the Appeals Chamber received written observations from 18 *amici curiae*.⁷

7. On 14 January 2022, following a request of the Prosecutor which was unopposed,⁸ the Appeals Chamber granted an extension of the page limit by 5 pages

⁵ [Decision on the requests for leave to file observations pursuant to rule 103 of the Rules of Procedure and Evidence](#), ICC-02/04-01/15-1914 (hereinafter: “Decision under Rule 103”), p. 3 and para. 19, referring to Order inviting expressions of interest.

⁶ [Decision under Rule 103](#), p. 3 and para. 22.

⁷ [AMICUS BRIEF BY JUSTICE FRANCIS M. SSEKANDI](#), 20 December 2021, ICC-02/04-01/15-1926; [Amicus Curiae Observations on the issue of Sexual and Gender-based Crimes: Sexual Slavery & Forced Marriage](#), 19 December 2021 (notified on 20 December 2021), ICC-02/04-01/15-1927; [Amicus Curiae pursuant to Rule 103\(1\) of the Rules of Procedure and Evidence](#), 20 December 2021, ICC-02/04-01/15-1928; [AMICUS CURIAE OBSERVATION](#), 21 December 2021, ICC-02/04-01/15-1929; [Amicus Curiae Observations Regarding the Relevance to this Case of the Convention on the Rights of Persons with Disabilities](#), 21 December 2021 (notified on 22 December 2021), ICC-02/04-01/15-1930; [Submission of amicus curiae observations by the National Institute of Military Justice \(NIMJ\)](#), 21 December 2021 (notified on 22 December 2021), ICC-02/04-01/15-1931; [Amici Curiae Observations on Duress and the Standards Applicable to Assessing Evidence of Sexual Violence](#), 22 December 2021, ICC-02/04-01/15-1932 (with one Annex); [Amici Curiae Observations on Sexual- and Gender-Based Crimes, Particularly Forced Pregnancy, and on Standards of Proof Required for Sexual and Reproductive Violence Pursuant to Rule 103 of the Rules of Procedure and Evidence](#), 22 December 2021 (notified on 23 December 2021), ICC-02/04-01/15-1933; [Amici Curiae Observations on Sexual- and Gender-Based Crimes, Particularly Sexual Slavery, and on Cumulative Convictions Pursuant to Rule 103 of the Rules of Procedure and Evidence](#), 23 December 2021, ICC-02/04-01/15-1934; [Amici Curiae Brief on Forced Marriage](#), 22 December 2021 (notified on 23 December 2021), ICC-02/04-01/15-1935 (with Annex 1); [Submission of Amicus Curiae observations on the merits of the legal questions presented in the “Order inviting expressions of interest as amici curiae in judicial proceedings \(pursuant to rule 103 of the Rules of Procedure and Evidence\)” of 25 October 2021 \(ICC-02/04-01/15A\)](#), 23 December 2021, ICC-02/04-01/15-1936; [OBSERVATIONS OF THE ASSOCIATION OF DEFENCE COUNSEL PRACTISING BEFORE THE INTERNATIONAL COURTS AND TRIBUNALS \(ADC-ICT\) AS AMICUS CURIAE REGARDING QUESTIONS POSED BY THE APPEALS CHAMBER IN PROSECUTOR v. ONGWEN](#), 23 December 2021, ICC-02/04-01/15-1937; [Amici Curiae Observations on the Rome Statute’s definition of ‘forced pregnancy’ by Dr Rosemary Grey, Global Justice Center, Women’s Initiatives for Gender Justice and Amnesty International](#), 23 December 2021, ICC-02/04-01/15-1938; [Amicus Curiae Observations pursuant to Rule 103\(1\) of the Rules of Procedure and Evidence](#), 23 December 2021, ICC-02/04-01/15-1939; [Amicus Curiae Observations by Public International Law & Policy Group](#), 23 December 2021, ICC-02/04-01/15-1940; [Amici curiae observations submitted by Prof. Bonita Meyersfeld and the Southern African Litigation Centre Trust pursuant to rule 103 of the Rules of Procedure and Evidence](#), 23 December 2021, ICC-02/04-01/15-1941; [Submission of observations pursuant to rule 103 of the Rules of Procedure and Evidence, as amici curiae on transcultural forensic psychiatric issues](#), 23 December 2021, ICC-02/04-01/15-1942; [Amicus curiae observations on issues raised in the Appeals Chamber Order of 25 October 2021 inviting expressions of interest as amici curiae in judicial proceedings \(pursuant to Rule 103 of the Rules of Procedure and Evidence\)](#), 23 December 2021, ICC-02/04-01/15-1943.

⁸ [Prosecution’s Urgent Request for Extension of Pages](#), ICC-02/04-01/14-1944.

for his response to the written observations of the *amici curiae* and afforded the same extension to the Defence and the participating victims for the filing of their respected responses.⁹

8. On 17 January 2022, the Defence, the Prosecutor, and the participating victims filed their respective consolidated responses to the written observations of the *amici curiae*.¹⁰

9. On 19 January 2022, following a request by Ms Siobhán Mullally, UN Special Rapporteur on Trafficking in Persons, especially women and children,¹¹ the Appeals Chamber allowed her to submit observations as *amicus curiae*.¹²

10. On 21 January 2022, Ms Mullally filed her written observations,¹³ On 28 January 2022, the Defence, the Prosecutor, and the participating victims filed their respective responses to Ms Mullally's written observations.¹⁴

II. MERITS

A. *Amici Curiae* invited to participate in the hearing

11. Having considered the arguments presented and the reasons advanced in the respective observations, the Appeals Chamber invites the following *amici curiae* to attend the hearing from 14 to 18 February 2022:¹⁵

⁹ [Decision on "Prosecution's Urgent Request for Extension of Pages"](#), ICC-02/04-01/15-1949.

¹⁰ [Defence Response to the Amici Curiae Observations](#), ICC-02/04-01/15-1950; [CLR V consolidated response to the Amici Curiae observations in the Defence's Appeals against the Conviction and the Sentence](#), ICC-02/04-01/15-1951; [Prosecution Response to Amici Curiae observations](#), ICC-02/04-01/15-1952; [Victims' Observations on amici curiae submissions](#), ICC-02/04-01/15-1953.

¹¹ [Request for Leave to File an Amici Curiae Brief on sexual slavery and defence of duress Pursuant to Rule 103 of the Rules of Procedure and Evidence](#), ICC-02/04-01/15-1954.

¹² [Decision on the request for leave to file observations pursuant to rule 103 of the Rules of Procedure and Evidence](#), ICC-02/04-01/15-1955.

¹³ [Observations on the crimes of sexual slavery, enslavement and trafficking in persons, and on the grounds for excluding criminal responsibility: defences of duress, mental defect or disease and the non-punishment principle](#), ICC-02/04-01/15-1958.

¹⁴ Common Legal Representative of Victims' Response to Amicus Curiae Observations No. ICC-02/04-01/15-1958 in the Defence's Appeals against the Conviction and the Sentence, ICC-02/04-01/15-1965; Defence Response to the UN Special Rapporteur Siobhán Mullally's *Amicus Curiae* Observations, ICC-02/04-01/15-1966; Prosecution Response to Amicus Curiae observations by the United Nations Special Rapporteur on Trafficking in Persons, especially women and children, ICC-02/04-01/15-1967.

¹⁵ [Order scheduling a hearing before the Appeals Chamber](#), ICC-02/04-01/15-1909.

- i) Professor Jean Allain, Monash University, Castan Centre for Human Rights Law (hereinafter: “Professor Allain”);
- ii) Felicity Gerry QC, Wayne Jordash QC and Ben Douglas-Jones QC, Anna McNeil, Dr Beatrice Krebs, Jennifer Keene-McCann and Philippa Southwell (hereinafter: “Gerry QC *et al.*”);
- iii) National Institute of Military Justice (hereinafter: “NIMJ”);
- iv) Erin Baines, Anne-Marie de Brouwer, Annie Bunting Eefje de Volder, Kathleen M. Maloney, Melanie O’Brien, Osai Ojigho, Valerie Oosterveld, and Indira Rosenthal (hereinafter: “Professor Oosterveld *et al.*”);
- v) Association of Defence Counsel Practising before the International Courts and Tribunals (hereinafter: “ADC-ICT”);
- vi) Dr Rosemary Grey, Global Justice Center, Women’s Initiatives for Gender Justice, and Amnesty International (hereinafter: “Dr Grey *et al.*”);
- vii) Public International Law & Policy Group (hereinafter: “PILPG”);
- viii) Professor Bonita Meyersfeld and the Southern African Litigation Centre Trust (hereinafter: “Professor Meyersfeld and SALCT”);
- ix) Professor Dr Mario H. Braakman (hereinafter: “Professor Braakman”);
- x) Dr Paul Behrens, University of Edinburgh (hereinafter: “Dr Behrens”).

12. The groups of individuals appearing as *amici curiae* are invited to select one or two persons to make oral observations, on a virtual basis if necessary, at the hearing on the specific issues outlined in the schedule below.

B. Questions to be addressed before the Appeals Chamber

13. The Appeals Chamber invites the Defence, the Prosecutor, the participating victims and *amici curiae* to address the issues as outlined below. The questions listed below are intended to guide the parties, participating victims and *amici curiae* in their oral submissions. Additional questions may be put from the bench in respect of the issues outlined below or any other relevant issues under appeal during the hearing.

1. *The burden and standard of proof applicable to defences excluding criminal responsibility (article 31 of the Statute)*
 - i) Pursuant to article 66(2) of the Statute, the onus is on the Prosecutor to prove the guilt of the accused and according to article 66(3) of the Statute the standard of proof to convict the accused is that the Court must be convinced of the guilt of the accused beyond reasonable doubt. In light of this, when a ground excluding criminal responsibility under article 31 of the Statute is alleged, who bears the burden of proof and what standard of proof is applicable?

2. *Mental disease or defect as a ground excluding criminal responsibility*
 - ii) Considering the wording of article 31(1)(a) of the Statute that a person shall not be held criminally responsible provided that it can be established that such a person “suffers from a mental disease or defect that *destroys* that person’s capacity to appreciate the unlawfulness or nature of his or her conduct [...]”, could lesser forms of diminished mental capacity be compatible with this provision?

iii) Considering that Mr Ongwen was abducted at a young age by the LRA, could considerations from international human rights law exclude his criminal responsibility? How would this be compatible with the object and purpose of the Rome Statute?

3. *Duress as a ground excluding criminal responsibility*
 - iv) How should the elements set out in article 31(1)(d) of the Statute that result in duress, including the threat of imminent death or of continuing or imminent serious bodily harm, be established?

4. *Indirect perpetration and indirect co-perpetration*
 - v) The parties and participants raise several arguments concerning the LRA structure, its functioning and the roles of its members, in particular that of Mr Ongwen. Those arguments require an interpretation by the Appeals Chamber of indirect (co-)perpetration through an organised power apparatus as a particular form of indirect (co-)perpetration. What elements need to be established, and to what

level of specificity, in order to convict an indirect (co-)perpetrator through an organised power apparatus and how can they be established in the present case?

vi) What is the understanding of functional control in the context of indirect (co-)perpetration through an organised power apparatus?

5. *Sexual and gender based crimes*

vii) What are the legal elements of and the interests protected by the crimes of forced marriage, rape, sexual slavery and forced pregnancy?

viii) In the present case, the Trial Chamber convicted Mr Ongwen for forced marriage as an other inhumane act under article 7(1)(k) of the Statute. What is the scope of “other inhumane acts” within the meaning of article 7(1)(k) of the Statute? Does forced marriage amount to an other inhumane act under this provision?

ix) How should article 7(2)(f) of the Statute be interpreted when it provides that the definition of the crime of forced pregnancy “shall not in any way be interpreted as affecting national laws relating to pregnancy”?

6. *Cumulative convictions*

x) What is the scope and purpose of cumulative convictions within the legal framework of the Rome Statute, considering in particular article 78(3) of the Statute and what is the relevance, if any, of the following factors:

- The interest protected by each crime;
- The principle of fair labelling;
- The concepts of consumption and subsidiarity.

xi) Could the general principle of *ne bis in idem* under international law guide the consideration of the question of the concurrence of

crimes? How would the application of this principle affect the test for cumulative convictions?

7. *Sentencing*

xii) How should the concurrence of crimes and cumulative convictions be reflected in sentencing?

xiii) In its determination of the joint sentence, did the Trial Chamber duly consider the circumstances alleged by the Defence as mitigating circumstances: duress and Mr Ongwen's alleged substantially diminished mental capacity?

C. Schedule for the hearing

14. The order in which the Defence, the Prosecutor, the participating victims and the *amici curiae* are invited to address the Appeals Chamber and the time allocated for same over the course of the five hearing days is as follows:

Monday, 14 February 2022

- 10:00 – 10:10: Introduction by the Presiding Judge (10 minutes).
- 10:10 – 10:40: The Defence's introductory submissions on its appeal against the Conviction Decision, including any response to the participating victims' written observations (30 minutes).
- 10:40 – 11:10: The Prosecutor's introductory submissions on the Defence's appeal against the Conviction Decision, including any response to the participating victims' written observations (30 minutes).
- 11:10 – 11:20: Victims' Group 1's introductory observations (10 minutes).
- 11:20 – 11:30: Victims' Group 2's introductory observations (10 minutes).
- 11:30 – 12:00: Break (30 minutes).

- 12:00 – 12:30: The Defence’s submissions on grounds for excluding criminal responsibility pursuant to article 31(1)(a) and (d) of the Statute (30 minutes).
- 12:30 – 13:00: The Prosecutor’s submissions on grounds for excluding criminal responsibility pursuant to article 31(1)(a) and (d) of the Statute (30 minutes).
- 13:00 – 14:00: Break (1 hour).
- 14:00 – 14:15: Victims’ Group 1’s observations on grounds for excluding criminal responsibility pursuant to article 31(1)(a) and (d) of the Statute (15 minutes).
- 14:15 – 14:30: Victims’ Group 2’s observations on grounds for excluding criminal responsibility pursuant to article 31(1)(a) and (d) of the Statute (15 minutes).
- 14:30 – 14:35: The Defence’s responses to submissions on grounds for excluding criminal responsibility pursuant to article 31(1)(a) and (d) of the Statute (5 minutes).
- 14:35 – 14:40: The Prosecutor’s responses to submissions on grounds for excluding criminal responsibility pursuant to article 31(1)(a) and (d) of the Statute (5 minutes).
- 14:40 – 14:45: Victims’ Group 1’s responses to submissions on grounds for excluding criminal responsibility pursuant to article 31(1)(a) and (d) of the Statute (5 minutes).
- 14:45 – 14:50: Victims’ Group 2’s responses to submissions on grounds for excluding criminal responsibility pursuant to article 31(1)(a) and (d) of the Statute (5 minutes).
- 14:50 – 15:15: *Amici curiae*’s submissions on grounds for excluding criminal responsibility pursuant to article 31(1)(a) and (d) of the Statute (25 minutes) – Gerry QC *et al.*, PILPG, Professor Braakman and Dr Behrens (10 minutes each)
- 15:15 – 15:45: Break (30 minutes).

- 15:45 – 16:00: *Amici curiae*'s submissions on grounds for excluding criminal responsibility pursuant to article 31(1)(a) and (d) of the Statute (15 minutes) – Gerry QC *et al.*, PILPG, Professor Braakman and Dr Behrens (continuation - 10 minutes each)
- 16:00 – 16:05: The Defence's response to the *amici curiae*'s submissions (5 minutes).
- 16:05 – 16:10: The Prosecutor's response to the *amici curiae*'s submissions (5 minutes).
- 16:10 – 16:15: Victims' Group 1's response to the *amici curiae*'s submissions (5 minutes).
- 16:15 – 16:20: Victims' Group 2's response to the *amici curiae*'s submissions (5 minutes).
- 16:20 – 16:45: Questions from the bench to the parties, the legal representatives of victims and the *amici curiae* on grounds for excluding criminal responsibility pursuant to article 31(1)(a) and (d) of the Statute (25 minutes).

Tuesday, 15 February 2022

- 10:00 – 10:10: Introduction by the Presiding Judge (10 minutes).
- 10:10 – 10:25: Questions from the bench to the parties, the legal representatives of victims, and *amici curiae* on grounds for excluding criminal responsibility pursuant to article 31(1)(a) and (d) of the Statute (continuation - 15 minutes).
- 10:25 – 10:50 The Defence's submissions on sexual and gender based crimes (25 minutes).
- 10:50 – 11:15: The Prosecutor's submissions on sexual and gender based crimes (25 minutes).
- 11:15 – 11:30: Victims' Group 1's observations on sexual and gender based crimes (15 minutes).

- 11:30 – 12:00: Break (30 minutes).
- 12:00 – 12:15: Victims’ Group 2’s observations on sexual and gender based crimes (15 minutes).
- 12:15 – 12:20: The Defence’s responses to submissions on sexual and gender based crimes (5 minutes).
- 12:20 – 12:25: The Prosecutor’s responses to submissions on sexual and gender based crimes (5 minutes).
- 12:25 – 12:30: Victims’ Group 1’s responses to submissions on sexual and gender based crimes (5 minutes).
- 12:30 – 12:35: Victims’ Group 2’s responses to submissions on sexual and gender based crimes (5 minutes).
- 12:35 – 13:00: *Amici curiae*’s submissions on sexual and gender based crimes (25 minutes) – Professor Allain, Professor Oosterveld *et al.*, Dr Grey *et al.* and Professor Meyersfeld and SALCT (10 minutes each).
- 13:00 – 14:00: Break (1 hour).
- 14:00 – 14:15: *Amici curiae*’s submissions on sexual and gender based crimes (continuation – 15 minutes) – Professor Allain, Professor Oosterveld *et al.*, Dr Grey *et al.* and Professor Meyersfeld and SALCT (10 minutes each).
- 14:15 – 14:20: The Defence’s response to the *amici curiae*’s submissions (5 minutes).
- 14:20 – 14:25: The Prosecutor’s response to the *amici curiae*’s submissions (5 minutes).
- 14:25 – 14:30: Victims’ Group 1’s response to the *amici curiae*’s submissions (5 minutes).
- 14:30 – 14:35: Victims’ Group 2’s response to the *amici curiae*’s submissions (5 minutes).

- 14:35 – 15:15: Questions from the bench to the parties, the legal representatives of victims, and *amici curiae* on sexual and gender based crimes (40 minutes).
- 15:15 – 15:45: Break (30 minutes).
- 15:45 – 16:05: The Defence’s submissions on cumulative convictions (20 minutes).
- 16:05 – 16:25: The Prosecutor’s submissions on cumulative convictions (20 minutes).
- 16:25 – 16:35: Victims’ Group 1’s observations on cumulative convictions (10 minutes).
- 16:35 – 16:45: Victims’ Group 2’s observations on cumulative convictions (10 minutes).

Wednesday, 16 February 2022

- 10:00 – 10:10: Introduction by the Presiding Judge (10 minutes).
- 10:10 – 10:15: The Defence’s responses to submissions on cumulative convictions (5 minutes).
- 10:15 – 10:20: The Prosecutor’s responses to submissions on cumulative convictions (5 minutes).
- 10:20 – 10:25: Victims’ Group 1’s responses to observations on cumulative convictions (5 minutes).
- 10:25 – 10:30: Victims’ Group 2’s responses to observations on cumulative convictions (5 minutes).
- 10:30 – 11:00: *Amici curiae*’s submissions on cumulative convictions (30 minutes) – NIMJ, ADC-ICT and Dr Behren (10 minutes each).
- 11:00 – 11:05: The Defence’s response to the *amici curiae*’s submissions on cumulative convictions (5 minutes).

- 11:05 – 11:10: The Prosecutor’s response to the *amici curiae*’s submissions on cumulative convictions (5 minutes).
- 11:10 – 11:15: Victims’ Group 1’s response to the *amici curiae*’s submissions on cumulative convictions (5 minutes).
- 11:15 – 11:20: Victims’ Group 2’s response to the *amici curiae*’s submissions on cumulative convictions (5 minutes).
- 11:20 – 11:30: Questions from the bench to the parties, the legal representatives of victims, and *amici curiae* on cumulative convictions (10 minutes).
- 11:30 – 12:00: Break (30 minutes).
- 12:00 – 12:20: Questions from the bench to the parties, the legal representatives of victims, and *amici curiae* on cumulative convictions (continuation – 20 minutes).
- 12:20 – 12:40: The Defence’s submissions on issues related to indirect co-perpetration (20 minutes).
- 12:40 – 13:00: The Prosecutor’s submissions on issues related to indirect co-perpetration (20 minutes).
- 13:00 – 13:10: Victims’ Group 1’s observations on issues related to indirect co-perpetration (10 minutes).
- 13:10 – 13:20: Victims’ Group 2’s observations on issues related to indirect co-perpetration (10 minutes).
- 13:20 – 14:20: Break (1 hour).
- 14:20 – 14:25: The Defence’s responses to submissions on issues related to indirect co-perpetration (5 minutes).
- 14:25 – 14:30: The Prosecutor’s responses to submissions on issues related to indirect co-perpetration (5 minutes).
- 14:30 – 14:35: Victims’ Group 1’s responses to submissions on issues related to indirect co-perpetration (5 minutes).

- 14:35 – 14:40: Victims’ Group 2’s responses to submissions on issues related to indirect co-perpetration (5 minutes).
- 14:40 – 15:35: Questions from the bench to the parties, the legal representatives of victims, and *amici curiae* on issues related to indirect co-perpetration (55 minutes).
- 15:35 – 16:05: Break (30 minutes).
- 16:05 – 16:25: Defence’s submissions on any other issues on the remaining grounds of appeal (20 minutes).
- 16:25 – 16:45: Prosecutor’s submissions on any other issues on the remaining grounds of appeal (20 minutes).
- 16:55 – 17:05: Victims’ Group 1’s observations on any other issues on the remaining grounds of appeal (10 minutes).
- 17:05 – 17:15: Victims’ Group 2’s observations on any other issues on the remaining grounds of appeal (10 minutes).

Thursday, 17 February 2022

- 10:30 – 10:40: Introduction by the Presiding Judge (10 minutes).
- 10:40 – 10:45: The Defence’s responses to submissions on any other issues on the remaining grounds of appeal (5 minutes).
- 10:45 – 10:50: The Prosecutor’s responses to submissions on any other issues on the remaining grounds of appeal (5 minutes).
- 10:50 – 10:55: Victims’ Group 1’s responses to submissions on any other issues on the remaining grounds of appeal (5 minutes).
- 10:55 – 11:00: Victims’ Group 2’s responses to submissions on any other issues on the remaining grounds of appeal (5 minutes).
- 11:00 – 11:30: Questions from the bench to the parties and the legal representatives of victims on any other issues on the remaining grounds of appeal (30 minutes).

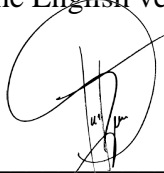
- 11:30 – 12:00: Break (30 minutes).
- 12:00 – 12:30: The Defence’s submissions on its appeal against the Sentencing Decision, including any response to the participating victims’ written observations (30 minutes).
- 12:30 – 13:00: The Prosecutor’s submissions on the Defence’s appeal against the Sentencing Decision, including any response to the participating victims’ written observations (30 minutes).
- 13:00 – 14:00: Break (1 hour).
- 14:00 – 14:15: Victims’ Group 1’s observations on the Defence’s appeal against the Sentencing Decision (15 minutes).
- 14:15 – 14:30: Victims’ Group 2’s observations on the Defence’s appeal against the Sentencing Decision (15 minutes).
- 14:30 – 14:35: The Defence’s submissions on any other issues on the appeal against the Sentencing Decision (5 minutes).
- 14:35 – 14:40: The Prosecutor’s submissions on any other issues on the appeal against the Sentencing Decision (5 minutes).
- 14:40 – 14:45: Victims’ Group 1’s observations on the Defence’s appeal against the Sentencing Decision (5 minutes).
- 14:45 – 14:50: Victims’ Group 2’s observations on the Defence’s appeal against the Sentencing Decision (5 minutes).
- 14:50 – 15:20: Break (30 minutes).
- 15:20 – 16:20: Questions from the bench (1 hour).

Friday, 18 February 2022

- 10:00 – 10:10: Introduction by the Presiding Judge (10 minutes).
- 10:10 – 10:40: The Defence’s final submissions on the appeals (30 minutes).

- 10:40 – 11:10: The Prosecutor’s final submissions on the appeals (30 minutes).
- 11:10 – 11:25: Victims’ Group 1’s final observations on the appeals (15 minutes).
- 11:25 – 11:30: Victims’ Group 2’s final observations on the appeals (5 minutes).
- 11:30 – 12:00: Break (30 minutes).
- 12:00 – 12:10: Victims’ Group 2’s final observations on the appeals (continuation – 10 minutes).
- 12:10 – 12:20: Personal address by Mr Ongwen (10 minutes) (optional).
- 12:20 – 12:30: Final remarks by the Presiding Judge (10 minutes).

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



Judge Luz del Carmen Ibáñez Carranza
Presiding

Dated this 28th day of January 2022

At The Hague, The Netherlands