

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

1 International Criminal Court
2 Trial Chamber IX
3 Situation: Republic of Uganda
4 In the case of The Prosecutor v. Dominic Ongwen - ICC-02/04-01/15
5 Presiding Judge Bertram Schmitt, Judge Péter Kovács and
6 Judge Raul C. Pangalangan
7 Trial Hearing - Courtroom 1
8 Friday, 3 February 2017
9 (The hearing starts in open session at 9.31 a.m.)
10 THE COURT USHER: [9:31:28] All rise.
11 The International Criminal Court is now in session.
12 PRESIDING JUDGE SCHMITT: [9:31:44] I see Mr Ayena. He doesn't hear me at the
13 moment. I'll talk to him later on.
14 Could the court officer please call the case.
15 THE COURT OFFICER: [9:31:55] The situation in the Republic of Uganda, in the case
16 of The Prosecutor versus Dominic Ongwen, case reference ICC-02/04-01/15.
17 PRESIDING JUDGE SCHMITT: [9:32:03] Thank you.
18 For the appearances, first please Mr Gumpert.
19 MR GUMPERT: [9:32:07] My name is Benjamin Gumpert. With me today
20 Colleen Gilg, Pubudu Sachithanandan, Hai Do Duc, Yulia Nuzban, Adesola Adeboyejo,
21 Jasmina Suljanovic and Ramu Fatima Bittaye.
22 PRESIDING JUDGE SCHMITT: [9:32:23] Thank you.
23 Mrs Massidda.
24 MS MASSIDDA: [9:32:26] Good morning, your Honour. I am Paolina Massidda, with
25 me Mr Narantsetseg.

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

- 1 PRESIDING JUDGE SCHMITT: [9:32:31] Thank you.
- 2 Mr Manoba.
- 3 MR MANOBA: [9:32:33] Good morning, your Honours. Joseph Manoba and
- 4 James Mawira.
- 5 PRESIDING JUDGE SCHMITT: [9:32:37] Thank you.
- 6 And for the Defence, Mr Ayena we see hopefully that you are better off than yesterday.
- 7 MR AYENA ODONGO: Yes, much better, your Honours. Your Honours, with me
- 8 today Chief Charles Taku, Madam Abigail, Mr Roy Titus Ayena and Gatarama Tharcisse.
- 9 Thank you.
- 10 PRESIDING JUDGE SCHMITT: [9:33:07] Thank you.
- 11 And Mrs Kerwegi.
- 12 MS KERWEGI: [9:33:11] Good morning, your Honour. Sarah Kerwegi.
- 13 PRESIDING JUDGE SCHMITT: [9:33:15] Thank you very much.
- 14 It is still the time for the questioning of the Defence. And I assume Mr Taku rises.
- 15 MR TAKU: [9:33:24] Thank you very much, your Honour.
- 16 WITNESS: UGA-OTP-P-0440 (On former oath)
- 17 (The witness speaks Acholi)
- 18 QUESTIONED BY MR TAKU: (Continuing)
- 19 Q. [9:33:27] Good morning, sir.
- 20 A. [9:33:33] Thank you. Good morning.
- 21 MR TAKU: [9:33:38] Your Honours, with your leave, can the Court move to a very
- 22 brief private session.
- 23 PRESIDING JUDGE SCHMITT: [9:33:43] We go to private session.
- 24 (Private session at 9.33 a.m.)
- 25 (Redacted)

Trial Hearing
WITNESS: UGA-OTP-0440

(Private Session)

ICC-02/04-01/15

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Open session at 9.38 a.m.)

7 MR TAKU: [9:38:12] You test -- sorry.

8 THE COURT OFFICER: [9:38:14] We are in open session.

9 MR TAKU: [9:38:18]

10 Q. [9:38:18] You testified that shortly after you defected the ICC came to interrogate
11 you; is that correct, sir?

12 A. [9:38:44] That's correct.

13 Q. [9:38:47] Can you tell the honourable Court how the ICC investigators got through
14 to you when you were in the custody of the UPDF and, as you said, not being trusted by
15 them? Do not reveal your identity, do not reveal your location, just answer the question
16 how they got through to you.

17 A. [9:39:27] What I know how the ICC came to me, I was not aware, but I was told
18 that I am going to be interviewed by some people, but I didn't know from where they
19 were coming, so when I finally met them, that's when they introduced themselves to me.

20 Q. [9:39:48] Who told you that you were going to be interviewed by some people?

21 A. [9:40:06] It was one of the government's officials.

22 Q. [9:40:14] Well, I will not pursue to ask for his name to avoid getting to private
23 session. But let me ask this question: While you were still in the LRA, Joseph Kony
24 used the threat of arrest and prosecution by the ICC to scare LRA commanders from
25 defecting; would that be correct, sir?

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

1 A. [9:40:56] Yes, that's correct.

2 Q. [9:40:58] Nevertheless, you were encouraged by the message of a promise of
3 amnesty broadcast over radio Mega FM, that message was so called Dwog Paco, to the
4 effect, correct?

5 And I refer your Honours and the witness to realtime transcript of 2 February 2017, page
6 18, line 1 to 17.

7 A. [9:41:50] That one is correct.

8 Q. [9:41:52] At some point in time, sir, Joseph Kony banned the LRA combatants from
9 listening to Mega FM; is that correct, sir?

10 A. [9:42:14] That happened.

11 Q. [9:42:16] And the reason he placed that ban was to dissuade LRA soldiers from
12 listening to that call to surrender or defect in exchange for amnesty. Would I be correct,
13 sir, to say so?

14 A. [9:42:40] Yes, that would be correct.

15 Q. [9:42:41] Now, can you tell the Court what will happen to any person who was
16 found or discovered listening to this radio FM Mega in defiance of the orders of
17 Joseph Kony? If Joseph Kony found out, what would he do to that individual?

18 A. [9:43:15] At the time that he gave those orders I did not see anybody who was
19 arrested or punished, so I cannot be able to explain as an example or by way of example if
20 he ever punished anybody for that.

21 Q. [9:43:35] Was anybody found that you know listening, disobeying listening to
22 Mega FM nevertheless and did Joseph Kony know about that?

23 A. [9:43:55] I have not heard about anybody who was found or defied that order and I
24 have not seen it.

25 Q. [9:44:08] At the time, sir, that you were interrogated by the investigators from the

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

1 Prosecution, had you been granted amnesty by the government of Uganda?

2 A. [9:44:31] Yes, I was already given the amnesty certificate.

3 Q. [9:44:42] Were you nevertheless afraid that although you have been granted
4 amnesty by the government of Uganda you could still be prosecuted by the ICC?

5 A. [9:45:03] Yes, I had that thinking.

6 Q. [9:45:21] When the investigators finally contacted you, did they inform you that
7 they were investigating -- that Mr Ongwen was subject of the investigation?

8 A. [9:45:59] They did not tell me the person whom they were investigating.

9 Q. [9:46:07] Presently, as you sit in this courtroom today, do you have anything to
10 fear from any wrongdoings that you might have done while you were in LRA?

11 A. [9:46:36] Well, if I know that things can change, yes, I could have fears, but since I
12 haven't seen anything, so it's difficult to explain that, but I don't have that much fear yet.

13 Q. [9:46:54] Now, I wish to assure you again that you are a protected witness and that
14 the protective measures that were given by the honourable Court to you have been very
15 effective.

16 And nevertheless there's a question that I would like to ask in private session,
17 your Honour.

18 PRESIDING JUDGE SCHMITT: [9:47:20] We go to private session.

19 (Private session at 9.47 a.m.)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Open session at 9.57 a.m.)
- 24 MR TAKU: [9:57:45]
- 25 Q. [9:57:46] Now, Witness --

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

1 THE COURT OFFICER: [9:57:52] We're in open session.

2 MR TAKU: [9:57:55]

3 Q. [9:57:57] Witness, can you tell the Court the process you went through in order to
4 be totally integrated into the LRA. And let me suggest one, tab 2, UGA-OTP-0218-0463,
5 at 0475 to 0477.

6 In particular let me suggest could that one be that you said you were beaten; is that
7 correct, sir?

8 A. [9:58:55] That is correct.

9 Q. [9:58:59] Were you also forced to kill?

10 MS KERWEGI: [9:59:04] Your Honour, depending on the answer to that question --

11 PRESIDING JUDGE SCHMITT: [9:59:07] Yes, I think this would be indeed a question
12 which would have to be discussed in private session. I think this is really something
13 where we should go into private session. We do that, please.

14 MR TAKU: [9:59:21] We concede, your Honours. We concede.

15 (Private session at 9.59 a.m.)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Open session at 10.07 a.m.)

5 THE COURT OFFICER: [10:07:27] We're in open session.

6 MR TAKU: [10:07:32]

7 Q. [10:07:32] Now, let me repeat the question. When you first set eyes on Mr Kony,
8 when you first came into contact with him, you said he had assembled some people, he
9 was there, his bodyguards were around. Did he address those people, the people in the
10 group in which you were, in that assembly where you were, did he address the people; if
11 yes, what did he say?

12 A. [10:08:11] Kony says so many things. And I cannot remember some of them.
13 But normally he talks to the new captured, abducted people, and he tells them not to
14 escape and says that if you do escape, you will be arrested and killed.

15 Q. [10:08:31] In that situation, when you were abducted and brought before Kony, did
16 he make the same speech? Did he warn that: Do not escape. If you escape, you'll be
17 arrested and killed?

18 A. [10:08:59] That one is possible.

19 Q. [10:09:01] Well, I wouldn't belabour the point. The Judges will look at the
20 evidence.

21 Were you also taught the LRA ideology and told that Kony has spiritual powers? He
22 could venture and read into the minds of people, predict events, prevent attacks and
23 know exactly what each individual combatant, the commanders were thinking and the
24 particular time. Were you told this?

25 A. [10:09:40] Yes, people used to say those things about him.

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

1 Q. [10:10:03] I can see in your case -- I'm afraid and I would like my colleague who is
2 a lawyer to pay particular attention if this will reveal your identity, she will advise me and
3 the Court. Yes, your Honour, I think actually we should go to private session on this
4 because it is a very personal --

5 PRESIDING JUDGE SCHMITT: [10:10:22] Yes, private session.

6 (Private session at 10.10 a.m.)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Open session at 10.13 a.m.)

5 THE COURT OFFICER: [10:13:48] We're in open session.

6 MR TAKU: [10:13:56]

7 Q. [10:13:57] Now, Witness, you told investigators that Mr Kony ordered for

8 Mr Otti Lagony to be killed.

9 Your Honours, tab 3.

10 PRESIDING JUDGE SCHMITT: [10:14:15] Can you just put the question to him, and if
11 he confirms it, I think it's okay. If not, we can refresh his memory, but just put the
12 question to him.

13 MR TAKU: [10:14:25] Yes, your Honour.

14 Q. [10:14:26] Did Mr Kony ordered that Otti Lagony should be killed?

15 A. [10:14:38] Yes, that is true because I think it was because with the orders given that
16 he disappeared. Without orders having given, it wouldn't be possible for him to be
17 eliminated.

18 Q. [10:15:00] To whom was the order given for Otti Lagony to be killed?

19 A. [10:15:16] As well as -- according to my recollections, as I said yesterday,
20 sometimes you may not know how the orders have been given, but you just see what has
21 been executed.

22 Q. [10:15:31] Some of the orders could be given by the parallel communication, radio
23 communication that Kony set up and some of it could be given by TONFAS to specific
24 individuals of which you were not aware; correct?

25 A. [10:15:55] Not all orders are sent through the radio. There are some orders who

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

1 are communicated between the commanders themselves. In that case it's difficult to
2 know how an order was given.

3 Q. [10:16:13] Could you tell the Court whom Otti Lagony was and how close he was
4 to Mr Kony?

5 A. [10:16:39] They were not related.

6 Q. [10:16:42] Yes, I am not talking about them being related, I'm talking about who
7 was he, what position of command did he hold, if any, within the LRA?

8 A. [10:17:01] He was a high-ranking officer.

9 Q. [10:17:10] A high-ranking officer. That's somewhat general. Did he hold any
10 specific functions that you know of? Please tell the Court if you know.

11 A. [10:17:33] At that time there were no ranks, they would just say so and so is in
12 charge of this unit.

13 Q. [10:17:44] So he was -- Mr Otti Lagony was in charge of which unit?

14 A. [10:18:03] He was actually commanding the whole LRA, but he was Kony's
15 subordinate.

16 Q. [10:18:15] So would I be right to say that he was next in command to Kony since he
17 exercised his command over the whole LRA, but he was subordinate to Kony?

18 A. [10:18:36] That is true.

19 Q. [10:18:39] Can you tell this honourable Trial Chamber if you know the reasons
20 why Mr Kony ordered that he be killed and indeed he was killed?

21 A. [10:19:01] I don't know the reasons why orders were given for him to be killed.

22 Q. [10:19:13] Now, Witness, do you remember a time that there was a disagreement
23 with Arabs, a disagreement between LRA and Arabs while in Sudan and some
24 commanders, LRA commanders planned to escape, but Kony found out and ordered
25 Oringa Sisto Abudema to kill them? Do you remember, sir?

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

1 A. [10:19:57] That happened.

2 Q. [10:19:58] Can you tell the Court whom these commanders were?

3 A. [10:20:07] The commanders who did what, if I may ask?

4 Q. [10:20:21] Those commanders that Mr Kony ordered Oringa Sisto Abudema to kill,
5 who planned to escape, he ordered Abudema to kill. Do you remember their names, sir?
6 If you do, please tell the honourable Trial Chamber.

7 A. [10:20:45] I remember Commander Onekomon.

8 Q. [10:20:59] Can you remember, Witness, or can you tell the Court, if you know, how
9 Kony knew about your plans to escape?

10 A. [10:21:17] I don't know that. I'm not sure. Perhaps he got the information from
11 people, or perhaps he got the information through his spirits since he claims to have
12 spiritual powers.

13 Q. [10:21:35] Yes. Now, with the permission of the Court, let me refer to a particular
14 transcript, then I put the question to you, this particular question, your Honours.

15 At tab 4, UGA-OTP-0218-0503, at 054 to -- 05 -- 0505, lines 52 to 57 and 60 to 73. Let me
16 put the question.

17 You told the Prosecution that it was especially hard, if not impossible, for commanders to
18 escape. You remember telling the Prosecutor that? Please read the transcripts. And if
19 yes, can you tell the Court why?

20 PRESIDING JUDGE SCHMITT: [10:22:54] You're referring now to 52 until 57?

21 MR TAKU: [10:22:57] Yes, your Honour.

22 PRESIDING JUDGE SCHMITT: [10:22:58] Perhaps it would be best then that the
23 witness reads 47 until 51.

24 MR TAKU: [10:23:05] Yes.

25 PRESIDING JUDGE SCHMITT: [10:23:05] And tells the Court if this is what he

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

1 remembers today, too, or not.

2 Mr Witness, have you read that portion?

3 THE WITNESS: [10:24:18] (Interpretation) Did you say it is from number 52?

4 PRESIDING JUDGE SCHMITT: [10:24:23] No. For you, your language it is
5 47 until 51.

6 MR TAKU: [10:24:36] Your Honour, also from, particularly from 44 and 46.

7 PRESIDING JUDGE SCHMITT: [10:24:54] And perhaps you just move a little bit up
8 also and read 43, yes, and read also 43, and then please tell the Court if this is what you
9 said at the time and what you remember today, what you would say today.

10 THE WITNESS: [10:25:37] (Interpretation) On line 43 on the side of commanders it's
11 difficult for them to escape and it's really difficult.

12 MR TAKU: [10:25:45]

13 Q. [10:25:45] Can you tell the Court why, if you know, and the consequences if they
14 were caught attempting to escape?

15 A. [10:26:09] It's difficult to know if someone wants to escape or not. You just only
16 see what happens, or you just realise that so and so is no longer around, so people start
17 asking questions.

18 Q. [10:26:34] Witness, did you remember telling the investigators that Kony ordered
19 Otti to kill all lazy commanders who didn't want to follow his orders; do you remember
20 that?

21 A. [10:27:08] If my memory can be refreshed by looking at the transcript of my
22 statement, yes, I may be able to remember.

23 Q. [10:27:22] Tab 4, UGA-OTP-0218-0503, at 0505, lines 60 to 61 in English.

24 PRESIDING JUDGE SCHMITT: [10:27:46] So for you please, Mr Witness, read
25 58 and 59.

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

1 THE WITNESS: [10:28:34] (Interpretation) Yes, I've seen that part of the transcript.

2 PRESIDING JUDGE SCHMITT: [10:28:37] Does that refresh your memory?

3 THE WITNESS: [10:28:52] (Interpretation) Yes, that reminds me, makes me
4 remember.

5 MR TAKU: [10:28:58]

6 Q. [10:28:59] Did you know why he gave the order, Witness?

7 A. [10:29:12] That is the order he sent by radio to Otti concerning things which he
8 considered not being well done. But he didn't give orders to kill someone. He just said:
9 If there's somebody who is lazy or who doesn't want to work, then the persons should be
10 killed. But he did not give orders to kill people.

11 Q. [10:29:42] Well, the Judges will look at that.

12 Let me move to another area quickly.

13 You testified I think yesterday that Abudema was moved to division command. You
14 remember that, sir, or you want me to remind you, to point to the transcript?

15 A. [10:30:22] I kindly request you to refer me to that part of the transcript so that I
16 may refresh my memory and it will be easier for me to give an answer.

17 MR TAKU: [10:30:35] Yes, your Honours, realtime transcript of 2 February 2017, pages
18 19 to 20.

19 PRESIDING JUDGE SCHMITT: [10:31:17] Which line are you referring to?

20 MR TAKU: [10:31:20] We are trying to get the line, your Honour. Your Honours, it is
21 from lines 1 to 13, in fact, in particular line 6 and 7.

22 PRESIDING JUDGE SCHMITT: [10:31:58] Since the witness cannot read, of course, the
23 realtime transcript in English, this portion should -- has to be translated for him. This
24 would be I think the question first on line 6.

25 I'll read it so you can translate it, I would say, so this perhaps facilitates things.

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

1 "Let me be precise." Was the question at the time, Mr Witness. "You told the interviewers
2 that Abudema moved to division command. Where was Abudema stationed before he
3 moved to division command?"

4 And then line 9, this was your answer, "Before being moved to division command,
5 Abudema."

6 So I think this should be enough for the time to refresh your mind, although it is of course
7 not a complete sentence, but since it was yesterday I think we should not overdo this
8 process now.

9 Put your question to the witness.

10 MR TAKU: [10:33:13] Yes.

11 PRESIDING JUDGE SCHMITT: [10:33:13] And I think this might really be enough for
12 the witness to answer.

13 MR TAKU: [10:33:19] Yes.

14 Q. [10:33:20] Does it trigger your mind about what you said, that Abudema was
15 moved to the division command?

16 A. [10:33:36] Yes, I remember having said it yesterday.

17 Q. [10:33:41] Now, in other words, apart from brigades, there were also divisions in
18 the LRA; is that correct, sir?

19 A. [10:34:09] I think I'm not in position to answer that correctly because I'm a bit
20 confused now.

21 Q. [10:34:18] You spoke about command, somebody was moved to division command.
22 I'm not talking about -- I'm talking about the division in the structure of the LRA, were
23 there divisions, if so, how many divisions were there?

24 A. [10:34:44] I'm not able to give any response about divisions at this time.

25 Q. [10:34:52] But do you know or not that the divisions was somehow higher, in a

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

1 higher position, the structure above the brigades; correct?

2 A. [10:35:15] I know that a division is higher than a brigade.

3 Q. [10:35:23] You listened yesterday, Witness, to an intercept in which as you
4 explained the spirits, Kony alleged that the spirits have moved him to promote certain
5 officers. And indeed everybody in this courtroom heard Kony reading out the names to
6 Otti and Otti was repeating the names to everyone. Do you remember that, sir?

7 A. [10:36:08] Yes, I remember. There were names that were read for the promotions.

8 Q. [10:36:19] And those promoted, that the spirits promoted through Kony, were
9 people whom were performing well, they were doing their assignments properly; correct?

10 A. [10:36:46] I'm not sure the reasons for the promotions, whether they were for their
11 hard work, I'm not sure.

12 Q. [10:36:58] Now, would you know, Witness, as opposed to attacking purely civilian
13 targets if that's between attacking civilian target and those who attacked military targets,
14 barracks, attacked UPDF and recovered weapons, we know whether Kony praised those
15 individuals who attacked those military targets recovered arms and ammunitions,
16 whether between those and those who attacked civilians, do we know whom Kony
17 appreciated most and praised?

18 A. [10:38:03] Kony appreciates any assignment or any job that brings in weapons.

19 MR TAKU: [10:38:22] Your Honours, again, with your permission, I am sorry I'm
20 going to private session too many times, but this will be very brief. They are very, very
21 personal questions that could be asked in public session, but they are very personal, so let
22 me ask --

23 PRESIDING JUDGE SCHMITT: [10:38:39] (Microphone not activated) You didn't
24 hear me. We trust your assessment. We go to private session.

25 MR TAKU: [10:38:46] Thank you very much, your Honours.

Trial Hearing
WITNESS: UGA-OTP-0440

(Private Session)

ICC-02/04-01/15

1 PRESIDING JUDGE SCHMITT: [10:38:52] And may I ask you, can we have also an
2 assessment how long your examination is going?

3 (Private session at 10.39 a.m.)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: UGA-OTP-0440

(Private Session)

ICC-02/04-01/15

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: UGA-OTP-0440

(Private Session)

ICC-02/04-01/15

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: UGA-OTP-0440

(Private Session)

ICC-02/04-01/15

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: UGA-OTP-0440

(Private Session)

ICC-02/04-01/15

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Open session at 10.51 a.m.)
- 12 THE COURT OFFICER: [10:51:52] We're in open session, your Honour.
- 13 MR TAKU: [10:51:58]
- 14 Q. [10:51:58] Now, Witness, you testified yesterday that -- yesterday you said you
- 15 could identify the voice of Mr Ongwen on that audio - sorry - on the attack on Odek.
- 16 You remember that, sir?
- 17 A. [10:52:26] Yes, I remember.
- 18 Q. [10:52:28] Now, apart from what you said you heard over the radio, what you told
- 19 the Court yesterday, do you have any other information about Odek? I presume what
- 20 you know is what you heard over the radio, what you interpreted to the Court yesterday;
- 21 is that correct, sir?
- 22 A. [10:52:57] If it's something that I have not talked about yesterday which I heard
- 23 from radio, then there's nothing else that I know in relation to Odek.
- 24 Q. [10:53:16] Now, let us go back quickly to a number of things. The Prosecutor
- 25 made you to listen to these audios. Did -- well, this is a -- when I talk about TONFAS I

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

1 will -- I will keep that to the end.

2 Now, yesterday, your Honours -- I mean, Witness, and I do not want to waste the Court's
3 time because you did not -- I know you did not generate those intelligence reports, I
4 merely showed you internal reports and asked you to read them. And without wasting
5 further time, you saw the name Ocen Labong, you saw the name in that report, correct?

6 A. [10:54:22] I did not see the name Ocan Labongo.

7 MR TAKU: [10:54:28] Your Honours, can he be shown again for that purpose just to
8 identify the name on the document.

9 PRESIDING JUDGE SCHMITT: [10:54:34] Yes, just to show him that there is this name
10 and then you ask him the question related to this person.

11 MR TAKU: [10:54:40] Yes, your Honour.

12 PRESIDING JUDGE SCHMITT: [10:54:41] The tab please and exact reference number.

13 MR TAKU: [10:55:08] Your Honours, it's at tab 16.

14 Q. Just look through that document, if you see his name?

15 PRESIDING JUDGE SCHMITT: [10:55:40] Why not tell him exactly that it is -- I think
16 we would have to say that this is -- the reference number is a little bit difficult to see here,
17 but it's on line 9, for example, he should look at line 9.

18 MR TAKU: [10:56:11] And at --

19 PRESIDING JUDGE SCHMITT: [10:56:13] Yes.

20 MR TAKU: [10:56:15] -- 153.

21 PRESIDING JUDGE SCHMITT: [10:56:19] (Microphone not activated).

22 MR TAKU: [10:56:21]

23 Q. [10:56:22] Have you seen the name, sir? Have you seen the name, Witness?

24 A. [10:56:44] I'm seeing the name written as Labong, Labong, so I'm not sure which
25 one you're referring to.

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

1 PRESIDING JUDGE SCHMITT: [10:56:56] Do you have an idea who this person could
2 be?

3 THE WITNESS: [10:57:10] (Interpretation) There was no name in the bush or a
4 person that was referred to as Labong.

5 MR TAKU: [10:57:18]

6 Q. But was there a name of Ocan Labongo?

7 A. [10:57:32] There was -- there was no Ocen Labong. What I know that was there
8 was Ocan Labongo.

9 Q. [10:57:42] And as you testified, this Ocan Labongo was in senior brigade?

10 A. [10:57:58] Yes, he was in senior brigade at that time, unless there were changes
11 after, then I don't know.

12 Q. [10:58:10] Then I put it to you, Witness, that the individual Ocan Labongo was the
13 individual who led the attack on Odek, who went to Odek, who led the attack, and
14 reported to Mr Kony about the attack that he conducted, and this was recorded in a
15 number of reports which you may now have seen anyway, and there's no need for me to
16 take you there, I will ask a question about it. May I put it to you that he was the one who
17 led the attack, was physically on the ground, led the attack in Odek?

18 A. [10:59:13] I have not got you well. Is it as a question to me or you're only
19 explaining so that I understand?

20 Q. [10:59:22] I'm making a suggestion to you for you to react, whether you know that
21 or whether you don't know.

22 A. [10:59:36] In relation to what I heard yesterday on the tape, the speaker was not
23 Ocan Labongo, but the person who even sent the message, if you hear the name that he
24 used, it was Tem Wek Ibong, so I knew that it was Dominic who was referred to as Tem
25 Wek Ibong, but not Ocan Labongo.

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

1 Q. [11:00:04] Yes, but my question, Witness, is that irrespective of what you may have
2 heard, I'm coming to those -- those intercepts, I'm going to ask you questions about what
3 you listened yesterday, the questions will be coming shortly, but irrespective of what you
4 listened, I'm putting to you that the person, the commander who led the attack in Odek
5 was Ocan Labongo and not necessarily --

6 PRESIDING JUDGE SCHMITT: [11:00:34] Mr Gumpert.

7 MR GUMPERT: [11:00:35] Your Honour, this is a, with respect, a ludicrous question.
8 What's being put is: Irrespective of the evidence which you know, what is the answer to
9 my question. That's not a decent proposition.

10 PRESIDING JUDGE SCHMITT: [11:00:49] Mr Taku, I think the witness has answered
11 the question according to his knowledge, but of course we also see the tab 16 and what is
12 written down there, but this -- and we had discussed this before, this is not a work
13 product of this witness, so you would have to rephrase or I would have to sustain the
14 objection by Mr Gumpert.

15 MR TAKU: [11:01:18] Let me rephrase.

16 PRESIDING JUDGE SCHMITT: [11:01:20] Yes.

17 MR TAKU: [11:01:21]

18 Q. [11:01:21] Now, Witness, you're aware that apart from this radio communications,
19 there were individuals in the LRA who defected and went to the UPDF, some individuals
20 who participated in the attacks, who were led and participated in the attacks. Were you
21 aware that they provided information to the UPDF, and also there was human intelligence
22 and information from other security agencies that gave a more complete picture of the
23 attacks in Odek? Were you aware of this, sir?

24 A. [11:02:09] No, I am not aware about that. And I do not know who escaped and
25 sent information to the government soldiers, so that's why I cannot say or agree that

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

1 information was sent.

2 PRESIDING JUDGE SCHMITT: [11:02:30] Mr Taku, I take it that you have more
3 questions.

4 MR TAKU: [11:02:33] Yes, very few, your Honours. I think -- well, I don't know --

5 PRESIDING JUDGE SCHMITT: [11:02:38] No, no, the question would, of course, be a
6 housekeeping matter. Do we have a break now or do you think you would finish in a
7 couple of minutes? I don't want to push you. We can have our break and then we can
8 continue --

9 MR TAKU: [11:02:52] Yes, your Honours.

10 PRESIDING JUDGE SCHMITT: [11:02:53] -- but it would be appreciated if you at least
11 could finish during the second session.

12 MR TAKU: [11:02:59] Thank you, your Honours. I will.

13 PRESIDING JUDGE SCHMITT: [11:03:00] Then we have a break until 11.30.

14 THE COURT USHER: [11:03:05] All rise.

15 (Recess taken at 11.03 a.m.)

16 (Upon resuming in open session at 11.31 a.m.)

17 THE COURT USHER: [11:31:17] All rise.

18 PRESIDING JUDGE SCHMITT: [11:31:38] Mr Taku, you have the floor. I think we are
19 in open session; is this correct?

20 MR TAKU: [11:31:43] Yes, your Honour.

21 PRESIDING JUDGE SCHMITT: [11:31:47] Yes, then please continue.

22 MR TAKU: [11:32:07]

23 Q. [11:32:07] Witness, those audios you listened to yesterday and the transcripts that
24 were shown to you that you annotated some of the areas, when the investigators first met
25 you, did they play those audios to you, and did they also show you those transcripts

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

1 which you listened -- those transcripts which you annotated, that is in 2004, did they?

2 A. [11:33:03] In 2004, if I do recall well, but I think I need to be -- my memory needs to
3 be refreshed.

4 Q. [11:33:21] Well, I really do not have anything to refresh your memory.

5 PRESIDING JUDGE SCHMITT: [11:33:25] Mr Witness, I think the question was clear. I
6 think you can answer without refreshing your memory at this point in time at least.

7 MR GUMPERT: [11:33:37] Your Honour, I'm sorry to interrupt, but the question may
8 have been clear, but it was also misleading. The proposition is put that he annotated
9 transcripts in 2004. He didn't.

10 PRESIDING JUDGE SCHMITT: [11:33:48] Okay. Then perhaps I suggest, Mr Taku, that
11 you first of all split your question a little bit, because there were two questions, when I
12 recall it correctly, there were two questions entailed in it, and it might be easier for the
13 witness to answer one after the other, one question, the answer may lead to another
14 question and so on. Perhaps we do it this way. And no -- indeed, that's correct, no
15 proposition that may not be completely correct.

16 MR TAKU: [11:34:21] Yes.

17 Q. [11:34:22] In 2004, when the Prosecutor first met you, did they play those audios for
18 you to listen, did they do that?

19 A. [11:34:42] I did not listen to any tapes played to me in 2004.

20 Q. [11:34:48] When did you first listen to those tapes, sir, to those audios?

21 A. [11:34:59] If I do recall well, I think it was the second time I was summoned, but I
22 can't remember the year.

23 Q. [11:35:12] And when did they put those transcripts before you, when did you first
24 see it? When did they bring it to your attention?

25 A. [11:35:29] Unless I haven't understood very well, are you asking at the moment

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

1 about the time I made my statement or are you referring to the transcripts of the
2 intercepts?

3 Q. [11:36:02] I'm talking about the transcripts, the transcription, yes, the transcripts of
4 those intercepts, the one that were shown to you yesterday before the Court.

5 A. [11:36:28] When I made my statement, that tape had not yet been played to me.

6 Q. [11:36:36] Yes, my question now is about the transcript.

7 A. [11:37:00] Regarding the intercepts which I heard, I do recall that it was shown to me
8 and I did -- it was played to me. But I cannot remember the date, because I have gone
9 through so many things and as a result it's difficult for me to recall certain things easily.

10 Q. [11:37:28] Now, I want to find out that when they played those audios to you, did
11 you, did they give you an opportunity independently to make a transcription of those -- of
12 the contents of the audios listened to make transcription in the original language in which
13 it was made, independently? Keep aside the transcript that was shown later, was there a
14 transcript of what your interpretation at the time?

15 A. [11:38:22] I did not make any transcriptions. I just only marked the voices I was
16 recognising. That's all I did.

17 Q. [11:38:43] And why did you mark them? You marked them. Why did you mark
18 them?

19 A. [11:38:50] That was done in a room in Kampala in Uganda.

20 Q. [11:39:03] Yes. I'm not asking the location, please. Do not go into locations now.
21 We're in open session. I'm asking, did you mark them on a piece of paper or computer,
22 on some form? Did you -- where and on what material did you mark them?

23 A. [11:39:29] I marked them on a piece of paper.

24 Q. [11:39:35] Where is that piece of paper?

25 A. [11:39:44] I have no idea where it has been placed, because it wasn't mine so I

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

1 couldn't keep it.

2 Q. [11:39:54] Now, thereafter you were shown a transcription, transcripts. Do you
3 know who made those transcripts? Did they explain to you, did they tell you who made
4 those transcripts that you were shown?

5 A. [11:40:17] No one told me who made the transcripts from the audio intercepts.

6 Q. [11:40:39] Now, I did observe, Witness, yesterday that you were able or in your
7 evidence you identified some voices, but you also had difficulties identifying all the voices
8 in the communications; am I correct?

9 A. [11:41:15] Yes. I wasn't able to identify some voices, but I was able to identify some,
10 because there were also other factors which made it difficult to listen -- to hear well clearly
11 what was being said on radio.

12 Q. [11:41:41] Now, when they played the video to you the time you heard when they
13 met you, on what instrument was played, was it played on computer or laptop?

14 A. [11:42:07] They used a laptop to play for me those audios.

15 Q. [11:42:14] Now, I presume, Witness, I will put this question because you testified
16 that Joseph Kony had a parallel system of communicating with commanders that you did
17 not surely -- you were not able to hear. And I want just to find out, in that exercise, did
18 they have -- did they present to you or not any intercepts of your communication from
19 that -- those parallel channels from which Joseph Kony gave orders, operational orders to
20 commanders, were you -- were they presented to you in the exercise?

21 A. [11:43:02] I've no idea regarding where they found those tapes, but they just played
22 them to me.

23 Q. [11:43:20] Now let's talk about TONFAS. Were you presented any TONFAS in that
24 location to help to explain the content of those TONFAS? Did the Prosecution present
25 them to you to help to explain exactly the messages that were hidden within the context,

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

1 the TONFAS, intercepted TONFAS?

2 A. [11:43:51] Could you please repeat that? I didn't understand very well.

3 Q. [11:44:01] When the Prosecutor came to play these audios to you and to interview
4 you, did they present to you intercepted TONFAS, the LRA TONFAS that were
5 intercepted or captured by the UPDF, did they present them to you to ask you to help to
6 explain them, the hidden messages behind these TONFAS?

7 A. [11:44:34] No one gave me any TONFAS.

8 Q. [11:44:40] What about any Acholi slangs, Swahili slangs and Acholi proverbs, did
9 they present any of them they captured to ask you to attempt to interpret them for the
10 Prosecution? Did they present them to you?

11 A. [11:45:09] Nothing was given for me. Nothing was -- no one asked me, no paper
12 was given to me containing the slangs or proverbs, but if I was requested to explain
13 something, a slang or a jargon, for example, "lanyata," I would do so. But nothing was
14 given to me on paper in advance.

15 Q. [11:45:37] And is the evidence that Joseph Kony sometimes gave operational
16 instructions by way of TONFAS to commanders to carry out attacks in a particular
17 location, would that be true, sir?

18 A. [11:45:58] That happens because he doesn't want other people who are not
19 concerned with the operations to know, to know it.

20 Q. [11:46:19] And that would include operations in area like Odek, correct?

21 A. [11:46:27] I cannot say that the Odek operation was ordered confidentially. I have
22 no idea on that.

23 MR TAKU: [11:46:45] Your Honours, thank you very much. That would be all for the
24 witness, except senior counsel, lead counsel, has anything to say, he himself is here, I'm
25 just deputizing, if he has something to say, that will be all for him.

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

1 PRESIDING JUDGE SCHMITT: [11:46:58] I think he would indicate that.

2 MR AYENA ODONGO: [11:47:01] Your Honours, I don't think there is anything more
3 than what he has said. We are happy with this witness. He has done his part and we
4 shall take it as it is.

5 PRESIDING JUDGE SCHMITT: [11:47:21] Thank you very much.

6 And I pick this up and would like to address the witness shortly. We thank you for
7 answering the questions and we thank you that you assisted the Chamber in finding the
8 truth. Now this concludes your testimony.

9 (The witness is excused)

10 PRESIDING JUDGE SCHMITT: It also concludes the first, how do we word it, evidence
11 block. I take the opportunity to thank everybody in the courtroom for helping things run
12 smoothly. This is not an exaggeration in my opinion, we are still at the start of a long
13 trial and not everything can function perfectly from the beginning. We have here
14 proceedings which are highly technical and many things have to function so that it can
15 run smoothly. And we have very difficult interpretation and because of that I think in
16 hindsight what has happened in the past three weeks was really in the opinion of the
17 Chamber a smooth start.

18 So let it be like that. Thank you.

19 Yes, Mr Taku.

20 MR TAKU: [11:48:46] Your Honours, with permission from lead counsel, I just want to
21 say when we reconvene, one of our staff member Mr Tharcisse Gatarama will no longer
22 be with us. He's proceeding to work with the European Union.

23 And we're extremely grateful. He has been with me for the past 18 years, from 1999 at
24 the ICTR to the Special Court for Sierra Leone and here. And on my behalf, that of lead
25 counsel -- and of course, since you are the same, the Trial Chamber in Article 70, Arido,

Trial Hearing
WITNESS: UGA-OTP-0440

(Open Session)

ICC-02/04-01/15

1 and all my colleagues on that team were extremely grateful. He said as we say that this
2 has been a learning exercise, it has helped him, it is going to help him with his new
3 assignment. And I'm humble that for the past 18 years he joins about 14 others who have
4 worked with me who are now in international institutions. Thank you so much.

5 PRESIDING JUDGE SCHMITT: [11:49:42] May I inquire what he's going to do there or is
6 this secret?

7 MR TAKU: [11:49:46] No, no, no. He's going to be a liaison officer attached to the
8 European Union field operations in one part of the world.

9 PRESIDING JUDGE SCHMITT: [11:49:59] We should leave it like that.

10 MR TAKU: [11:50:00] Yes, your Honour.

11 PRESIDING JUDGE SCHMITT: [11:50:01] So again, thank you very much. And we
12 abate the proceedings and we reconvene, I think it's Monday, the 27th, yeah, I know, I
13 know, Monday the 27th of February, 9.30.

14 THE COURT USHER: [11:50:16] All rise.

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