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ICC to decide if LRA commander Ongwen to face trial

Key pre-trial hearing for Ugandan rebel leader accused of war crimes and crimes against humanity to open in The Hague

WHAT: On 21 January 2016, a key pre-trial hearing in the case against Lord's Resistance Army (LRA) commander Dominic Ongwen will open at the International Criminal Court (ICC) in The Hague. The judges of Pre-Trial Chamber II must decide whether there is sufficient evidence to send the case to trial. The ICC prosecutor alleges that Ongwen is responsible for war crimes and crimes against humanity committed in 2002-05 against civilians sheltering in Internally Displaced Persons (IDP) camps in Northern Uganda during the course of a conflict between the LRA and Ugandan armed forces.

WHO: In 2005, the ICC issued its first arrest warrants against five senior LRA members. Upon his surrender in the Central African Republic in January 2015 after reported falling out with the group's leader Joseph Kony, Ongwen became the first LRA suspect to be held in ICC custody. During his initial appearance before the Court, Ongwen confirmed he was an LRA commander but said he was abducted by the LRA in 1990 at the age of 14.

WHY: Ongwen is charged with 67 counts of crimes against humanity and war crimes. These include murder, enslavement, inflicting serious bodily injury and suffering, cruel treatment of civilians, intentionally directing an attack against a civilian population, and pillaging alleged to have been committed mainly in the IDP camps of Lukodi, Pajule, Odek and Abok in 2003-04. He is also charged with sexual and gender-based crimes and the conscription and use of child soldiers alleged to have taken place over the period 2002-05 in the IDP camps. Ongwen is alleged to have committed the crimes directly and indirectly through LRA troops in the Sinia Brigade under his command.

HOW: ICC Prosecutor Fatou Bensouda will present evidence to support her case against Ongwen, while the defense will have the opportunity to object to the charges and challenge the prosecutor's evidence. The defense may also raise objections to the admissibility of the case before the ICC. The views and concerns of 2026 victims who applied to participate in the proceedings are to be presented at the hearing through two legal representatives.

NEXT STEPS: Pre-trial judges Marc Perrin de Brichambaut (Presiding), Cuno Tarfusser and Chang-ho Chung must make a decision within 60 days of the parties' final submissions. The judges can confirm the charges and send the case to trial; reject the charges; or request the prosecutor to provide additional evidence or amend the charges.

COMMENT: "Victims of the LRA in Northern Uganda have waited over 10 years for justice for the shocking crimes that have torn apart their lives and communities," said **Mohammed Ndifuna, chief executive officer of Human Rights Network-Uganda**. "We are encouraged by the addition of charges against Ongwen—including for sexual and gender-based violence and crimes against children—that reflect the broad nature of crimes committed in Northern Uganda and permit a greater number of victims to access justice and receive redress through the ICC. It is now up to ICC judges to decide whether the prosecutor has enough evidence to back up the charges."

"However, we are disappointed this hearing is not taking place in Uganda which would have been the

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first opportunity for victims of the most heinous LRA atrocities to witness their alleged tormentor before justice," **continued Ndifuna.**

"This is a significant moment for the ICC as it moves forward one of its first cases. Seeing Ongwen at the ICC gives hope to victims that the alleged author of some of the worst atrocities in recent memory will at last be held accountable," **said Stephen Lamony, head of advocacy and policy - UN and Africa for the Coalition for the ICC.** "As the ICC has no police force, states must now redouble their efforts to arrest the other LRA fugitives wanted by the Court and reportedly continuing to commit crimes across central Africa."

"Justice will not truly be done in this case if the victims and affected communities far away from The Hague are unable to see it done. Governments must ensure that the ICC has the resources to keep the Ugandan people informed about the proceedings against Ongwen," **continued Lamony.**

BACKGROUND: The LRA is a rebel group that became active in Northern Uganda in the early 1980s claiming to defend the interests of the Acholi ethnic group. Uganda was the first situation opened by the Court in 2005. LRA leader Joseph Kony and commander Vincent Otti remain wanted by the Court. Proceedings against Okot Odhiambo and Raska Lukwiya were terminated following their deaths. In October 2015, the ICC Presidency rejected a recommendation to hold the Ongwen confirmation of charges hearing in Uganda for financial and logistical reasons.

The ICC is the world's first permanent international court to have jurisdiction over war crimes, crimes against humanity, and genocide. Central to the Court's mandate is the principle of complementarity, which holds that the Court will only intervene if national legal systems are unable or unwilling to investigate and prosecute perpetrators of genocide, crimes against humanity and war crimes.

There are currently nine active investigations before the ICC: the Central African Republic I & II; DRC; Darfur, Sudan; Kenya; Libya; Uganda; Côte d'Ivoire and Mali. The ICC has publicly issued 33 arrest warrants and nine summonses to appear. Three trials are ongoing. There have been two convictions and one acquittal. Eight preliminary examinations are currently ongoing, including into situations in Afghanistan, Colombia, Georgia, Guinea, Palestine, Iraq, Nigeria and Ukraine. The Office of the Prosecutor has concluded preliminary examinations relating to Venezuela, Palestine, the Republic of Korea, Honduras and the Comoros referral, declining in each case to open an investigation.

The Coalition for the International Criminal Court *is a global network of civil society organizations in over 150 countries working in partnership to strengthen international cooperation with the ICC; ensure that the Court is fair, effective and independent; make justice both visible and universal; and advance stronger national laws that deliver justice to victims of war crimes, crimes against humanity and genocide.* www.coalitionfortheicc.org.

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