

CRIMINAL OFFENSE OF HUMAN TRAFFICKING

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Abstract

The subject of this paper is a critical review of the crime of human trafficking, which falls under crimes against humanity and human dignity and is thus classified as a severe crime. Human trafficking violates individual legal rights, humanity, and the dignity of the entire human race. It represents the ultimate inhumanity not only in the way victims of the crime are treated but also in threatening human characteristics. The paper explains the legal framework governing the crime of human trafficking both at the national and international levels; through the norms of the Criminal Code of the Republic of Croatia as well as international conventions, especially concerning the protection of human rights. It describes the functioning of institutions that prosecute criminal laws and takes as a subject of research the process of Dominic Ongwen - a member of a guerrilla group who was prosecuted and convicted for many crimes against humanity and human dignity. The paper raises questions about ways to combat human trafficking, faster prosecution of perpetrators of these crimes, and victim satisfaction, by aligning norms with international standards.

Key words: *severe crimes, International Criminal Court, case study*

INTRODUCTION

The legislator has classified human trafficking as a crime against humanity and human dignity, one of the most severe crimes as it violates individual legal rights, humanity, i.e., the dignity of the entire human race. This paper analyzes the legal framework governing the crime of human trafficking at both the national level, through the Criminal Code of the Republic of Croatia, and at the international level, through regulations of the International Criminal Court. It explains the functioning of institutions that prosecute criminal laws and takes as a subject of research the process of Dominic Ongwen, a member of a guerrilla group who was prosecuted and convicted of many crimes against humanity and human dignity.

1. LEGAL FRAMEWORK OF THE CRIME OF HUMAN TRAFFICKING

Human trafficking is classified as a crime against humanity and human dignity and is considered one of the most severe crimes because it violates individual legal rights, humanity, i.e., the dignity of the entire human race. It represents the ultimate form of inhumanity, not only in terms of the manner of treatment but also in endangering human characteristics. The origins of this crime are found in international law, from

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which it has been adopted through international conventions (Munivrana Vajda, 2013).

In Croatian legislation, international law is part of the domestic legal order. It is implemented into domestic legislation through international treaties, international customary law, and general principles of law. Human trafficking is classified alongside international crimes (genocide, crime of aggression, crime against humanity, war crime), other crimes against international humanitarian law (abuse of negotiators, misuse of international symbols, unjustifiable delay in the repatriation of war prisoners, and recruitment of mercenaries), international crimes in a broader sense (terrorism, public incitement to terrorism, recruitment for terrorism, training for terrorism, terrorist organizations, torture, and other cruel, inhuman, or degrading treatment or punishment, slavery), and crimes in the field of biomedicine and bioethics (trafficking in human body parts and human embryos, cloning and altering the human genome, and the prohibition of mixing human sex cells with animal ones) into the same Chapter of the Criminal Code (Munivrana Vajda, 2013).

The international scope of the crime of human trafficking is that it is an attack on the fundamental values of the international community, and due to all these characteristics, it does not become statute-barred (Art. 81 sec. 2, Art. 83 sec. 2 of the Criminal Code), its perpetrators do not enjoy immunity before international criminal courts regardless of the personal immunity of serving state presidents and government heads as stated in Article 27 of the Rome Statute. According to it, any immunities enjoyed by a person under national or international law do not prevent the jurisdiction of the International Criminal Court over that person, and military commanders and civilian superiors can be held accountable. The national Criminal Code prescribes liability for both attempts and preparations of all international crimes. Human trafficking falls into the broader category of international criminal offenses and is specified by criminal law, thus fulfilling obligations from international treaties to which they have adhered. The prosecution of perpetrators is left to the signatory states and is not covered by the actual jurisdiction of international criminal courts (Munivrana Vajda, 2013). Human trafficking is considered a modern form of slavery. In the case of slavery, the emphasis is on exercising all or some of the rights that are attributes of property rights, whereas in human trafficking, the emphasis is on trading a person with the aim of exploiting their labor or exploiting the person in another way. Both crimes are punishable by imprisonment from three to ten years, or from three to fifteen years when it involves children. The crime involves the denial of freedoms that go beyond the freedom of movement (for example, the Supreme Court of the Republic of Croatia incorrectly interprets that the defendant did not commit the crime of establishing slavery and transporting slaves because he forced the victim to beg, and did not just prevent her from moving freely according to her own choice. (Munivrana Vajda, 2013, p. 45). In the case of transnational criminal offenses such as participating in organized criminal groups, money laundering, corruption, drug trafficking, smuggling of migrants, international terrorism, trafficking in persons - especially women and children, two principles arise from the sovereignty of each state: the territorial principle, which is basic in the laws of all states, and the principle of active

personality, according to which the state has the right to judge all its citizens who commit a crime in another state but does not have the right to arrest them there. A state will resort to such a trial if its citizen has evaded the justice of the state where the crime was committed, as this prevents his impunity. Since many states do not extradite their citizens to other states for criminal prosecution, by applying the principle of *aut dedere aut judicare*, the state is obliged to subject such a person to its criminal proceedings whenever it does not extradite him to another state for any reason (Degan, 2011). To limit and suppress criminal offenses with possible cross-border effects, states conclude conventions by which they undertake the obligation to foresee the acts in question as criminal offenses in their laws. Among the most significant is the Palermo Convention of 2000 against transnational organized crime.

For a domestic court to have jurisdiction to try individuals accused of international crimes, it is not enough for the respective state to have become a party to conventions that prohibit that crime. In states where the primacy of international law over domestic law is recognized, or where the constitution prescribes the precedence of treaties over domestic laws, an independent court may declare itself incompetent if the criminal act is not explicitly provided for in the criminal law of that state. Courts will strictly interpret the general principle of law provided in the Human Rights Conventions, which states that no one may be tried for acts or omissions that were not criminal offenses at the time of their commission. More recently, constitutions and other regulations have added that the act in question can also be determined by international law as a criminal offense. Relevant conventions prescribe the obligation of their state parties to harmonize their legislation or to enact new laws necessary for the punishment of perpetrators of prohibited acts in question. Thus, the Slavery Convention of 1926, in Article 6, stipulates that those high contracting parties whose laws do not contain adequate provisions for combating violations of the law and regulations are obliged to take the necessary measures to impose severe penalties in the case of such violations. Each state may provide in its criminal law for acts prohibited by conventions to which it is not a party, especially acts prohibited by general customary international law (Degan, 2011). For example, the Criminal Code of the Republic of Croatia of 1997 defined the establishment of slavery and the transport of slaves in its provisions.

The practice of states in punishing these crimes is very rare or inconsistent. By consistently punishing their own citizens who are perpetrators, a state would remove or reduce its own responsibility under international law and would distance itself from such practices, thereby gaining moral standing and being in a position to pressure other states to fulfill their obligations in punishing their criminals. This would have an impact on the prevention of the most severe and brutal violations of humanitarian law in the future. Because if criminals remain unidentified and unpunished, the responsibility for the crimes falls on the people, and this is the seed of possible conflicts for future generations with tragic consequences.

2. THE ROLE AND SIGNIFICANCE OF THE PERMANENT INTERNATIONAL CRIMINAL COURT

The Permanent International Criminal Court was established under the Rome Statute, an international convention open for accession to all states around the world. It came into force on June 1, 2002, after the sixtieth signatory state deposited its ratification documents. Its parties do not include countries like the USA, China, Israel, and some others. Unlike the International Court in The Hague, which is one of the six main organs of the UN, the Permanent International Court is a separate entity of international law that has entered into relations with the United Nations based on a special agreement, like their specialized courts. According to Article 5 of the Statute, the court has jurisdiction over genocide crimes, crimes against humanity (including human trafficking), war crimes, and crimes of aggression. Proceedings before the court can be initiated by the Security Council, any member state, or the prosecutor *proprio motu*. The Security Council, acting under Chapter 7 of the UN Charter, can refer a situation to the Prosecutor when it believes that a crime within the court's jurisdiction has been committed. In such cases, there are no limitations *ratione loci* and *ratione personae*. Any state party to the Statute can bring a situation before the Prosecutor if it believes that a crime within the Court's jurisdiction has been committed. The Prosecutor can also initiate proceedings before the court on his own initiative after collecting information about committed crimes within the Court's jurisdiction, assessing their foundation based on further information collected from states, bodies, intergovernmental and non-governmental organizations, and other reliable sources deemed appropriate. However, after completing his preliminary work, the Prosecutor does not have the right to bring charges himself but must ask the Pre-Trial Chamber for authorization for a genuine investigation, or he may decide that there is no basis for initiating an investigation (Degan, 2011). Before the actual proceedings before the trial chamber, the pre-trial chamber holds a contradictory hearing on the confirmation of the indictment and the evidence presented by the prosecutor. In this hearing, the suspect, with his defense, participates equally alongside the prosecutor, and at the end of the hearing, the chamber can confirm all or some of the charges and forward them to the trial chamber for further proceedings, which may confirm those charges, postpone the hearing to allow the prosecutor to gather new evidence or amend the indictment. If the prosecutor later requests to expand the points of the indictment or replace them with more severe ones, a new hearing is held. The trial before the trial chamber is public by rule and must be conducted in the presence of the accused. Trial and sentencing in the absence of the accused are not envisaged. Personal testimony of crime victims and other witnesses is privileged. Witnesses are subjected to cross-examination. Judges freely assess the evidence presented during the proceedings. Based on the evidence, judges must establish the guilt of the accused beyond a reasonable doubt (Degan, 2011).

The Prosecutor, just like the convicted, has the right to appeal against a conviction or a sentencing decision, which is then reviewed by the Court's Appeals Chamber. This chamber possesses all the powers of the Trial Chamber. It can annul or amend the decision on the penalty and order a new trial before a different trial chamber. If it is

determined that the sentence is disproportionate to the crime, it can immediately modify that decision. The Court may sentence a person it has convicted of a crime within its jurisdiction to a fixed term of imprisonment, life imprisonment, and additionally impose a fine according to the criteria prescribed by the Rules of Procedure and Evidence, as well as confiscate proceeds, property, and assets derived from the crime, provided that this does not harm the rights of third parties acquired in good faith. Four grounds for excluding criminal responsibility are foreseen: mental disease or defect, a state of temporary mental disturbance due to intoxication, self-defense, and, in a unique provision, coercion and duress (Degan, 2011).

3. LEGAL FRAMEWORK OF THE CRIME OF HUMAN TRAFFICKING IN THE REPUBLIC OF CROATIA

Article 106 of the Criminal Code of the Republic of Croatia states in its first paragraph:

“Whoever, by the use of force or threat, deceit, fraud, abuse of power or of a position of vulnerability or a relationship of dependence, giving or receiving of payments or benefits to achieve the consent of a person having control over another person, recruits, transports, transfers, harbors, or receives a person, or exchanges or transfers control over that person, for the purpose of exploitation through prostitution or other forms of sexual exploitation including pornography, or for forced or illegal marriage, or for the removal of organs, or for use in armed conflict, or for engaging in unlawful acts, shall be punished by imprisonment for one to ten years.”

This definition contains three constitutive elements. The act of commission consists in recruiting, transporting, harboring, receiving, exchanging, or transferring control over a person who is a victim of this crime. For the realization of the essence of the crime, even a single act of commission with an international element, such as transporting a victim across the border, is sufficient.

Croatia is predominantly a transit country, but over the years, it is increasingly becoming a destination country as well. There are often instances of concurrence with the crime of illegal entry, movement, and stay in the Republic of Croatia, as stated in Article 326 of the Criminal Code, which makes one or more persons who are not citizens of the Republic of Croatia, for profit, enable or assist in entering, leaving, moving, or staying in the Republic of Croatia illegally (Munivrana Vajda, 2013). This is referred to as migrant smuggling, which does not necessarily constitute the crime of human trafficking. The means or the method by which the perpetrator acts typically involve the use of force or threat, deceit, fraud, abduction, or the abuse of power or of a position of vulnerability or a relationship of dependence, or giving or receiving payments or benefits to achieve the consent of a person having control over other persons. However, the law leaves the possibility that the act of commission can be executed using other means in some other way. The Criminal Code distinguishes between fraud and deceit because deceit does not necessarily imply material gain. For example, complete fraud is a situation where, typically, female persons are offered legitimate jobs as nannies, waitresses, etc., with compensation, but behind the façade

of legitimate employment, there is human trafficking, and women in the destination country find themselves forced into prostitution. Fraud can also be partial when there is no deception about the purpose but there is in terms of the manner and circumstances of engaging in such activity.

"(2) The penalty from paragraph 1 of this article shall also be imposed on anyone who recruits, transports, harbors, or receives a child, or exchanges or transfers control over a child for the purpose of exploitation through forced labor or servitude, by establishing slavery or similar practices, or for exploitation through prostitution or other forms of sexual exploitation including pornography, or for the purpose of forced or illegal marriage or for illegal adoption, or for the removal of parts of his or her body, or for use in armed conflicts." (Munivrana Vajda, 2013, p. 42).

Regarding the objective of exploitation, i.e., the form of exploitation, it involves exploiting a person through forced labor or servitude, the establishment of slavery or similar conditions, or sexual exploitation, etc. The Council of Europe Convention and the European Union Directive do not mention exploitation for the purpose of marriage or use in armed conflicts, but they allow states to expand on this. Arranged marriages, which often involve children below the legal age for marriage, are present in certain social groups as part of their tradition, and parents often sell their daughters in these cases.

"(3) If the crime from paragraph 1 of this article is committed against a child, or if the crime from paragraph 1 or 2 of this article is committed by an official person in the performance of their duties, or if it is committed against a large number of persons, or if the life of one or more persons is knowingly endangered, the offender shall be punished with imprisonment from three to fifteen years.

(4) The penalty from paragraph 1 of this article shall also be imposed on anyone who, knowing that a person is a victim of human trafficking, uses their services resulting from one of the forms of exploitation mentioned in paragraphs 1 and 2 of this article.

(5) Whoever, with the aim of facilitating the commission of the acts from paragraphs 1, 2, and 3 of this article, retains, withholds, conceals, damages, or destroys the travel document or identity document of another person, shall be punished with imprisonment for up to three years.

(6) An attempt of the crime from paragraph 5 of this article shall be punished..

(7) The consent of the person who is the victim of human trafficking does not affect the existence of this crime." (Munivrana Vajda, 2013).

On the subjective side, the perpetrator must have the intention concerning the objective characteristics. Acting with a purpose implies direct intent of the first degree. Regarding the objective characteristics of the act, acting with indirect intent is sufficient. The perpetrator can be anyone, but the act is considered more serious if committed by an official person. In such cases, it is referred to as an aggravated form of the crime. If the act is committed towards a child with the intention of exploiting

them using incriminated means, it constitutes an aggravated form of the crime with a prescribed penalty of imprisonment from three to fifteen years. Utilizing services provided by a victim of human trafficking typically involves labor and servitude, including prostitution and other forms of sexual services, even including participation in pornography. There can also be other forms of exploitation of the victim such as the removal of parts of their body, their use in armed conflicts, or their use for committing an unlawful act, where the user of such services might sometimes be responsible for another criminal offense. The act is punishable only if the service user knows that the person is a victim of human trafficking, thus requiring direct intent. The prescribed sanction for using services is equated with the sanction for human trafficking itself because such behavior and demand for this type of services encourage human trafficking (penalty of imprisonment from one to ten years).

Regardless of whether it involves basic or aggravated forms of the act, the consent of the person exploited does not exclude the existence or unlawfulness of this criminal offense. This crime is intended to protect the victims of human trafficking; therefore, the victim is not punishable. Some authors argue that this conclusion is based on the concept of compulsory participation, following Article 26 of the Council of Europe Convention. When a victim commits a criminal offense or violation under coercion or threat, in principle, there will be no criminal offense due to extreme necessity, or there will be no violation, or the violation will be exempt from punishment.

When discussing the primacy of the victim's involvement in illegal activities, Article 26 of the Council of Europe Convention or Article 8 of the EU Directive interprets this concept extensively to include all means by which the victim is de facto subjected to exploitation, not just the use of force or threat. Croatian law in this regard is not fully aligned with international sources because it does not provide the possibility of not initiating criminal proceedings or at least not punishing in all situations where the victim of human trafficking is somehow forced to commit criminal acts. The crime of human trafficking is based on the Council of Europe Convention on Action against Trafficking in Human Beings from 2005, the European Commission's Framework Decision 2002/629/JHA on combating trafficking in human beings from 2002, and the European Union Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims from 2011, which replaced the aforementioned Framework Decision. Additionally, there's the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime from 2000 (along with the Protocol against the Smuggling of Migrants by Land, Sea, and Air adopted in Palermo). Human trafficking is considered a violation of Article 4 of the European Convention on Human Rights (Munivrana Vajda, 2013).

4. ANALYSIS (STUDY) OF THE CASE

The case study method is practical as it can precisely determine the reasons for initiating proceedings. Judicial sources, such as files on the procedure conducted by the competent bodies involved in the process, reports on law enforcement published on the website of the competent judicial body, and biographical data of the perpetrator

found on various newspaper websites, were used. The case study method preserved the entirety of the case and provided diverse data, thereby fully encapsulating the case. The case study documents the history of events related to the subject and the decisions the subject faces. Its purpose is to analyze various important themes within international criminal law. A case study is a research execution strategy that involves the empirical investigation of a phenomenon within its real-life context using multiple sources of evidence. The context is very significant for conducting a case study. (SJD, 2011).

Case Analysis of Dominic Ongwen: Dominic Ongwen, a former Ugandan child soldier and a former commander of one of the brigades of the Ugandan guerrilla group, the Lord's Resistance Army (LRA). After being abducted, he underwent initiations that included torture and being forced to watch violent killing rituals. He was indoctrinated under the tutorship of Vincent Otti and rose through the ranks to become a major at the age of 18 and a brigade commander of Sinia, one of the four LRA brigades, in his late twenties. Ongwen was a member of the "Control Altar". Throughout his time with the LRA, Ongwen had multiple wives, including Jennifer, Santa (Min Tata), Margaret, Florence Ayot, Agnes Aber (Min Ayari), Fatumu, and Nancy Abwot. In 1993, Florence Ayot, who had also been abducted, was "transferred" to Ongwen after her own husband died. Ayot later testified to the ICC that Ongwen, along with two other commanders and herself, had planned an escape, but their plan was discovered, and Ongwen was demoted, disarmed, and imprisoned for more than two weeks.

He was detained in 2014, and in 2021, the International Criminal Court convicted him of war crimes and crimes against humanity, including murders, rapes, tortures, and enslavements. Ongwen was the lowest-ranking of the five LRA leaders for whom the ICC issued its first warrants in June 2005. He is the only one the court managed to detain and, except for leader Joseph Kony, the only one still alive. Initially, he was charged with four counts of war crimes - murders, cruel treatment of civilians, intentionally directing attacks against the civilian population, and looting, and three counts of crimes against humanity - murders, enslavement, and inhumane acts causing great suffering or serious injury to body or health. The crimes were allegedly committed around May 20, 2004, or approximately that date, in the Lukodi displaced persons camp in Gulu District, Uganda. All charges relate to an attack on an internally displaced persons camp in Uganda in 2004. (ICC, 2022.)

On December 21, 2015, the ICC charged Dominic Ongwen with additional crimes beyond those listed in the arrest warrant: a total of seventy counts. Additional charges related to attacks on the displaced camps Pajule, the displaced camps Odek, and the displaced camps Abok. The charges against the accused in the context of these attacks include attacks on the civilian population, murder, attempted murder, torture, cruel treatment, other inhumane acts, enslavement, outrages upon personal dignity, looting, destruction of property, and persecution as well as sexual and gender-based crimes committed from 2002 to 2005 in the Sinia brigade – forced marriage, rape, torture, sexual slavery, and enslavement – and the recruitment and use of children under 15

years old to actively participate in hostilities from 2002 to 2005 in the Sinia brigade. The charges are based on evidence including witness statements or transcripts of interviews with a total of 123 witnesses, records of intercepted LRA radio communications, and oral testimonies of seven witnesses in September and November 2015.

There are no grounds to exclude the criminal responsibility of Dominic Ongwen. His guilt was established beyond a reasonable doubt, decided by the presiding judge of the ICC, Bertram Schmitt. Ongwen was also charged with forced pregnancies, i.e., the horrors he committed against seven women. Ongwen ordered the murders and abduction of numerous civilians, personally used women as sexual slaves, and forced children to participate in battles. The abducted were often beaten to death if they could not walk, while infants were taken from their mothers and thrown so the women could carry looted spoils to the military camps instead. Siobhán Mullally (ICC, 2022).

On February 4, 2021, Trial Chamber IX of the International Criminal Court found Dominic Ongwen guilty, beyond any reasonable doubt, of the following 61 crimes characterized as war crimes and crimes against humanity, committed in Uganda between July 1, 2002, and December 31, 2005, for (i) attacks on the civilian population as such, murder, attempted murder, torture, enslavement, outrages upon personal dignity, looting, destruction of property, and persecution; committed in the context of the four mentioned attacks on (ii) sexual and gender-based crimes, namely, forced marriage, torture, rape, sexual slavery, enslavement, forced pregnancy, and outrages upon personal dignity committed against seven women (whose names and individual stories are listed in the judgment) who were abducted and placed in his household (iii) further sexual and gender-based crimes he committed against girls and women within the Sinia brigade namely forced marriage, torture, rape, sexual slavery, and enslavement; and (iv) the crime of recruiting children under 15 years into the Sinia brigade and using them to actively participate in hostilities. The Chamber found that these crimes were committed in the context of the armed rebellion of the Lord's Resistance Army (LRA). (ICC; 2022.)

Key procedural events:

Referral and initiation of investigation: Uganda signed the Rome Statute on March 17, 1999, and ratified it on June 14, 2002, becoming a State Party to the International Criminal Court. On December 16, 2003, the Government of Uganda referred the situation concerning northern Uganda to the Office of the Prosecutor. On July 29, 2004, the prosecutor found a reasonable basis to open an investigation regarding northern Uganda.

Warrant of arrest: On May 6, 2005, the Prosecutor submitted requests for arrest warrants for Joseph Kony, Vincent Otti, Raska Lukwiya, Okot Odhiambo, and Dominic Ongwen. On July 8, 2005, Pre-Trial Chamber II issued sealed warrants of arrest against the named individuals for crimes against humanity and war crimes and requested the Republic of Uganda to search for, arrest, detain, and surrender Joseph Kony, Vincent Otti, Raska Lukwiya, Okot Odhiambo, and Dominic Ongwen. On

September 9, 2005, the Prosecutor submitted a Request for the Unsealing of the Arrest Warrants issued on July 8, 2005, to the Pre-Trial Chamber. On October 13, 2005, Pre-Trial Chamber II decided to unseal the arrest warrants for Joseph Kony, Vincent Otti, Raska Lukwiya, Okot Odhiambo, and Dominic Ongwen. On January 29, 2015, the unredacted arrest warrant for Dominic Ongwen and its translations into French and Acholi were reclassified as public according to Pre-Trial Chamber's instruction. (ICC, 2022.)

Separation of Ongwen's case: On February 6, 2015, Pre-Trial Chamber II separated the proceedings against Dominic Ongwen from the case Prosecutor vs. Joseph Kony, Vincent Otti, Okot Odhiambo, and Dominic Ongwen. On January 21, 2015, Dominic Ongwen was transferred to the ICC's detention center in The Hague (Netherlands). His initial appearance before a single judge of Pre-Trial Chamber II was held on January 26, 2015.

The confirmation of charges hearing regarding Dominic Ongwen took place from January 21 to 27, 2016. On March 23, 2016, Chamber II confirmed the charges brought by the prosecutor against Mr. Ongwen and sent him to trial. On May 2, 2016, the Presidency constituted Trial Chamber IX, which would be responsible for the case.

On December 6 and 7, 2016, the trial began before Trial Chamber IX, at the Court's seat. The charges against Mr. Ongwen were read, and the chamber was satisfied that the accused understood the nature of the charges. The accused pleaded not guilty. Opening statements were then given by the Prosecution and the legal representatives of the victims. The trial continued on January 16, 2017, with the presentation of evidence by the Prosecution. Throughout 234 hearings, the ICC Prosecutor's Office, Fatou Bensouda, presented a total of 109 witnesses and experts. The defense team led by Krispus Ayena Odongo brought forward a total of 63 witnesses and experts, and 7 witnesses and experts were called by the legal representatives of the participating victims. The judges ensured the respect of rights guaranteed by the Rome Statute to each party, including the right to examine witnesses. The Trial Chamber issued 70 oral decisions and 528 written decisions until the sentence was pronounced. On December 12, 2019, the presiding judge announced the closure of the submission of evidence in the case. The complete case file, consisting of submissions from the parties and participants and the chamber's decisions, currently includes more than 1810 submissions. Final submissions in this case were filed on February 24, 2020. During the closing statements, the prosecution, legal representatives of the victims, and defense presented their closing arguments. On February 4, 2021, the chamber decided to hold a hearing under Article 76(2) of the Statute, in the presence of Dominic Ongwen, his defenders, representatives of the Prosecution, and legal participants of the injured participating in the procedure, to hear further submissions and all additional evidence relevant to the appropriate sentence to be imposed on Dominic Ongwen. On April 14 and 15, 2021, the Chamber held a sentencing hearing under Article 76(2) of the Statute in the presence of the prosecution, Dominic Ongwen and his defense, and both teams of legal representatives of the participating victims.

On May 6, 2021, Trial Chamber IX sentenced Dominic Ongwen to 25 years of imprisonment. The total pronounced prison sentence will credit the period from January 2015 to May 6, 202

Conclusion

To curb the criminal activities of trafficking women and children, uncompromising effort and work are required. Those responsible for crimes against humanity must be held accountable, tried, and sentenced according to the gravity of the crime committed, which is why the International Criminal Court was established by the Rome Statute. Criminals need to be shown that buying and selling women and children is not a minor offense but a serious crime. Often, victims who are arrested are afraid to testify against the perpetrators, leading to them being prosecuted for criminal activities they were coerced and threatened into. This paper presents a case study, namely the trial against the Ugandan guerrilla leader Dominic Ongwen. The charges included attacks on the civilian population, murder, attempted murder, torture, cruel treatment, other inhumane acts, enslavement, outrages upon personal dignity, looting, destruction of property and persecution, sexual and gender-based crimes committed from 2002 to 2005 in the Sinia brigade – forced marriage, rape, torture, sexual slavery, and enslavement – and the recruitment and use of children under 15 years old to actively participate in hostilities from 2002 to 2005 in the Sinia brigade. In the latest submission to the ICC in 2022, which was his appeal against the conviction, the convicted criminal claimed that he was also a victim of child trafficking (kidnapping) and that, accordingly, and the fact that he was forcibly recruited as a warrior, he cannot be held responsible for his long-standing crimes.

The research has shown that there is legal regulation of this serious crime, both in domestic legislation and at the international level. However, difficulties arise in the implementation of the law in practice. The acts are hard to prove, and court processes are usually lengthy and exhausting for the victims of the crime.

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