

1 International Criminal Court

2 Pre-Trial Chamber II - Courtroom 1

3 Situation: Republic of Uganda

4 In the case of The Prosecutor v. Dominic Ongwen - ICC-02/04-01/15

5 Presiding Judge Cuno Tarfusser, Judge Marc Perrin de Brichambaut and

6 Judge Chang-ho Chung

7 Confirmation of Charges

8 Wednesday, 27 January 2016

9 (The hearing starts in open session at 9.30 a.m.)

10 THE COURT USHER: All rise.

11 The International Criminal Court is now in session.

12 Please be seated.

13 PRESIDING JUDGE TARFUSSER: Good morning to everybody. I think that

14 first thing to do is to give the floor to the Prosecutor in order to answer the

15 questions posed yesterday by Judge Perrin de Brichambaut.

16 Yours is the floor.

17 MR GUMPERT: Thank you, Mr President.

18 This is going to upset the timing a little. My best estimate is that to give

19 proper answers to Judge Perrin de Brichambaut's questions, I'm probably

20 going to need about half an hour.

21 Before I turn to those questions, may I clarify the answer which I gave to Judge

22 Chung yesterday? I answered his question by affirming that the Prosecution

23 advances the various modes of liability for each crime in the alternative, and I

24 accepted that conviction for more than one way of committing the same crime

25 wouldn't be something a Prosecutor could properly ask for.

1 But I'd want to clarify that while each mode of liability is in the alternative, so
2 far as any ultimate convictions at trial are concerned, the Prosecution asks this
3 Chamber to confirm all of those alternatives to preserve them so that the Trial
4 Chamber can determine which, if any of them, is proved by the evidence at
5 trial.

6 I may not have made that clear; and if I didn't, I apologise.

7 JUDGE CHUNG: Yes. If I may say so, that is already clear in your charges.
8 So we call it multiple confirmation if possible out of alternative modes of
9 liabilities or multiple confirmation out of alternative or cumulative counts.
10 That is clear. Yeah. Thank you.

11 MR GUMPERT: I'm grateful. I wasn't sure if I'd spoken clearly, and I'm
12 grateful for confirmation that we are on the same page.

13 So I turn to the questions asked by Judge Perrin de Brichambaut. It may be
14 worth so that the listeners - rather few in number today - can understand what
15 question I'm answering to repeat my understanding of the question, in
16 particular because I'm reading it in an English translation, so the first question
17 which I've extracted from the transcript of yesterday. You said, talking about
18 the Lukodi camp attack, that the soldiers of the UPDF who were present in this
19 camp had run away and that none of them had been injured. Can you tell us
20 what happened in the case of the other three camps? I'm talking about the
21 soldiers who were present in those camps. That's the question, as I
22 understand it.

23 I'm going to deal with Lukodi first because Lukodi is mentioned in the
24 question. And the Prosecution hasn't, in fact, alleged that none of the
25 government soldiers present at the Lukodi were injured. The allegation we

1 have made, based on the evidence available to us, is that none of them were
2 killed, whilst more than 45 civilians did lose their lives.

3 There is evidence that UPDF soldiers were wounded at Lukodi. According to
4 their commander, about seven of those soldiers had serious gunshot wounds.

5 One of the LRA attackers, who's given an account to the Prosecution on the
6 other hand, believes that it was just one government soldier who was
7 wounded.

8 Dealing, as your Honour has requested, with the other three camps in the order
9 in which the attacks occurred, at Pajule, P-47, the commander of the military
10 detachment there, talks of one injured officer and a little later in the same
11 statement of five injured soldiers. It's not crystal clear whether the one is
12 included within the five or whether it's one plus five.

13 He also wrote a report not for us but for his military superiors at the time. In
14 that he says -- and he uses shorthand, "own forces cas." I understand that
15 could be own forces casualties, were nine in number. Doesn't quite match
16 with what he says in his statement, but in both documents he is consistent that
17 three government soldiers were killed. So there's some confusion about the
18 number injured or wounded, I should say, but three dead.

19 Then there's P-84. He was a UPDF intelligence officer. He made a statement
20 in which he suggests that it was one UPDF soldier and one LDU - that's local
21 defence unit soldier - who were killed. But his investigator report suggests it
22 was not two but three government soldiers who lost their lives and that there
23 were nine other casualties.

24 Another source is P-52. He's also a UPDF soldier. He was actually present
25 during the attack. He says that it was three government soldiers who were

1 killed, seven were wounded. One of the seven later died.

2 Turning to Odek. P-218 is a teacher and was a resident at the camp. He says
3 that he believes two government soldiers were killed at Odek. P-245, one of
4 the Sinia brigade fighters taking part in the attack says that the barracks was
5 attacked and the defending soldiers were killed. He doesn't specify the
6 number.

7 The logbook of intercepted radio communications compiled by the ISO records
8 LRA claims that nine government soldiers were killed plus many civilians.
9 And the UPDF, the army intercept logbook, records that same intercepted
10 radio communication, nine UPDF casualties. And the police logbook accords
11 with the same number. That's all that I can say about the evidence concerning
12 government force casualties at Odek, and so I turn to Abok.

13 There were 54 government soldiers stationed at Abok; but, as your Honours
14 have heard, the majority of those soldiers left the barracks following a report of
15 LRA movements near the camp. By the time of the attack, there were just 15
16 government soldiers guarding the camp.

17 The evidence suggests that they managed to defend the barracks, although not
18 the camp. There isn't, here at Abok, any evidence in the possession of the
19 Prosecution about how many government soldiers were killed or wounded, if
20 any.

21 I turn to question number two, if I may, which was this: As far as you know,
22 what was the number of the soldiers who were deployed in each of the four
23 camps which were attacked and which you studied? You said, if I recall
24 correctly, that in Abok there were 15 soldiers. How many people were there
25 in each of these camps when they were attacked? Can you, therefore, tell us

1 when these camps, the people in these camps, dispersed; and as far as you
2 know, what was the reason for the people being dispersed from these camps?

3 And I'll take the four attacks, in turn, chronologically.

4 Pajule: P-47, he was the UPDF commander officer there, says that: At the
5 time of the October attack, I had 70 men with me in the barracks and another
6 80 men deployed around the camp. And he tops that up to 150 men. He also
7 states that during and after the attack, another 145 reinforcement troops
8 arrived and a helicopter.

9 His figures are corroborated by one of the soldiers under his command, P-52,
10 who said: Normally we had about 140 soldiers in the barracks and, from
11 these, about 70 or 80 were sent every day at 5 in the afternoon to protect the
12 barracks and camp.

13 So that's the number of soldiers.

14 Your Honour asks about the number of people, civilians, inhabitants. It's
15 estimated that in October 2003 there were between - I appreciate this is a wide
16 range, but it's the evidence - between 15,000 and 30,000 people living in the
17 camp. We don't have definite evidence about when the people in the Pajule
18 camp were dispersed.

19 I turn to Odek. Former camp resident P-218, he's the teacher that I've referred
20 to already, said that Odek was protected by about 40 government soldiers, and
21 he breaks those down; 15 from the regular army, 25 from local defence units.

22 P-274 was part of the camp administration, and he estimates 20 to 30 soldiers
23 stationed at the camp. So the two witnesses are broadly in agreement.

24 There's evidence which has been brought to your Honours' attention that
25 during the attack on Odek and a UPDF mobile force - in other words, not

1 comprehended within the 20 or 30 - became involved in the fighting as it
2 developed.

3 How many camp dwellers? How many inhabitants? Well, after the attack,
4 P-301 visited to conduct an investigation. And I'll say a little bit more about
5 that in response to one of your Honour's other questions. P-301 estimated
6 there were about 2,600 people living in the camp.

7 P-274 can speak to a limited extent in answer to your Honour's question about
8 when the camps ceased to exist. He says that Odek was dismantled between
9 2007 and 2008. And the Prosecution observes it was true of all or the vast
10 majority of the IDP camps that they were gradually disbanded as a result of the
11 LRA leaving northern Uganda at that time for the Democratic Republic of
12 Congo. And, of course, that meant there was increased security and less need
13 for people to live in camps, more ability for them to return to their villages.
14 So that's Odek.

15 Lukodi. P-35 was the military commander there, and he says that he had
16 30 men under him. The evidence of P-17 and P-42 suggests the camp was
17 populated by around 7,000 people at the time of the attack.

18 Your Honours, I won't go into the detail. It's to be found in the statements of
19 those witnesses as to why that may not be a very reliable figure. It was
20 several thousand, certainly, and the evidence suggests the figure I've just given.
21 As to the circumstances in which the people were dispersed from the Lukodi
22 camp, the position is rather different. The evidence suggests that this attack,
23 the one about which your Honours have heard really quite a lot about already,
24 had a disastrous and terminal effect upon the Lukodi camp.

25 P-17, who was part of the investigative team which went there on 21 May, saw

1 people on the road coming towards them, i.e., away from the camp, as the
2 investigative team arrived. And, indeed, he says that when they arrived at
3 the camp, it was empty.

4 P-36 also saw people coming in the opposite direction leaving the camp as he
5 was approaching it. He heard that there was a rumour that there was going
6 to be another LRA attack and that that was the cause of people fleeing with all
7 their property and their animals.

8 Your Honours can see in the video, which has been played in part -- if it's
9 watched in full, shots are taken through the windscreen of the minibus in
10 which the officials, the pathologist and so on arrived. And as they
11 approached the camp, there are streams of people coming in the opposite
12 direction.

13 P-60 remarks that almost all of the residents of Lukodi moved out after the
14 attack, many to a nearby associated camp known as Coope. I'm probably
15 pronouncing that wrong, and my sincere apologies to those who may be
16 offended by that inability. P-60 thought there were just about 20 people,
17 mostly men, who were staying behind after the attack.

18 And lastly, last in time, Abok. P-293 says there were 54 soldiers on the
19 evening of the attack. And P-293, the camp leader, confirms that. But there
20 was also a small number of Amuka, local militia effectively. That number is
21 not readily ascertainable.

22 As to the number of inhabitants, well, the official figure at the time of its
23 establishment was 7,360. P-284 is the source of that, but he says that after an
24 unspecified time, the number went up dramatically. 13,000 is his estimate at
25 one stage. Other than what I've said already about what occurred in general

1 terms in 2007-2008, the Prosecution doesn't have specific information about
2 when that camp ceased to exist or when the people in it were dispersed.
3 Question number three, given the reports we have from radio communications
4 which you were apprised of, and given the other means of information
5 available to the Ugandan forces which you're aware of, was it possible for
6 Ugandan forces to foresee any LRA attack taking place on a camp? The
7 attacks against the four camps which you investigated, were these mentioned
8 in the radio communications which you are aware of before these attacks took
9 place?

10 Well, the strictly technical answer to your Honour's question is yes, it was
11 possible. Whether it's practical or not is another question. The Ugandan
12 government had access to intercepted LRA radio communications both
13 through the ISO and the military and the police. And these included
14 strategically sensitive communications; Joseph Kony's orders, LRA
15 commanders' requests to attack, and reports upon attacks which had been
16 committed.

17 Of course, they were sent in code, as your Honours have heard, the TONFAS
18 code, but that code could be and was cracked. So if there was an order made,
19 a request for an attack at a particular location, in theory it was possible for that
20 information to be discovered and for the UPDF to be warned.

21 Another way that the UPDF might know that the LRA were about to attack a
22 camp would be reports of the presence of LRA troops in that area. So as your
23 Honours have heard, on the morning of the attack at Abok on 8 June 2004, LRA
24 soldiers were spotted and an attempt was made, with the limited forces
25 available, to forestall the attack; but I don't have the information to tell your

1 Honour whether these theoretical possibilities hardened into genuine
2 opportunities.

3 Your Honour will recall the evidence that in a period of over two years there
4 were over 700 such attacks. That's almost one a day. But making the best
5 effort I can to deal with the four camps in particular which we put forward, I'll
6 take them one by one:

7 Pajule, we've got inconsistent evidence here about advanced warnings. P-47,
8 UPDF commander, stated flatly that he did not know in advance if the
9 attackers were in the area, it was a surprise.

10 And that statement is corroborated by P-1, who was a local official. He says
11 again clearly, prior to the attack on 10 October, "I did not have any information
12 about a potential attack."

13 On the other hand, P-84, who is a UPDF soldier, said that Pajule had been
14 attacked a number of times before October 2003, that they had been expecting
15 another attack in the area of Pajule. It's fair to say that Pajule describes a
16 considerable geographical area, not just this one location, this crossroads or
17 street on either side of which there was a camp.

18 P-84 also says the UPDF were aware of a concentration of LRA forces east of
19 Pajule, and that intelligence revealed there were seven main commanders
20 moving with these groups, Ongwen amongst them. P-84 said there had been
21 threats of attacks before 10 October in the form of three letters, one of those
22 three was dropped at the Pajule camp about a week before the attack, and it
23 warned that if the people of Pajule didn't leave, didn't leave the camp, they
24 would be attacked and that they should not report the LRA movements to the
25 UPDF.

1 P-84 spoke about rumours amongst the civilian population that an attack was
2 impending. On the other hand, those rumours had been circulating since
3 January of 2003. He said that there were other indicators that there might be
4 an attack. For instance, he suggested, although he doesn't detail the sources
5 of his knowledge, LRA radio silence indicated that the LRA was moving and
6 didn't want people to know what they were doing; although how the silence
7 precisely indicated an attack on Pajule is perhaps open to debate.

8 84 spoke of LRA, what he calls or what's said in the statements to recces -- I
9 understand that to be reconnaissance groups -- were moving towards Pajule
10 from the east before the attack.

11 And finally he mentioned revelations by defectors and returning abductees
12 from the LRA before the attack talking about rebel intentions to attack.

13 Looking at the logbook, the ISO logbook, there's an entry for 5 October 2003.

14 We must recall this is what the LRA itself is saying about what they have heard,
15 so it's somewhat self-referential. There are said by those who are on the net,
16 on air, that there were rumours that an attack on Pajule was imminent. That's
17 5 October. Of course, on that day the rumours proved false, as was observed,
18 because the LRA forces had passed by without attacking Pajule. The attack
19 came five days later.

20 I turn to Odek. A simple submission here, no indications from the logbooks
21 or the intercepted messages or any other evidence that the LRA was about to
22 mount an attack on Odek.

23 Lukodi. The UPDF commander in charge of the military detachment says
24 flatly he was not aware of any impending attack.

25 Looking at the intercepted radio communications, there is nothing there in the

1 days preceding the attack which spelt out that there was to be an attack on
2 Lukodi.

3 It's fair to say that on 17 May, two days before, Ongwen asked permission from
4 Kony, from Kony, I should say, to attack camps in general and pillage food.

5 But Ongwen is not recorded as specifying any particular camp that he had in
6 mind. Indeed if predictions had had to be made about the location of attacks
7 from intercepted radio communications, they would have been rather different,
8 because on the day of the Lukodi attack, Kony is recorded as instructing his
9 commanders that they should attack the barracks at Gulu.

10 Perhaps that just indicates the difficulty the UPDF would have faced in trying
11 to base troop movements on LRA radio communications.

12 Lastly, in response to question three, Abok. On 1 June, seven days before the
13 attack, Ongwen is recorded in the UPDF logbook as saying that he was going
14 to, quote, "Kill many civs" I take it that's short for civilian, and that he would
15 send the results to Kony, seven days before the attack on Abok, no location
16 given, no other indicators the Prosecution is aware of, apart from the sighting
17 of LRA troops on the day itself with which your Honours are now well
18 familiar.

19 Question four: The force movements under the orders of Dominic Ongwen
20 between Odek and Lukodi camps and then between Lukodi and Abok camps,
21 these took place in the space of less than three and four weeks, and they cover
22 distances over 70 kilometres going through land where there were villages,
23 whilst the number of people who were moving were certainly very
24 considerable, do you have any reason to believe that the Ugandan forces were
25 aware of these movements of people?

1 The answer to the question as a general proposition is yes, at least with respect
2 to Ongwen himself. And I need to explain why I give that affirmative answer.
3 It may be worth, perhaps not now, but if I give some ERN numbers, some
4 reference numbers in Ringtail, your Honours will be able to see some of the
5 documents I'm referring to. UGA-OTP -- that's all the preface. I'll just give
6 you the numbers: 0017-0157, that's a document dated 1 May. 0017-0262,
7 that's a document dated 18 May. 0017-0326, that's a document dated 31 May.
8 And 0016-0458, that's the document dated 5 June.
9 So I've picked four which span the period your Honour is asking about.
10 Those documents as you will see are the intelligence reports which are the end
11 product of the whole intercept operation about which you've heard. You'll
12 remember LRA communications are listened to by individuals sitting at that
13 desk your Honours saw a picture of. They make rough notes, they crack the
14 codes. They write up their rough notes in books like the ones that your
15 Honours have seen in long hand but neat version.
16 Those books are then read by more senior officers and intelligence reports
17 which distill down and summarise the contents of the logbooks are created.
18 Those intelligence reports include not only a summary of the written material,
19 but also geographical coordinates for the location where particular individuals
20 who were on air at the time are said to have been broadcasting -- no, that's the
21 wrong word -- transmitting from. So we've got eastings and northings, which
22 when you have a map with sufficient detail enables you to put a pencil on the
23 map and say: That's where the radio which was transmitting was located.
24 And we have those details for the transmissions which Ongwen made or which
25 were made by his signaller.

1 We haven't relied upon those coordinates. We haven't been able to interview
2 any UPDF officers who were involved in the process of this radio location.
3 We can't verify the accuracy of the coordinates given, and in any event the
4 content of the messages makes it plain that the commander broadcasting is not
5 always and, indeed, very often not at all with the troops. So to predict where
6 the troops themselves, the future attackers were positioned from these radio
7 locations is unlikely to have been any guarantee of accuracy, even if the radio
8 locations themselves were reliable.

9 I turn to question number five now, which was: You said that after the
10 Lukodi attack the government experts had examined the bodies of the victims.
11 Your Honour is obviously talking about the pathologist there. Generally
12 speaking, what kind of investigations and legal follow-up was undertaken by
13 the Ugandan authorities after the attacks against the camps?

14 Well, I'll take them in sequence again starting with Pajule. P-84, you'll
15 remember he's the UPDF intelligence officer, he was sent to Pajule to conduct
16 an inquiry. His account of that inquiry is within the material which is
17 referred to in the Prosecution's brief and disclosed. In short, he received a
18 summary from the local councillor. He personally counted the dead bodies
19 on view. He spoke to traders whose shops had been looted and he took
20 details. He organised a count of the number of huts destroyed, 315. He
21 visited people injured during the attack at the local dispensary, and he caused
22 lists of the dead and injured to be compiled and he put all of this information
23 into a report.

24 There were in fact three other UPDF officers from different units who also
25 carried out fact-finding enquiries. The Ugandan police conducted a parallel

1 investigation from late October until early November. Again, there is a file
2 which has been disclosed and is referred to. In essence, it sets out the manner
3 in which that police investigation was carried out, it contains a number of
4 statements of victims taken by the police; all of that available, disclosed.
5 Turning to Odek. P-301 was an Internal Security Organisation officer. He
6 went to Odek two weeks after the incident. He, too, made a report which is in
7 the possession of the Prosecution disclosed and referred to.
8 He made a statement as well and he explains the report in further detail.
9 Again statement disclosed, referred to by the Prosecution in the brief.
10 He recorded the date of the attack, the estimated number of attackers, what
11 happened during the attack, the number of the dead, injured, abducted, their
12 names, the burial sites and the commander of the attack.
13 There was no police inquiry apparently after the Odek attack, or at least not
14 one of which the Prosecution is aware.
15 Lukodi. There was a police inquiry at Lukodi. Details of it can be found at
16 P-17's statement. Again referred to in the brief, disclosed.
17 He talks about the investigative team visiting the camp, the hospital where the
18 injured were being treated, and the army's divisional headquarters to get a
19 military perspective on what had happened.
20 The police collected physical evidence recovered from the campsite. They
21 took 23 witness statement from camp residents, including a man who had
22 escaped from the LRA after participating in the attack.
23 And as you've heard P-36, he's the pathologist, exhumed and examined some
24 25 bodies.
25 You've seen parts of the video. And of course the totality of that video, which

1 was part of the inquiry, is available to be watched.

2 On 6 June, so a little over two weeks after the attack, P-17 who was the head of
3 the investigative team, wrote a report on his findings and that includes the
4 methodology of the investigation, the description of the camp, the attackers,
5 the types of crimes and the numbers of victims.

6 At Abok after the attack there was follow-up from the camp leaders,
7 government soldiers, the police, the resident district commissioner, and the
8 local councillor, LC-3. They asked how people had been killed and police
9 officers took notes as they moved around the camp. Government soldiers
10 involved in these inquiries included the 4th division army commander and
11 other army officers.

12 It's noteworthy perhaps that P-293 in his statement says that he testified at the
13 court martial of the UPDF commander. He was accused of neglecting his
14 duties at the time of the attack.

15 It's perhaps only fair to say that P-239's opinion was that the real problem was
16 the inadequate number of government troops protecting the camp in the first
17 place.

18 It's perhaps appropriate to say the Prosecution isn't aware of any other court
19 action taken in Uganda in relation to any of the four charged attacks.

20 Which brings me, rather more slowly than I had thought and I apologise for
21 that, to question six which was: Have you as a Prosecutor carried out any
22 investigations to see if there were any facts which could exculpate Dominic
23 Ongwen because of the behaviour of the Ugandan forces, the UPDF, or the
24 militia which were with him in defence of the camp, or to try to prevent attacks
25 undertaken by the LRA?

1 Your Honours, the Prosecution has conducted its investigation into LRA
2 attacks on IDP camps in an objective manner with the aim of establishing the
3 truth rather than approaching it with any particular theory in mind.

4 In the course of the investigation, at the beginning of which I should say the
5 Prosecution did not know how many camps it would ultimately be including
6 in the charges and which ones they would be. We knew about Lukodi, but as
7 to the others we did not. And we've spoken to many witnesses from different
8 backgrounds who can shed light on these attacks.

9 And let me list some of the types of witnesses that we've spoken to: LRA
10 fighters who had participated in the attacks. That's one perspective, from the
11 attacker's side; second, victims, camp residents, so that's looking at it from the
12 other side; we've spoken to members of former UPDF detachments, so P-35, the
13 commander at Lukodi, or P-8, one of the senior soldiers at Pajule; we've spoken
14 to members of the former camp administrations, for example P-42 at Lukodi;
15 we collected documents from such an administrator, P-306 at Abok; and we've
16 spoken to the members of the Ugandan authorities post-attack investigation
17 teams, for example, investigation team leaders that I've already mentioned and
18 the government pathologist.

19 And during these interviews, the behaviour and actions of the UPDF forces
20 and the associated local defence forces has been discussed. And the evidence
21 disclosed as a result of these inquiries includes criticism of the UPDF for its
22 behaviour. For instance in Lukodi, where many people felt that they
23 withdrew from the camp leaving the civilian residents unprotected. Other
24 complaints, as you've just heard, were about the number of soldiers in general,
25 the adequacy of provision and the balance of what might, I suppose, be called

1 professional soldiers, UPDF proper, and local militia whose training

2 self-evidently, I suppose, was less.

3 Some of those interviews have also included references to alleged crimes

4 committed by government or associated forces outside the narrow scope of the

5 individual attacks. And I've mentioned the court martial proceedings which

6 followed the attack at Abok. All of this material is disclosed.

7 And it may be worth saying a word here. I think Mr Obhof, I wouldn't say he

8 complained but he remarked upon the small number of documents disclosed

9 as potentially exonerating. I think the figure he gave was 17 and I'm sure he's

10 accurate about that. But it's worth qualifying that. That means there are

11 17 documents which contain exonerating material only. There's a very large

12 number of documents, frankly as one would expect which are of mixed content,

13 statements the Prosecution says objective, honest statements given by

14 witnesses trying to give the whole picture, which in some part incriminate

15 Dominic Ongwen or give details about the attacks - I'm going too fast, aren't

16 I - give details about the attacks his men carried out, but which also make

17 complaints about the lack of protection or, say, that that person can't

18 specifically say that they know Dominic Ongwen was involved.

19 So there's a far greater body of material of mixed content, as one would expect,

20 than might have appeared to the unsuspecting listener who hears that just

21 17 documents of an exculpatory nature have been disclosed. When one looks

22 at the documents which are of mixed content, the number is large.

23 In the end though my submission is this: none of those circumstances, whether

24 it be complaints about the UPDF or people uncertain as to the authorship of

25 attacks, in the view of the Prosecution, cast doubt on the evidence that

1 Dominic Ongwen conducted and directed the attacks with which he is charged,
2 or diminish in any significant way his responsibility for those attacks.

3 Mr Obhof, who is a gentleman, tells me that it's not 17 but 19 documents.

4 And I'm grateful for that correction.

5 And that's all I have to say unless I can give further detail.

6 PRESIDING JUDGE TARFUSSER: Judge Perrin de Brichambaut and the

7 Chamber thanks the Prosecutor for this further explanation. Regrettably we

8 are now 50 minutes late.

9 I immediately give the floor to the Legal Representative of Victims and try to,
10 like in the airplane, to try to arrive nevertheless in time.

11 Yours is the floor, Ms Massidda.

12 MS MASSIDDA: Thank you, Mr President. You will be happy to know that
13 it will take not more than 20 minutes.

14 PRESIDING JUDGE TARFUSSER: Yes, very happy. Then it depends on the
15 other two, but we'll see. Okay.

16 MS MASSIDDA: That's the maximum I can do.

17 PRESIDING JUDGE TARFUSSER: No, no, of course. Take your time.

18 MS MASSIDDA: Mr President, your Honours, the Prosecution has yesterday
19 already addressed mainly all the arguments that we would like to address, so I
20 will limit our comments really on few issues.

21 The first one is the one for which victims have expressed a particular serious
22 concern and, with no surprise, is the argument of duress.

23 We share the Prosecution's remarks according to which the Defence has not
24 even attempted to submit any evidence which shows that Mr Ongwen was at
25 any time directly threatened by an imminent risk of death and that absent this

1 element the Chamber cannot make a balance exercise to determine if in said
2 alleged circumstances he could have been -- taken another action.

3 Duress is an excuse that is premised on the idea that the actor is incapable of
4 making a moral choice due to the overwhelming force of a threat. Necessity is
5 a justification that is premised upon the so-called lesser of two evils argument,
6 an admission which was proper for the author to engage in a certain
7 behaviour.

8 Now, your Honours, Article 31 of the Rome Statute combines the elements of
9 duress and necessity into one theory of excuse that includes a proportionality
10 requirement, and I'm referring to the last part of the sentence of paragraph 1(d)
11 of the Statute which reads: "Providing that the person does not intend to
12 cause a greater harm than the one sought to be avoided."

13 Arguably, an individual who is truly under duress does not intend to cause
14 any harm since his free will and ability to make a moral decision has been
15 overcome. The inclusion of a proportionality requirement means that the
16 threatened individual is choosing an action which will result in a lesser harm
17 than would otherwise be inflicted and, in essence, this is a moral choice that
18 would be justified; but duress cannot be a justification.

19 We submit that the focus should not be on placing to different harms on a scale
20 and attempting to see which harm is greater. The focus instead be on whether
21 or not the allegedly coerced individual's will has been overcome so that he was
22 unable to make a voluntary moral decision.

23 There is also another question, we submit. There is also another question we
24 also submit, your Honours, that needs to be asked regarding the Rome Statute
25 definition of duress. "Can it be applied to the killing of innocent civilians?"

1 The specific language of Article 31(1)(d) of the Statute states in its relevant part,
2 and I again repeat: "providing that the person does not intend to cause a
3 greater harm than the one sought to be avoided."

4 A close reading reveals that the intended harm need not be less than the harm
5 avoided, and so a harm that is equal to the one sought to be avoided would fall
6 under the protection of the definition of duress.

7 From the point of view of victims can it be said that murder of a great number
8 of civilians or the abduction of a great number of children and adults is a
9 greater harm than one's own possible individual death so that the
10 proportionality element of duress under the Rome Statute would not be
11 satisfied?

12 Specifically on murder, it is worth recalling that there is a general consensus
13 among the common law legal system that duress cannot be used to excuse it.

14 The conclusion that duress may not afford a complete defence for the killing of
15 innocent civilians also comes from World War II Military Tribunal case law.

16 The ICTY Appeals Chamber also found in the Erdemovic case that duress does
17 not afford a complete defence to charges of crimes against humanity or war
18 crimes involving the killing of innocent human beings.

19 A relevant finding for our arguments, your Honour, can be found in the Kaing
20 judgment, also known as the Duch judgment, issued by the Trial Chamber of
21 the Extraordinary Chambers in the Court of Cambodia on 26 July 2010.

22 The relevant part of the decision for us is paragraph 557, which reads as
23 follows, I quote: "The Chamber accepts that towards the end of the existence
24 of S-21, the Accused may have feared that he or his close relatives would be
25 killed if his superiors found his conduct unsatisfactory. Duress cannot

1 however be invoked when the perceived threat results from the
2 implementation of a policy of terror in which he himself has willingly and
3 actively participated."

4 It is our submission, your Honours, that the evidence shows that Mr Ongwen
5 was willingly participating in the implementation of a policy to attack the
6 civilian population of Northern Uganda perceived to support Museveni
7 governments and that he actively participated in the implementation of such
8 policy in planning and executing military operations.

9 Your Honours, victims reiterate their disappointment in hearing such a defence
10 which disrespect their sufferings. Victims consider that Mr Ongwen cannot
11 adduce duress for his wrongdoing, and he has to be committed for trial to face
12 the accusations brought against him.

13 Second, on the issue of criminal liability under Article 25(3)(a) of the Rome
14 Statute, victims submit that the Defence's arguments are unfounded.

15 Again, we share the Prosecution's arguments in response yesterday afternoon.

16 We wish to reinforce the observation according to which there is an extensive
17 body of case law at this Court, including from the Appeals Chamber, which
18 accepts that indirect co-perpetration is included within Article 25(3)(a) of the
19 Statute. The issue has been clearly and rightly addressed by many decisions
20 at different stages of the proceedings which have endorsed the theory of the
21 control over the crime.

22 In the Katanga trial judgment, the Trial Chamber indicated, and I quote:

23 "Under the terms of Article 25(3)(a), a person shall be criminally responsible as
24 an indirect perpetrator where that person commits a crime within the
25 jurisdiction of the Court through another person regardless of whether that

1 other person is criminally responsible."

2 The provision does, indeed, appear to contemplate two possible forms of
3 indirect commission: One, arising from a person who does not bear criminal
4 responsibility and another brought about by a criminally responsible person.

5 The language chosen by the drafters of the Statute ... necessarily incorporates
6 an alternative, and it rests, therefore, with the Chamber to set out one or more
7 of the legal criteria which allow effective implementation of this two-fold
8 conception of indirect commission.

9 In the Chamber's view, criminal responsibility as an indirect perpetrator is
10 incurred where a person: Exerts control over the crime whose material
11 elements were brought about by one or more persons; meets the mental
12 elements prescribed by Article 30 of the Statute and the mental elements
13 specific to the crime at issue; and is aware of the factual circumstances which
14 allow the person to exert control over the crime.

15 In accordance with the relevant practice, forms of control may include the
16 existence of an organised apparatus of power whose leadership may be
17 assured that its members will commit the material elements of the crimes and
18 that the exertion of control over an apparatus of power allows control over the
19 crimes committed by its members. Where a crime is committed by members
20 of an organised and hierarchical apparatus of power, the highest authority
21 does not merely order the commission of the crime, but through his control
22 over the organisation, essentially decides whether and how the crime would be
23 committed.

24 Control over the crime derives from the nature of organisation and its
25 structural dynamics. It is the existence of an organised and hierarchical

1 apparatus of power characterised by near automatic obedience to the orders it
2 hands down which will allow a court to find certain members of the structure
3 responsible as perpetrators of crimes whose material elements were committed
4 by their subordinates.

5 The indirect perpetrator must be in a position of awareness of the ingredients
6 fundamental to his or her exertion of control over the crime.

7 We submit, your Honours, that these requirements are met in the present case.

8 The evidence presented by the Prosecution sufficiently shows this fact.

9 Mr Ongwen held a position within the organisation, shared the objectives and
10 purposes of the organisation and made an essential contribution to the
11 commission of the crimes charged.

12 The execution of the crimes was secured by almost automatic compliance with
13 the orders issued by Kony and other senior commanders. The suspect was
14 aware of the fundamental features of the LRA as an organised and hierarchical
15 apparatus of power, and he had effective command and control over his
16 subordinates during the entire period covered by the charges.

17 Mr President, your Honours, the Prosecution has shown that there is sufficient
18 evidence to establish substantial grounds to believe that Mr Ongwen
19 committed all crimes as charged and, therefore, all counts shall be confirmed.

20 The victims' account of events corroborates the Prosecution case. The Defence
21 has failed to provide any valid argument, either in fact or in law, to challenge
22 the Prosecution's case.

23 Pre-Trial Chambers of this Court have consistently understood the evidentiary
24 threshold established in Article 61(7) of the Rome Statute as requiring the
25 prosecution to merely offer concrete and tangible proof demonstrating a clear

1 line of reasoning underpinning its specific allegations.

2 At the current stage of proceedings, the Chamber is not meant to determine the
3 suspect's criminal liability or lack thereof. Instead, the Chamber is meant to
4 assess whether sufficient evidence has been presented by the Prosecution to
5 commit the suspect for trial.

6 Considering the evidence presented by the Prosecution and the corroboration
7 thereof by the accounts of the participating victims, we submit that there is
8 sufficient evidence to establish substantial grounds to believe that Mr Ongwen
9 committed the crimes alleged against him, reaching the standard of proof
10 required by Articles 61 of the Rome Statute.

11 Victims, therefore, request the Chamber to confirm all the charges brought
12 against Mr Ongwen and commit him for trial.

13 Thank you.

14 PRESIDING JUDGE TARFUSSER: Thank you, Ms Massidda.

15 I would now invite Mr Cox, as I can see --

16 MR COX: Yes, your Honour.

17 PRESIDING JUDGE TARFUSSER: -- to make his conclusions. Thank you.

18 MR COX: One of the benefits of talking after two very good and eloquent
19 lawyers is that one can use some of the arguments but not repeat them.

20 Mr President, I would like to go to duress very briefly. I think it's very useful
21 what Ms Paolina has done, in terms of remembering how the duress get into
22 this Rome Statute.

23 I would only add that the dissenting opinion of both the President and
24 Ms Massidda's countrymen, Judge Cassesa, had an impact in the preparatory
25 commentaries, and they did include duress; but they also included the

1 requisite for which we heard nothing from the Defence, which is the
2 proportionality requirement. There is not a single shred of evidence about
3 proportionality. And duress, as any affirmative defence, shifts the burden of
4 power -- of evidence or burden of proof. When one exercises an affirmative
5 defence, one must prove that affirmative defence. We saw no evidence on
6 that count.

7 I would like to address the spiritual, I will call, aspect of escapes. Yesterday
8 we were called simplistic, that it was much harder than we pretend to show to
9 escape, that it was not only the physical aspect of escaping, there was a
10 spiritual aspect of escaping. Your Honours, Mr President, you will recall that
11 one of the accounts that we put in the floor was from a 9-year-old. The boy
12 that didn't have a shirt had 9 years old when he was abducted.

13 I would now also like to remember a personal interview that I had with one of
14 our clients. He mentioned something that was not mentioned at all by the
15 Defence, an initiation process where he personally was put oil in his forehead
16 with the sign of the cross, in his heart in the sign of the cross and in his mouth
17 with the sign of the cross.

18 What they said, Mr Kony or Kony, I don't know how it's pronounced, what he
19 said was that this oil was so they could see when they escaped they could see
20 them in the camps and they would recognize them in the camps.

21 Nevertheless, this victim this participating victim, escaped. He also was a
22 young boy when he was abducted.

23 Your Honour, I would like to put to this Honourable Court that Mr Dominic
24 Ongwen doesn't believe what his lawyers have said in the sense of that he
25 was -- that Joseph Kony could read minds, that could control everything in the

1 camp. And I'll give you just one example.
2 What was the response of the Defence to the radio communications where
3 Ongwen took credit for some attacks? They say that you would not rebut
4 Mr Kony, that you would not tell him that he was in error. Well then, your
5 Honours, Mr President, if he's reading your mind, how can you fool him that
6 he was not in the attack? He doesn't believe then that mind control argument.
7 If he can fool Joseph Kony on the radio, then he doesn't believe that argument.
8 Or is it that he only talks ex cathedra on certain occasions, that he only reads
9 minds on certain occasions. So I would put forward that that argument does
10 not fly very high.
11 I would like now to address the issue of what I would call the brainwash
12 defence. I look for it in the Rome Statute, I don't see it, but I'll try to think
13 what they're talking about brainwash. Maybe what they're talking about is,
14 and this is a bad translation from Spanish, prohibition error or mistake of law
15 maybe.
16 They would have to prove that Mr Ongwen was brought up in a norm system,
17 in a value system so different than the rest of ours that he could not be
18 motivated by the norm that we are complaining and trying to make him pay
19 for.
20 We would -- they would need to show that the LRA had a different system
21 value so completely different that raping was a good thing, that abducting
22 people was a good thing, that committing crimes against humanity was a good
23 thing.
24 Well, your Honours, once again there's contradiction because they said, the
25 Defence said that Dominic Ongwen was loved among the civilian community.

1 Was he loved because that community shared this different set of values that
2 the LRA would have in the sense that they liked to be raped, they liked to be
3 attacked, they liked to be abducted? No. He knew then the set of values that
4 would allegedly -- he would make civilians love him.

5 Also, from the Defence own arguments, they said he stood up against
6 Joseph Kony. What did he stood up against? He stood up against the
7 commission of crimes; therefore, Mr Ongwen shares the same set of values that
8 we have in the sense that he can be motivated by the norm, that he has wilfully
9 gone against our set of values and norms that are protected under the Rome
10 Statute.

11 Another argument, we saw the radio -- we heard, sorry, the radio broadcast
12 intercepted, and what Joseph Kony ordered and what Mr Ongwen ordered
13 was for the civilians seen to support the government, because they were in IDP
14 camps, to be punished. One is punished with something that is unpleasant, in
15 this case crimes.

16 Therefore, I will once again say that this is not the person that has been brought
17 up in a set of values that makes him incapable to be motivated by the norm.
18 Your Honours, Mr President, I would like to address the issue of forced
19 marriage.

20 The victims say that they must -- their harm must be considered in all its
21 aspects. We are in the front of a plurry offensive crime. This is not
22 just -- and that's why we need as representatives of the victims a confirmation
23 of charges that addresses forced marriage for what it is and not trying to put it
24 and forcing it into the elements or the typical elements of another crime. This
25 is a crime 7(1)(k) of the --

1 PRESIDING JUDGE TARFUSSER: Yes, we should go in private session for
2 this.

3 MR COX: No, it's very short, your Honour. I won't give any names, I
4 won't --

5 PRESIDING JUDGE TARFUSSER: Okay, okay.

6 MR COX: It's just --

7 PRESIDING JUDGE TARFUSSER: No, I just was asking because yesterday --

8 MR COX: Oh, sorry.

9 PRESIDING JUDGE TARFUSSER: -- you jumped up.

10 MR GUMPERT: I think there may be confusion between the two crimes
11 which both have the word "forced" in them.

12 PRESIDING JUDGE TARFUSSER: Yes, that's right.

13 MR GUMPERT: I think we're okay here.

14 PRESIDING JUDGE TARFUSSER: Okay. Okay. Thank you.

15 MR COX: Your Honours, what the victims' account is of what happened in
16 these forced marriage is that they were -- had to wash the clothes of people, of
17 their husbands, that they had to fetch water, that they had to cook, that they
18 had to clean. None of those elements are subsumed under sexual
19 enslavement or rape as the Defence would argue.

20 These are elements that are better fit under the charges presented by the
21 Prosecutor's office. This is the only way the full aspects of the harm suffered
22 by victims will be acknowledged.

23 I was surprised that in the Defence's oral submission they said that in the LRA
24 there were no wives. If you see the logbook, you will see Joseph Kony saying
25 do not touch these girls, they will be distributed as wives among LRA

1 commanders. So in their mind, in their behaviour there were wives in the
2 LRA.

3 Finally, your Honour, the Defence neither on their brief or on their oral
4 submission have disputed the fact that there was a non-international armed
5 conflict, therefore we believe that there is no discussion and that in litis, in their
6 sense, has not been disputed. That's all, Mr President, your Honours. Thank
7 you.

8 PRESIDING JUDGE TARFUSSER: Thank you very much.

9 This concludes the -- okay.

10 So I will not now give for 12 minutes, or whatever, the floor to the Defence.

11 I think we should resume at 11.30. If it takes you one hour and a half, does
12 it -- you will stay within the one hour and a half? Yes, okay.

13 So we resume at 11.30 giving the floor to the Defence. Thank you very much.

14 THE COURT USHER: All rise.

15 (Recess taken at 10.47 a.m.)

16 (Upon resuming in open session at 11.30 a.m.)

17 THE COURT USHER: All rise.

18 Please be seated.

19 PRESIDING JUDGE TARFUSSER: So well, good morning again. The floor is
20 to the Defence for the last piece of, portion of time.

21 Mr Odongo, yours is the floor.

22 We are in closed session? Why? It seems that we are in closed session here.
23 Now we're not.

24 MR ODONGO: Mr President and your Honours, I would like to take this
25 opportunity once again to profusely thank you for the time you've taken in this

1 court, for considering our written and oral submissions these past weeks.

2 Mr President and your Honours, throughout the course of the Defence
3 presentation we have described why this Honourable Court should refrain
4 from confirming the charges against Dominic Ongwen.

5 I do not intend to respond to most of the issues raised by the Prosecution and
6 the victims' counsel in their closing remarks because these are appropriately
7 presented in our submissions and also in the written briefs.

8 We have, however, made our submissions and in those submissions we have
9 discussed issues we have deemed important for the case. But, Mr President
10 and your Honours, let me highlight just a few areas that we think are pertinent
11 to sustaining our submission and the written briefs.

12 First, your Honours, I would like to remind the Court that the burden of proof
13 of the crimes alleged is placed solely on the Prosecution. It doesn't matter
14 what that standard of proof is, whether it is on the balance of probability or
15 beyond any element of reasonable doubt.

16 And I'm aware, like you are, your Honours, that it is for the Prosecution to
17 convince this Honourable Court that on all the elements of crime, it is more
18 probable than not that our client is criminally liable and should be put to trial.
19 Your Honours, unlike as it has been said today, there is no burden on the
20 Defence to disprove an alleged crime, mode of responsibility or whether it was
21 a war or not of an international nature. It is for the Prosecution to prove.

22 Second, your Honours, the Prosecution and victims suggest -- victims' counsel
23 suggest that in order to invoke duress, Dominic must admit guilt for the
24 alleged crimes. This is a bit surprising. I think we are reading from different
25 pages of the Rome Statute.

1 Your Honours, Defence submits that Article 31 does not require an admission
2 of guilt. Indeed, criminal law is very clear about the fact that a suspect need
3 not incriminate himself.

4 So the Defence submits that Article 31 does not require an admission of guilt in
5 order to exclude criminal responsibility. And unlike how one representative
6 for the victims states, the argument of duress, if shown, does remove all
7 criminal liability. It specifically allows for the removal of criminal liability for
8 all crimes under the Statute. There is no willing requirement in the Rome
9 Statute. There is no crime against humanity or murder exception in the Rome
10 Statute.

11 Your Honours, as for the proportionality, we look to Witness D-24. Under
12 paragraph 21 and 22 at UGA-D26-0010-0407, he states that several people that
13 fled with a firearm that their entire villages, including livestock and crops,
14 were destroyed.

15 He stated that the same happened to senior commanders that fled if their home
16 village was known.

17 Your Honours, Dominic's home village was very much known to the LRA.

18 Similarly, Prosecution Witness 240, a more senior commander than Dominic,
19 stated the same, same apprehensions of escape for senior commanders.

20 Your Honour, when you talk about proportionality, it's a question of how
21 many people were at risk in the mind of the person alleged to have committed
22 the crimes. And in the middle of it, you cannot exclude the sense of
23 self-preservation.

24 Here is a situation where the question of proportionality is being gleaned from
25 the mind of the suspect as to whether he should have proportionately thought

1 that the risk to him and the entire village and those of his relatives, and I mean
2 vis-à-vis the persons he's alleged to have attacked, were equal or less, it is the
3 Defence submission, your Honour, that in the minds of a suspect, it was clearly
4 imprinted that the risk to himself and his loved ones was much higher perhaps
5 than the risks associated with what he was sent to do.

6 In any case, your Honour, Prosecution has not proved the case that in all these
7 situations the attack that are alleged -- the attacks that are alleged were
8 supposed to be attacks on civilian population. It has been clearly indicated in
9 our presentation and, indeed, in the briefs and the statements that in all
10 situations these attacks were against the army establishment. It is only
11 unfortunate that the civilian population were in harm's way.

12 Your Honour, it is stated that several people that fled with firearms had their
13 entire village -- I mean, I've already made that submission. I'm sorry.

14 Your Honour, the third issue I want to address is the question of command
15 structure. The Defence, your Honours, reiterates its submissions on the
16 command structure of the LRA. As we have cited in our brief and in our
17 submissions, Defence and Prosecution witnesses state that Kony would
18 regularly circumvent what is alleged by the Prosecution to be the normal chain
19 of command. Again, your Honours, I cite Witness D-24 -- Witnesses D-24,
20 D-30 and Prosecution Witness P-240.

21 Your Honours, we reiterate that it is possible that in isolated cases, Kony
22 would follow the chain of command. But unfortunately, your Honours, you
23 may be reminded that Prosecution did not prove the case that in all cases
24 Joseph Kony actually stuck to the chain of command.

25 If Prosecution would wish this Chamber to believe that the chain of command

1 was cast in hard stone and, therefore, Dominic Ongwen cannot be excluded
2 from it, they should, therefore, have proved this element to your Honours.

3 They flatly failed to do this.

4 Your Honours, I would wish to address you now on the question of credibility
5 of the witnesses. Credibility of the witnesses, your Honours, may be judged
6 by the Chamber for the purpose of the confirmation hearing. The Chamber
7 may freely assess credibility, reliability and admissibility.

8 In its submission, Prosecution asserts that admissibility should be based on
9 whether or not there is manifest impossibility for believing the evidence test.

10 It is our submission, your Honours, that in many instances that we relied on,
11 there was -- there is manifest impossibility to believe that a person, a witness
12 who said he was part of the Sinia brigade could not remember the name of his
13 brigade commander -- I mean the brigade command.

14 For guidance, the Defence points to the Bemba and Katanga Pre-Trial
15 Chambers in their decisions on the Confirmation Of Charges. The Defence
16 pointed out the evidence of P-9, P-198, P-200 and P-309 because these four
17 witnesses should be seen as highly unreliable. And if the proposition of the
18 Prosecution should be anything to go by, there is manifest impossibility for
19 believing in their evidence.

20 Your Honours, we've presented our case. We have also demonstrated some
21 of the problems that we have with the Prosecution's case, its case theory and
22 the evidence. As you go into deliberations, think about this man, stolen from
23 his family in November 1987 at 9 and a half years, 13 years before the amnesty
24 law became a possibility or was put in place.

25 Think of what he went through and the evidence that people have given on his

1 behalf when you are deciding this case.

2 The Defence submits, your Honours, that even as he is now, Dominic Ongwen

3 is suffering double jeopardy. Having been denied the opportunity to live in

4 his community for more than 25 years, he finds himself here. I don't know

5 what that would be called if he should be put on trial. He's already suffering

6 double jeopardy. Perhaps we may want to coin another word and say he will

7 now be suffering triple jeopardy. The world would not want to see that.

8 Last but not least, the Defence wants to submit that our hearts go to the victims

9 in Abok, in Odek, in Pajule, in Lukodi who had no role whatsoever in the

10 melodrama of conflict between the LRA and the government of Uganda but

11 found themselves in harm's way.

12 We already made our submissions about this, and we think that this Court

13 should think very favourable about the submission made by my learned friend

14 Cox, that it doesn't matter whether or not Dominic Ongwen is convicted.

15 It is a fact that many people suffered. Some of us who know this

16 personally -- and at this point, your Honours, I may want to remind you that I

17 come only 4 miles away from Abok and I have many relatives among them.

18 We share the same views with the victims' lawyers that it doesn't matter

19 whether or not this case goes through against Dominic Ongwen, the victims

20 must be provided for, reparations for the victims must be provided for,

21 because it is a truism which is undeniable by all stakeholders that the victims

22 suffered unspeakable atrocities and loss of persons, relatives, loved ones,

23 properties, and the world cannot shut its eyes on this.

24 We thank you, your Honours, and rest upon our pre-confirmation brief and

25 our oral submissions and request that the Chamber may not confirm the

1 charges against Dominic Ongwen.

2 I thank you, your Honours.

3 PRESIDING JUDGE TARFUSSER: Thank you very much, Mr Odongo. Does
4 this conclude the speeches of the Defence, or is somebody else, somebody else
5 wants to speak?

6 MR ODONGO: Your Honours, I think this concludes our presentation. We
7 thank you.

8 PRESIDING JUDGE TARFUSSER: Okay. Thank you very much.

9 We are an hour ahead. So I think this confirmation hearing is concluded.

10 We thank all the parties and participants for their contribution to the Chamber
11 in order for the Chamber to find the best possible decision.

12 I thank all of you, the public here in the court and outside the court, obviously
13 the people who are in the booths serving our best these proceedings.

14 The decision on this will be issued within 60 days starting from tomorrow
15 because dies a quo non computatur in termine, therefore I would say 60 days is
16 the maximum limit starting from tomorrow. Thank you very much to
17 everybody.

18 THE COURT USHER: All rise.

19 PRESIDING JUDGE TARFUSSER: The hearing is adjourned.

20 (The hearing ends in open session at 11.50 a.m.)