

Trial Hearing
WITNESS: UGA-OTP-P-0047

(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 Judge Raul Pangalangan
6 Trial Hearing - Courtroom 3
7 Thursday, 28 September 2017
8 (The hearing starts in open session at 9.30 a.m.)
9 THE COURT USHER: [9:30:59] All rise.
10 The International Criminal Court is now in session.
11 PRESIDING JUDGE SCHMITT: [9:31:17] Good morning, everyone.
12 Good morning, Mr Lubwama, at the video link location. I hope you hear me well.
13 WITNESS: UGA-OTP-P-0047 (On former oath)
14 (The witness speaks Swahili)
15 (The witness gives evidence via video link)
16 THE WITNESS: [9:31:39] (Interpretation) I can hear you perfectly well, your
17 Honour.
18 PRESIDING JUDGE SCHMITT: [9:31:41] That's fine.
19 Could the court officer please call the case.
20 THE COURT OFFICER: [9:31:46] Good morning, Mr President, your Honours.
21 The situation in the Republic of Uganda, in the case of The Prosecutor versus Dominic
22 Ongwen, case reference ICC-02/04-01/15.
23 And for the record, we're in open session.
24 PRESIDING JUDGE SCHMITT: [9:32:00] Thank you.
25 The appearances of the party, first Mr Choudhry for the Prosecution.

1 MR CHOUDHRY: [9:32:05] Your Honour, today I'm accompanied by Mr Ben
2 Gumpert, Mr Paul Bradfield, Mr Pubudu Sachithanandan, Ms Ramu Bittaye, Ms Yya
3 Aragon and Mr Shahriar Yeasin Khan. Thank you.

4 PRESIDING JUDGE SCHMITT: [9:32:19] Thank you.

5 And Mr Manoba for the first team of the Legal Representatives of the Victims.

6 MR MANOBA: [9:32:24] Good morning, your Honours. Joseph Manoba and
7 James Mawira.

8 PRESIDING JUDGE SCHMITT: [9:32:27] And the second team, please.

9 MS WALTER: [9:32:29] Good morning, Mr President, your Honours.

10 This morning for the common Legal Representative of Victims, Ms Hyuree Kim, and
11 myself Caroline Walter.

12 PRESIDING JUDGE SCHMITT: [9:32:39] Thank you. And for the Defence,
13 Mrs Bridgman, please.

14 MS BRIDGMAN: [9:32:42] Good morning, your Honours. I'm Abigail Bridgman,
15 together with lead counsel Krispus Odongo Ayena, Chief Charles Achaleke Taku,
16 Thomas Obhof and Salma Khamala. And our client Mr Ongwen is in court.

17 PRESIDING JUDGE SCHMITT: [9:33:00] Thank you very much, and you can
18 remain standing, because it's now your turn. I give the floor to you for the
19 questioning by the Defence. And I think we all have in mind why procedurally the
20 witness is at the video link location, it was especially because the Defence wanted to
21 question the witness according to certain instances that might be of interest for you
22 regarding P-9, for example. So of course it's not excluded to ask him other questions,
23 but you should keep that in mind that that was the principal purpose, so to speak,
24 that what has been brought forward specially also by the Defence.

25 So please start, Mrs Bridgman.

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1 MS BRIDGMAN: [9:33:59] Thank you, Mr President. And I just also would like
2 to clarify that we intend to ask him further questions regarding his statement since it's
3 a Rule 68(3) statement.

4 PRESIDING JUDGE SCHMITT: [9:34:11] You're perfectly entitled to that. It was
5 just sometimes I do that just to -- like to channel things a little bit, at least a little bit.
6 But of course, you're entitled to question also, to dwell into other matters too, of
7 course.

8 Please continue.

9 MS BRIDGMAN: [9:34:27] Thank you.

10 QUESTIONED BY MS BRIDGMAN:

11 Q. [9:34:32] Good morning, Mr Lubwama.

12 A. [9:34:35] Good morning.

13 Q. [9:34:38] Thank you for being here this morning. And I'm going to ask you
14 some questions relating to what you said in your statement and perhaps other
15 questions outside of that statement, but nothing big.

16 A. [9:35:13] Very well.

17 Q. [9:35:14] Now, I will start off with a clarification. Yesterday you testified that
18 you were born on 10 March 1962. You also affirmed that the information contained
19 in your statement to the Prosecution was truthful and accurate. Yet at the very first
20 page of your statement, where your biographical data is, it shows that you were born
21 in 1964. Can you please clarify and explain the difference?

22 A. [9:36:18] It was an error on the part of the person who took my statement
23 down. The truth is that I was born in 1962.

24 Q. [9:36:47] At paragraph 10 of your statement you said that you joined the bush
25 war as a fighter for the NRA. Can you tell us why you joined the NRA?

1 A. [9:37:18] I joined the NRA because of the problems which had been caused by
2 the authorities, the administration at the time.

3 Q. [9:37:45] Why did you refer to it in your statement as "the bush war"?

4 A. [9:38:15] We were carrying out a guerilla war. We were in the bush.

5 Q. [9:38:22] Did you control any territory when you were in the bush, at the time
6 you joined?

7 A. [9:38:52] Yes.

8 Q. [9:38:53] Would that territory be the Kapeeka that you mentioned in Luwero
9 district?

10 A. [9:39:13] I'm sorry, could you repeat your question, please?

11 Q. [9:39:17] You mentioned that you held territory while in the bush. In your
12 statement, you say that you were based in Kapeeka in Luwero district. Is this the
13 territory that you're talking about?

14 A. [9:39:50] Yes, that's the area I'm talking about. It's called Luwero triangle.

15 Q. [9:39:58] Now, while you were in the bush, did people have ranks?

16 A. [9:40:19] Yes.

17 Q. [9:40:20] Were these ranks recognised when you finally got into power
18 in 1986?

19 A. [9:41:02] From the time that we entered government, our ranks were
20 recognised.

21 Q. [9:41:22] Who was in charge of giving promotions?

22 A. [9:41:42] The person who was the commander of the NRA.

23 Q. [9:41:52] When you went to Tanzania for your training, what kind of training
24 did you receive?

25 A. [9:42:20] I followed training for young officers.

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1 Q. [9:42:26] Apart from the military part of the training, did you also receive
2 training in the law of war?

3 A. [9:43:00] Yes.

4 Q. [9:43:03] In your statement at paragraph 12 you said that you were the
5 commanding officer for Hotel Battalion in the 509 brigade. When did you become
6 the CO?

7 A. [9:43:48] In 2002.

8 Q. [9:43:50] Do you remember the month?

9 A. [9:44:07] It was the month of November.

10 Q. [9:44:11] How many people were you commanding by January of 2003?

11 A. [9:44:42] 650 men.

12 Q. [9:44:53] These 650 men, were they UPDF, LDUs or a combination of both?

13 A. [9:45:28] They were UPDF troops and others were LDU. And I should
14 perhaps specify that those who were in the UPDF were those who above all followed
15 the command.

16 THE INTERPRETER: Were those who were in command, corrects the interpreter.

17 MS BRIDGMAN: [9:46:08]

18 Q. [9:46:10] Can you give an estimate of the number of the commanders from the
19 UPDF in those 650 people?

20 A. [9:46:42] There were approximately 55 of them.

21 THE INTERPRETER: [9:46:46] Or, rather, 25 of them, corrects the interpreter.

22 MS BRIDGMAN: [9:46:56]

23 Q. [9:46:59] Now, Mr Witness, is it true that the rest of the men, the LDUs, all
24 came from within or around the Pajule area, which was your area of responsibility?

25 A. [9:47:38] They came from different localities, but from the Acholi area.

1 Q. [9:48:00] Now, Mr Lubwama, Pajule is in Pader district; isn't that correct?

2 A. [9:48:23] That's correct.

3 Q. [9:48:24] So if I understand correctly what you're saying, some of these LDUs
4 came from Gulu, from Kitgum and other districts within the northern -- the Acholi
5 region, correct?

6 A. [9:48:46] That's correct.

7 Q. [9:49:00] Now, were the roles different between the LDUs and the UPDF, apart
8 from the fact that the UPDF were commanders?

9 A. [9:49:48] As soldiers we all had the same mission, to fight to protect the
10 members of the population of the country.

11 Q. [9:49:59] Were you all armed the same way with the same weapons?

12 A. [9:50:27] The weapons could be different, depending on the function and the
13 deployment of the army.

14 Q. [9:50:44] Did both the UPDF and the LDUs receive the same training?

15 A. [9:51:11] Yes.

16 Q. [9:51:14] Did they go to the same training school and spend the exact same
17 amount of time? For instance, if someone joined the UPDF and someone joined the
18 LDU, would they go to the same training and spend the same amount of time in the
19 training?

20 A. [9:52:08] The training was the same but the period could be different.

21 Q. [9:52:14] Would you please tell us the difference in the period.

22 A. [9:53:00] A soldier receives a nine-month training. And after that he's an
23 active soldier.

24 Q. [9:53:11] And how many months did it take for an LDU?

25 A. [9:53:33] I can't explain the period of time that those troops would have spent

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1 in training because I was assigned soldiers who had already finished their training.
2 Perhaps that's a question that could be put to the person who was in charge of
3 training.

4 Q. [9:54:05] Did the LDU have ranks?

5 A. [9:54:24] Yes. They had the rank of private.

6 Q. [9:54:39] So if an LDU had been with you for five years or more, they would
7 still be private, correct?

8 A. [9:55:19] That depends. It depends on the organisation of the army.

9 Unfortunately I can't give you any more details than that.

10 Q. [9:55:37] Fair enough. Do you know if they received the same salary like the
11 UPDF? Let me be specific, so if a UPDF private and an LDU private, would they be
12 receiving the same amount of salary per month?

13 A. [9:56:08] Once again it depends on the organisation within the army. The
14 LDUs were considered members of militia. The UPDF were considered as soldiers
15 of a regular army.

16 PRESIDING JUDGE SCHMITT: [9:56:52] May I shortly, perhaps.

17 Mr Lubwama, I think counsel is interested in the organisation at the time when you
18 held this position, if you know something about that, how the situation was at the
19 time and how it was organised at that time.

20 THE WITNESS: [9:57:13] (Interpretation) Our group was configured as a battalion.
21 I was the commander of that battalion.

22 PRESIDING JUDGE SCHMITT: [9:57:43] Please continue, Mrs Bridgman, I think.

23 MS BRIDGMAN: [9:57:53]

24 Q. [9:57:55] So, Mr Witness, would it be fair for me to then conclude from what
25 you have told us so far that your role was to command the troops as you had them,

1 and you had no say or no contribution into anything else regarding their welfare or
2 their organisation?

3 A. [9:58:39] I haven't really understood the question.

4 Q. [9:58:49] I will repeat. From what you have said so far, would it be fair for
5 me to say that apart from commanding the troops, you did not know anything about
6 their recruitment, the hierarchy amongst themselves, or their payments?

7 A. [9:59:34] You've asked me a question about payments. I told you that the
8 salaries of the troops in the UPDF were different to the salaries of those from the LDU,
9 because the UPDF was a regular army while the LDU was, rather, a militia. I also
10 told you that I had soldiers -- I received soldiers who had already been trained and I
11 just deployed them for the work that they had to carry out on a daily basis. I didn't
12 participate in their training.

13 Q. [10:00:22] Now, just one more follow-up question on that: When you say
14 there was a difference in the payments, were the militias paid more or less than the
15 UPDF?

16 A. [10:01:08] I don't think that I mentioned the problem of pay in my statement.
17 I don't see what I could say -- anything more I could say about this point.

18 Q. [10:01:34] That is indeed correct, Mr Lubwama. And like I mentioned at the
19 beginning, some of my questions will go outside your statement, so please bear with
20 me. So do you know if the payment for the LDUs was lower or higher than that of
21 the UPDF?

22 A. [10:02:09] I've already told you that the pay, the salaries were different because
23 the people from the LDU were deemed to be militia members, whereas members of
24 the UPDF were deemed to be members of a regular army.

25 PRESIDING JUDGE SCHMITT: [10:02:35] I think we move on. It would -- of

1 course I don't want to make any conclusions here from the Bench, but it would be
2 surprising if it was one way and not the other way, to put it in the abstract.

3 MS BRIDGMAN: [10:02:53] Well understood, Mr President. I just was hoping
4 that I would get a concrete answer, so I don't know if could be something with the
5 interpretation. With your permission, may I try one last time?

6 PRESIDING JUDGE SCHMITT: [10:03:10] You can try it a last time, but perhaps
7 we -- yeah, we never know. We can't see the future. So there might be a turnout
8 that we do not expect.

9 MS BRIDGMAN: [10:03:26]

10 Q. [10:03:28] Mr Lubwama, since the LDUs were considered militias, were they
11 also considered to have -- to be entitled to less money than the UPDF?

12 A. [10:04:31] Well, this is an internal matter within the army, a question I can't
13 answer. But I do know in some cases there were different levels and the structure
14 was such that the employees did not receive the same pay.

15 Q. [10:05:04] And yet, Mr Lubwama, isn't it true that the LDUs had to go through
16 the same disciplinary structure through the court martial as the UPDF?

17 A. [10:05:24] I haven't understood your question. Could you please repeat?

18 Q. [10:05:51] Isn't it true, Mr Witness, that the LDUs deployed with the UPDF at
19 all times as long as they were under your command?

20 A. [10:06:08] Yes.

21 Q. [10:06:24] Isn't it also true that if there was any case of indiscipline, the LDUs
22 would undergo through the court martial process just like the UPDF?

23 A. [10:06:51] Of course. When an LDU member did something wrong, he had to
24 be held accountable and he had to be punished in accordance with, well, what he had
25 done and in accordance with the UPDF code of conduct.

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1 Q. [10:07:23] Do you remember instances where the LDUs had to undergo
2 disciplinary action for misconduct?

3 A. [10:07:37] I beg your pardon?

4 Q. [10:08:04] Within your unit, do you recall instances where the LDUs had to
5 undergo disciplinary action for misconduct?

6 A. [10:08:38] There were some cases of breach of discipline, that might have
7 happened, but minor cases that did not require a court martial, cases that could have
8 been dealt with and the person could have been punished, the wrongdoer. But if
9 necessary, if it was a serious matter, the person would have to appear before a court
10 martial, but I don't know whether any such case occurred.

11 Q. [10:09:26] Among the forces that you were commanding, did you also have
12 former members of the LRA?

13 A. [10:09:49] Yes.

14 Q. [10:09:53] Did they belong to the LDUs or to the UPDF?

15 A. [10:10:10] They belonged to LDUs.

16 Q. [10:10:19] Fast-forward to October 2003, do you recall names of any of those
17 former LRA that were with you in your unit?

18 A. [10:10:35] I do remember Charlie Ngomrom, who was my assistant.

19 Q. [10:11:24] Is this the same Ngomrom that you mention in your statement?

20 A. [10:11:39] Yes.

21 Q. [10:11:42] Do you recall someone else called Odoch?

22 A. [10:11:55] Odoch? I don't remember, no.

23 Q. [10:12:06] Now, just for clarification, earlier when I asked you the number of
24 UPDF, I just want to clarify did you say 25 or 55?

25 A. [10:12:31] Twenty-five.

1 Q. [10:12:34] Now, Mr Witness, the 650 men that you had, did they all live in the
2 barracks?

3 A. [10:13:10] Yes. They lived in a military camp, but not at the same place.
4 They were at various different places.

5 Q. [10:13:26] Can you explain when you say they lived at various places, was it in
6 the camp or within the military detach?

7 A. [10:13:56] I said that they were positioned in various locations and when there
8 was a deployment the deployment was done to fortified positions, to various
9 detachments and various positions.

10 Q. [10:14:27] Now, regarding the people that were at Pajule barracks, were they
11 all living in the barracks, the soldiers I mean?

12 A. [10:14:49] Yes.

13 Q. [10:14:53] Now, to clarify, among the 650 men, how many of them were
14 stationed at Pajule?

15 A. [10:15:22] 150.

16 Q. [10:15:25] These 150 that were at Pajule, isn't it true that their families lived
17 with them in the barracks?

18 A. [10:15:54] Some soldiers were there with family members, but others lived
19 apart from their family members.

20 Q. [10:16:05] And when we say "family members" we are talking about their
21 wives and children, correct?

22 A. [10:16:24] Yes.

23 Q. [10:16:45] Now, yesterday when you were testifying, and in your statement as
24 well, you talk about the enemy. As a commander who was the enemy? How had
25 you explained the enemy to your troops?

1 A. [10:17:26] Well, the ones who came and fought us, the ones who did not
2 belong to the government side.

3 Q. [10:17:44] Did you have a general description of what those meant? For
4 instance, if you were patrolling the area around your area of deployment, of
5 responsibility, how would you tell if one was an enemy or not?

6 A. [10:18:07] I could identify the person by his appearance or what he was
7 wearing or what he had with him. People in the bush, especially members of the
8 LRA, had dreadlocks like Rasta men and you could identify them that way. Other
9 times you could tell by their clothing, you could identify them by their clothing and
10 what they had on them.

11 Q. [10:19:12] Were there instances when civilians would be mistaken for the
12 enemy just by their appearance?

13 A. [10:19:25] No. Even if -- well, you would, you would ask the person
14 questions to determine the truth. Even if you were suspicious, you would ask
15 questions.

16 Q. [10:20:18] Yesterday you discussed with the Prosecutor your report which
17 mentioned collaborators within Pajule. Were collaborators within the definition of
18 the enemy?

19 A. [10:20:58] Well, of course. Collaborators were on the enemy's side and were
20 helping them.

21 Q. [10:21:13] So when a collaborator was identified and confirmed as such, what
22 would you do with them?

23 A. [10:21:39] Well, the person was brought before the courts. A person who
24 belonged to an intelligence service would question the person, and if it turned out
25 that the person was a collaborator, he would face charges, he'd be brought before the

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1 courts.

2 Q. [10:22:09] And when you're talking about "the courts", are you talking about
3 military courts or the normal courts where you would be, for instance, charged with
4 treason?

5 A. [10:22:39] Normal courts, civil courts that handle civil matters such as treason.

6 Q. [10:22:58] Were you aware of reports that such people would be detained and
7 tortured, sometimes killed, in the military barracks before being taken to the courts or
8 sometimes without being taken to the courts and then be released again?

9 A. [10:23:27] And where did you read such reports? What's your source?

10 PRESIDING JUDGE SCHMITT: [10:23:58] Mr Witness, simply answer the
11 questions that are put to you. If you can say something about it, then tell us what
12 you can say. And if not, then tell us that you cannot say anything about the matter.
13 It's not up to you to ask questions. It's up to you to answer questions.

14 So could you please answer the question that has been put to you?

15 THE WITNESS: [10:24:40] (Interpretation) I have no idea.

16 MS BRIDGMAN: [10:24:49]

17 Q. [10:24:50] Now, just to clarify, Mr Witness, collaborators are the same as
18 informers or are they different, LRA informers?

19 A. [10:25:22] They might be in the same category. Because they would help the
20 enemy and they would provide information that would help the enemy in
21 the -- during the war, during the fighting.

22 Q. [10:25:53] Mr Witness, did you ever hear reports that families of people who
23 had been abducted in the LRA who were still in the LRA were particularly singled
24 out as being collaborators?

25 A. [10:26:29] No.

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1 Q. [10:26:34] Yesterday you told this Court that your primary role was to monitor
2 the locality of Pajule and ensure that the people were not attacked by the enemy.

3 Would I be correct to say that your role in that regard also included putting measures
4 to ensure that the civilian lives and properties were protected?

5 A. [10:27:31] Yes. That's the responsibility of all soldiers.

6 Q. [10:27:43] Now, in your statement you discussed the January 2003 Pajule
7 attack and the October 2003 attack, but before we go into that discussion of those
8 attacks, you also mentioned that there had been previous attacks where vehicles were
9 destroyed at the trading centre and ambushes along the main road. And this is at
10 paragraph 81 of your statement. These ambushes and other attacks, how often did
11 they happen?

12 A. [10:28:26] I don't know. I can't remember. Some events happened and I was
13 not an eyewitness to such events, so I really can't talk about them.

14 Q. [10:29:03] By the time you were deployed in November 2002, had you also
15 been briefed about LRA activities in your area of responsibility and to be mindful of
16 them?

17 A. [10:29:21] Yes.

18 Q. [10:29:40] What measures did you put in place before the January attack in
19 regard to your responsibilities to protect the camp?

20 A. [10:30:09] I was in charge of deployments. I would send soldiers out on
21 patrol during the day so that the enemy could not attack. And during the night
22 I would deploy men around the IDP camps. That's what I did. Those were my
23 responsibilities.

24 Q. [10:30:44] Isn't it true, Mr Witness, that you also had an intelligence officer
25 who assisted you in gathering intelligence?

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1 A. [10:31:15] I'm sorry, could you repeat your question, please?

2 Q. [10:31:24] Yes. Isn't it true that you also had an intelligence officer who was
3 in charge of gathering intelligence on your behalf?

4 A. [10:31:43] That's correct.

5 Q. [10:31:47] And yet, Mr Witness, both the January attack and the October attack
6 caught you by surprise, correct?

7 A. [10:32:11] Yes.

8 Q. [10:32:22] Now, in regard to the January attack, did you or did you not capture
9 some of the LRA involved in that attack?

10 A. [10:32:51] No.

11 Q. [10:32:59] Were there some abductees that were rescued following the January
12 attack?

13 A. [10:33:22] Yes.

14 Q. [10:33:32] I assume that those abductees were questioned soon after their
15 return. Did they tell you anything about the group that abducted them and their
16 movements?

17 A. [10:34:05] They explained to us that they had been abducted by LRA troops.

18 Q. [10:34:20] Did they tell you who was the commander in charge of the troops
19 that abducted them?

20 A. [10:34:39] They told us that the person who was commanding the operation
21 was Vincent Otti and Tabuley was his deputy.

22 PRESIDING JUDGE SCHMITT: [10:34:51] Mrs Bridgman, I would not want to stop
23 you abruptly, but I would like to explain something. Again, when we have a
24 Rule 68(3) procedure, this means that the statement is part of the evidence the witness
25 has already given in a metaphorical way in this courtroom, with respect here in the

1 video-link location. And you have all this. This is -- you could even say this is
2 asked and answered. He has -- 79, for example:

3 "Charles Ngomorom told me that the overall commander was Vincent Otti and that
4 Tabuley was also a commander at the attack."

5 So this has been covered already by the testimony the witness has been given via
6 incorporating the Rule 68(3) statement. So of course, if you have follow-ups on that
7 that we don't have in the statement that are of interest for you, but I just wanted to
8 remind you that we have this specific procedural situation where we've -- where I at
9 some point in time would really say it is asked and answered, not in a literal sense,
10 but in the sense -- in a procedural sense, so to speak.

11 MS BRIDGMAN: [10:36:12] I'm grateful, your Honour. Sometimes it gets
12 muddled up, and I will do my best to remember that.

13 PRESIDING JUDGE SCHMITT: [10:36:22] It was not a reproach. It was just a
14 reminder since the procedure of Rule 68(3) especially is not yet really common at this
15 Court, and at some point in time, or relatively often, I think it would make sense to
16 remind of the consequences that this has. And of course, it is sometimes difficult to
17 distinguish between what is already on the record as the evidence given by a witness
18 and what might be some follow-up, so to speak. I understand that, but it was just a
19 reminder by me.

20 MS BRIDGMAN: [10:37:07]

21 Q. [10:37:08] Now, following the attack in January 2003, were there any special
22 instructions given to civilians about how to react or behave in case of another attack?

23 A. [10:37:53] Generally, it was the officer -- the intelligence officer who was
24 responsible for that. He had to go to the affected villages in order to ask the
25 members of the population to go and live in an IDP camp. He also had to ask the

1 population to give intelligence concerning suspects who could be entering into the
2 IDP camp.

3 Q. [10:38:50] So, Mr Witness, just to understand, for the people already living in
4 the IDP camp, they were requested to give intelligence information, and those who
5 were still in the villages were asked to move into the IDP camp, correct?

6 A. [10:39:31] Those who were still living in villages were explained that they had
7 to go to the IDP camp for their security because they were being targeted, they were
8 being killed, they were being abducted. We therefore explained that it was better for
9 them to go into the IDP camps.

10 Now, where it concerns those who were already living in the IDP camps, when a
11 member of the population had some information about enemy operations, they had
12 the right to come and give that information to the soldiers.

13 Q. [10:40:23] Isn't it true, Mr Witness, that you also instructed the civilians that in
14 case of an attack, they should run to their huts and lock themselves inside?

15 A. [10:40:43] We didn't need them -- need to give them instructions in that regard.
16 When the population saw that there was fighting, they would go and hide. That was
17 an instinctive reflex because they had to save themselves. Under such conditions,
18 they therefore had to find a place where they would be safe. They had to go and
19 hide.

20 Q. [10:41:43] Did you encourage them to hide in their homes?

21 A. [10:42:01] No.

22 Q. [10:42:06] Now, in your statement you said that at the time of your interview,
23 which was November 2004, there were about 40,000 people living in both Pajule and
24 Lapul and that you did not recall how many people were living there in January or
25 October 2003. Do you recall if they were more than the 40,000 or they were a little

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1 less?

2 A. [10:42:42] I think there were less than 40,000 at the time. The figure I gave in
3 my statement was based on information given to me by people responsible for
4 managing the IDP camp.

5 Q. [10:43:44] Now, Mr Witness, in your statement again you said that you had to
6 move the barracks from its location in January 2003. Would I be correct to say that
7 you found it where it was located by the time you were deployed in November 2002?

8 A. [10:44:36] That's correct.

9 Q. [10:44:41] Now, just going back a little bit to the number of civilians in the IDP
10 camp, would you say from the period that you remained there that the numbers were
11 always fluctuating?

12 A. [10:45:08] Yes, the figure was fluctuating.

13 Q. [10:45:17] Do you know why they were constantly moving from the IDP
14 camps or where they went?

15 A. [10:45:57] I haven't understood your question. You were saying that they left
16 the camps, the IDP camps, or they were leaving military camps to go to other places?
17 I didn't say that they were leaving camps to go to another place.

18 Q. [10:46:39] I'll move on, Mr Witness.

19 (Counsel confers)

20 MS BRIDGMAN: [10:47:25]

21 Q. [10:47:26] Mr Witness, I asked you about the numbers of civilians in the IDP
22 camp and you said that they were -- the numbers were fluctuating. My question is:
23 Do you know why the numbers were fluctuating?

24 A. [10:48:00] The figure varied because some of them left the camp and some
25 were entering the camp. Some left. They thought they would be safer elsewhere,

1 particular -- in particular in cities or larger areas. They would go to Lira or Gulu.

2 In such a situation, the figure would of course fluctuate.

3 Q. [10:48:38] Now, I would like to ask you about Ngomorum. Was he one of the
4 people who just were given to you to join your troops? Do you know where he
5 came from?

6 A. [10:49:10] Ngomorum, he was in the ranks of the LRA. Afterwards he joined
7 the other camp.

8 Q. [10:49:26] Do you know when he left the LRA?

9 A. [10:49:46] According to what he said, he left the LRA after the first attack
10 launched in the month of January. He told me that during the first attack, Pajule, the
11 operational commander was Vincent Otti, the commander of operations was
12 Vincent Otti.

13 PRESIDING JUDGE SCHMITT: [10:50:17] And as I said, we had this now the third
14 time, if we count the statement too.

15 MS BRIDGMAN: [10:50:24] Your Honour, I have a follow-up question along those
16 lines.

17 PRESIDING JUDGE SCHMITT: [10:50:28] Yes, please.

18 MS BRIDGMAN: [10:50:30]

19 Q. [10:50:31] Do you know when he joined the LDUs or when you received him
20 in your battalion?

21 A. [10:50:56] I can't remember the date, but afterwards we found out that LRA
22 troops who surrendered were being taken up into our ranks and they gave
23 information on their activities prior thereto. And that made us more aware and
24 informed of the enemy operations.

25 Q. [10:51:44] Do you know how old Ngomorum was when he joined your troops?

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1 A. [10:52:15] He was aged between 18 and 22 years old.

2 Q. [10:52:26] Did you ever come to learn that Ngomorum joined the LDUs
3 because his father and siblings had been abducted and his mother was killed because
4 he was in the army?

5 MS BRIDGMAN: [10:52:45] And, your Honours, I'm referring to tab 6 of the
6 Defence binder, UGA-OTP-0207-0196, paragraphs 13 to about 17.

7 THE WITNESS: [10:53:16] (Interpretation) You asked a question?

8 MS BRIDGMAN: [10:53:32] Yes, Mr Witness. My question was: Did you ever
9 come to know that Ngomorum joined the LDUs because his father and siblings had
10 been abducted and his mother was killed and he thought he had nowhere else to turn
11 to?

12 A. [10:54:06] I wasn't aware of that.

13 Q. [10:54:14] Would you -- what would you say if I told you that Ngomorum
14 escaped the LRA in 2000 and joined the government forces in 2001?

15 A. [10:54:55] I don't have that information.

16 MS BRIDGMAN: [10:54:58] And, your Honours, this is at paragraph 12 of tab 6.

17 Q. [10:55:10] Mr Lubwama, would it surprise you to learn that Ngomorum was
18 about 16 or 17 years old when he joined the government forces?

19 A. [10:55:41] Personally I know nothing about that.

20 Q. [10:55:53] Mr Witness, during your operations did you rely on intelligence
21 information from CMI?

22 A. [10:56:19] Yes.

23 Q. [10:56:26] Do you recall if you wrote a report regarding the January 2003
24 attack?

25 A. [10:56:57] You're speaking about a report? That's in my statement. The

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1 report that I remember having drafted is, rather, about the October attack.

2 Q. [10:57:37] So you did not draft a report for the January attack?

3 A. [10:58:02] It could be the case that I drafted a report, but it doesn't figure
4 anywhere in my statement.

5 MS BRIDGMAN: [10:58:14] Mr President, I see the time and I think this would be
6 a good place to stop and --

7 PRESIDING JUDGE SCHMITT: [10:58:23] Okay. Yes, then we have the coffee
8 break until 11.30.

9 THE COURT USHER: [10:58:31] All rise.

10 (Recess taken at 10.58 a.m.)

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

12 THE COURT USHER: [11:30:42] All rise.

13 PRESIDING JUDGE SCHMITT: [11:31:06] Visitors can also be seated.

14 And Mrs Bridgman has still the floor and can continue with the examination.

15 MS BRIDGMAN: [11:31:23]

16 Q. [11:31:23] Mr Lubwama, before we went for the break we were talking about
17 Ngomorum and you mentioned earlier this morning that he became your assistant.
18 Would it be fair for me to say that you grew close with him, that you worked closely
19 with him and became close? That you became close with him just from working
20 with him?

21 A. [11:31:57] Yes.

22 Q. [11:32:02] Did you come to know how long he had been in the LRA before he
23 left?

24 A. [11:32:23] I'm not in a position to know how much time he spent with them.

25 Q. [11:32:32] Did he --

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1 A. [11:32:34] He didn't tell me.

2 Q. [11:32:38] Did he ever tell you if he went to a rehabilitation centre after he
3 returned from the LRA?

4 A. [11:33:01] I have no idea.

5 Q. [11:33:07] Now, I have just one more question regarding the January attack
6 before we move on. At paragraph 82 of your statement you said that about 17
7 people could have been killed during that attack in the crossfire, and then at
8 paragraph 65 of your statement you talked about the use -- the UPDF having used
9 mortar bombs to repulse the rebels. Did you ever hear of reports that one of the
10 mortar bombs from the UPDF landed on a civilian hut, setting it on fire?

11 A. [11:35:03] Yes, I learned about that. And the shell damaged the house. And,
12 yes, it caught fire.

13 Q. [11:35:18] Do you know how many of the civilians were killed from that
14 particular shell?

15 A. [11:35:32] No civilians were killed by that shell. The shell landed on a house
16 that was not occupied.

17 Q. [11:35:53] Your Honours, I will leave it at that but I refer you to tab 6 at
18 paragraph 37.

19 Now, Mr Lubwama, regarding the October attack, you said that you were caught
20 unawares, but are you -- do you know of a letter that was sent by the LRA warning a
21 subsequent attack after the January attack?

22 A. [11:36:57] No. I did not hear about that.

23 MS BRIDGMAN: [11:37:18] Your Honours, I'm going to extract my follow-up
24 question from tab 6 at paragraph 47 and from tab 7 at paragraphs 73 and 75.

25 PRESIDING JUDGE SCHMITT: [11:37:45] The first quote would be about again

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1 January I think, the January attack, when I see it correctly. Could only have a quick
2 glance, of course, in this short time. But still, as a follow-up, so it's okay. No, I'm
3 not criticising it, just to make it clear.

4 And perhaps also for everybody, that we are talking here about a witness statement
5 by Ngomorum.

6 MS BRIDGMAN: [11:38:20] Yes.

7 PRESIDING JUDGE SCHMITT: [11:38:21] So that we all know what we are talking
8 about.

9 Please continue.

10 MS BRIDGMAN: [11:38:30] And, Mr President, the statement at tab 7 is -- has been
11 submitted, I believe, under Rule 68(2).

12 PRESIDING JUDGE SCHMITT: [11:38:41] To be correct, tab 6 is Ngomorum, tab 7
13 is another witness, of course. Yes.

14 MS BRIDGMAN: [11:38:57]

15 Q. [11:38:58] Now, Mr Witness, did you ever hear reports of a letter? If you did
16 not see it, did you hear reports of such a letter from the LRA warning of an attack on
17 Pajule?

18 A. [11:39:30] No.

19 Q. [11:39:34] Were you aware of other sources that showed an intention by the
20 LRA to attack Pajule in October?

21 A. [11:39:48] No, I did not receive any such information.

22 MS BRIDGMAN: [11:40:06] Your Honours, before I forget, I will give the ERN
23 number for tab 7. It's UGA-OTP-0139-0149.

24 Q. [11:40:23] Mr Witness, is it your testimony today that you did not hear from
25 people who had returned from the bush that Otti was planning to attack Pajule?

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1 A. [11:40:56] Yes. I don't have that information.

2 MS BRIDGMAN: [11:40:59] Your Honours, this is from paragraph 49 of tab 6.

3 Q. [11:41:09] Mr Witness, had you heard from civilians in the camp about an
4 impending attack on Pajule?

5 A. [11:41:30] No.

6 Q. [11:41:34] And, your Honours, this is from tab 7 at paragraph 80.

7 Now, Mr Witness, you said in your statement that after the January attack there was a
8 decision to move the barracks from its previous location, which was inside the camp,
9 because of the -- to avoid the civilian casualties.

10 Now, earlier we briefly talked about your training about the laws of war. Can you
11 tell this Court if your decision was only to avoid casualties or it had other
12 considerations regarding the laws of war?

13 A. [11:42:47] If we moved the camp it was because that camp was close to
14 members of the civilian population, so we had to set it up at another place, a more
15 appropriate place.

16 Q. [11:43:55] At paragraph 91 of your statement you said that the health centre in
17 Pajule was closed because of the insurgency. In your sketch that was presented
18 before this Court yesterday, there are several schools indicated on that sketch. Were
19 they also closed or were they operating?

20 A. [11:44:39] The schools were operational and they were under our control.

21 THE INTERPRETER: Rather, under our protection, corrects the interpreter.

22 MS BRIDGMAN: [11:45:06]

23 Q. [11:45:07] So if the health centre was closed, where were the civilians getting
24 medical attention for any ailments they might have suffered, even before the attack?

25 A. [11:45:50] In the Pajule centre there were places where people could go to

1 receive treatment. And people who were seriously ill could be transferred to other
2 places where things were safer.

3 Q. [11:46:16] Isn't it true, Mr Witness, that the Pajule health centre was a
4 government-run health centre?

5 A. [11:46:45] Yes, that's right. But when I got to that place the health centre had
6 already been shut down.

7 Q. [11:47:13] Now, those places in the Pajule trading centre that civilians could go
8 to, were they government-run institutions or were they private clinics that they had to
9 pay money for them to receive treatment?

10 A. [11:47:31] There were private institutions, and others belonged to the
11 government.

12 Q. [11:48:02] When you say "others belonged to the government" are you still
13 talking about those others within the trading centre, or the ones that were in safer
14 places away from the IDP camp?

15 A. [11:48:33] These were institutions outside of Pajule in safe places.

16 Q. [11:48:43] Do you recall how far away they were from Pajule?

17 A. [11:49:03] What centre are you talking about? Could you kindly repeat your
18 question?

19 Q. [11:49:14] We were talking about the government centres, the government
20 health centres, and you said those -- the ones that were open were outside of Pajule,
21 in safe places. And my question is if you remember the distance between those
22 government health centres that were still open from Pajule?

23 A. [11:49:47] Well, for example, there was a large hospital in Kitgum and I think
24 that about -- it's about 25 kilometres between Pajule and Kitgum. In Lira there was
25 also a government hospital, and that's about 50 kilometres away.

1 Q. [11:50:31] Mr Witness, just before the attack on Pajule it was Independence

2 Day in Uganda. Were there celebrations in the camp and even amongst your men?

3 A. [11:51:16] No. We were in the middle of operations. We did not celebrate in

4 a place where an operation was underway.

5 Q. [11:51:46] Were there celebrations in the trading centre by the civilians?

6 A. [11:52:03] Yes. They did celebrate during the daytime.

7 Q. [11:52:13] Now, in your statement you describe the first gunshot that indicated

8 the beginning of the attack, and that's at paragraph 92, and you said that you had

9 your men in listening posts. Were these listening posts always manned or were

10 those just deployments at certain times of the day?

11 A. [11:53:16] Could you please repeat your question? Repeat your question,

12 please.

13 Q. [11:53:38] You talked about listening posts in your statement. Were these

14 listening posts always manned by your men at all times of the day and night?

15 A. [11:54:14] No.

16 Q. [11:54:30] Now, when the attackers started shooting, is it correct for me to

17 assume that you were fighting alongside your troops in the barracks to defend your

18 positions and the camp residents?

19 A. [11:55:03] Yes.

20 Q. [11:55:11] Yesterday while you were being questioned by the victims'

21 representatives you stated that you were not an eyewitness to the house-burning in

22 the trading centre. Would it be correct for me then to conclude that you cannot say

23 with certainty today how those houses got burned and by whom?

24 MR CHOUDHRY: [11:55:47] Sorry, your Honours. I just rise, I would just be

25 grateful if my learned friend could provide the reference for that.

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1 PRESIDING JUDGE SCHMITT: [11:55:55] Indeed that would make sense here
2 because it might be important what has been exactly said yesterday.

3 MS BRIDGMAN: [11:56:07] This is at realtime transcript page 48 when
4 Mr Narantsetseg was doing the examination. My timestamp is about 12.25.

5 PRESIDING JUDGE SCHMITT: [11:56:27] And I assume you would have to repeat
6 the question.

7 MS BRIDGMAN: [11:56:45]

8 Q. [11:56:46] Mr Witness, yesterday while you were answering questions from
9 the victims' representatives you were asked:

10 "... do you know if -- how these houses were set on fire?"

11 You answered: "You know, these were straw houses. I cannot say that I was an
12 eyewitness to the incident. It was only afterwards that I noted that the houses had
13 been burnt down. For example, a bullet can hit a house and set it alight. That's
14 what I can say. It can be burnt down in an exchange of fire, for example."

15 PRESIDING JUDGE SCHMITT: [11:57:35] But, frankly speaking, this answers your
16 question already. Because you want to know from the witness if he can say with
17 certainty how they were set ablaze, so I would simply suggest that you move on.

18 MS BRIDGMAN: [11:57:53] Very well, Mr President.

19 Q. [11:58:08] Now, I will move on to paragraph 77 of your statement where you
20 said that the group at the trading centre broke into the shops and they removed items
21 such as sugar biscuits, soap and salt.

22 PRESIDING JUDGE SCHMITT: [11:58:38] I do not like to interrupt, but also to
23 make it clear for everybody, you are now going back to the first attack, 77 is, or not?

24 MS BRIDGMAN: [11:58:52] You are correct, Mr President. So I will withdraw my
25 question.

1 PRESIDING JUDGE SCHMITT: [11:59:06] Yes, please.

2 MS BRIDGMAN: [11:59:07] Thank you so much.

3 Q. [11:59:33] Mr Witness, yesterday you saw a photograph of some of the rebels
4 that were killed in action during the October attack. Isn't it true that there were also
5 some injured civilians -- sorry, injured rebels that -- during that attack?

6 A. [12:00:13] Could you ask your question again, please?

7 Q. [12:00:26] I'll rephrase my question. In your statement you talk about the
8 rebels that were captured following the October attack. Had these rebels sustained
9 any injuries?

10 A. [12:00:42] No. No, they hadn't sustained any injuries. There were no
11 wounded among them.

12 MS BRIDGMAN: [12:01:14] Your Honours, I would like to refer you to paragraph
13 60 of tab 6 in that regard, but I will move on.

14 Q. [12:01:28] When you finished interrogating these rebels, what happened to
15 them, do you know?

16 A. [12:01:51] I haven't understood your question well.

17 Q. [12:01:56] When you finished interrogating the captured rebels, what
18 happened to them?

19 A. [12:02:24] They told us that the group that had attacked was commanded by
20 Vincent Otti and he was approximately 10 kilometres from Pajule where he had set
21 up his HQ. And the group that came to attack Pajule was led by Raska.

22 MS BRIDGMAN: [12:03:10] Your Honours, I would like to bring to the attention of
23 the Chamber an issue that seems to be consistent. From our native-speaking
24 Kiswahili people, it appears that there is a slight difference in what is said in English
25 into what is said in Kiswahili and vice-versa. For instance, the question that I just

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1 asked, it appears that it was translated into what did he get from the captives and not
2 what happened to them. And that might explain why he answered the way he did.

3 PRESIDING JUDGE SCHMITT: [12:03:47] It is of course difficult to propose a
4 solution for that, other than that people who are native speakers are vigilant in that
5 respect and simply alert us when this again happens. So this might indeed explain
6 when there seems to be a misunderstanding on the part of the witness, that simply
7 might be a translation issue then. Perhaps you ask this last question again, and I'm
8 sure, because of our exchange, it will be now interpreted in a way that the witness
9 will understand it.

10 MS BRIDGMAN: [12:04:31] Thank you, Mr President.

11 Q. [12:04:35] Mr Witness, when you finished interrogating the captured rebels
12 and getting the information about who was responsible for the attack, what happened
13 to these LRA rebels?

14 A. [12:05:15] I said that when I got the information about who was leading the
15 group and the operational commander, who was Vincent Otti, that he was
16 approximately 12 kilometres from Pajule, to the east of Pajule. I heard that the
17 person who was leading the group and who carried out the attack was by
18 Lukwiya Raska.

19 After that, when the captives finished giving us this information, I handed them over
20 to the officer responsible for intelligence and he left with the captives.

21 Colonel Otema at the time, that was the person who the captives were provided to
22 and the colonel left with them.

23 PRESIDING JUDGE SCHMITT: [12:06:31] Perhaps a short addition to what I said
24 recently: When it comes to corrections of the transcript, I would refer to the Rule 140
25 decision that we made to paragraph 33 and to this procedure that we have established

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1 there. So if there is a need really to intervene with the transcript, we can do it this
2 way. But, of course, it's more important that now things happen in a way that we
3 understand each other.

4 MS BRIDGMAN: [12:07:03]

5 Q. [12:07:05] Now, in your statement, Mr Witness, you talked about the arrival of
6 Captain Richard Otto in the helicopter. When he arrived, were the rebels still -- were
7 you still fighting the rebels in the barracks or had they -- had they moved over to the
8 trading centre? Or let me ask it this way: How soon after the start of the attack did
9 Captain Otto arrive in the helicopter?

10 A. [12:08:00] I would say after 30 minutes he came by helicopter, he flew over the
11 area and there was fighting, fighting which continued. But it wasn't violent because
12 the group of attackers had already started to withdraw.

13 Q. [12:08:48] Isn't it true, Mr Witness, that when the helicopter arrived, it was
14 shooting at the fleeing group of rebels?

15 A. [12:09:10] No. The helicopter didn't shoot because the members of the
16 population were close. If the helicopter had fired, there was a risk that civilians
17 would be injured.

18 PRESIDING JUDGE SCHMITT: [12:09:35] Paragraph 104 of the statement. We
19 had this already.

20 MS BRIDGMAN: [12:09:42] And, your Honours, I will refer you to tab 7 of the
21 Defence binder at paragraph 83, where it appears.

22 PRESIDING JUDGE SCHMITT: [12:09:53] That was simply a remark by me. Of
23 course you can test that. That's perfectly okay. What was it you referred to? 83?

24 MS BRIDGMAN: [12:10:01] Eighty-three.

25 PRESIDING JUDGE SCHMITT: [12:10:04] Eighty-three, thank you.

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1 MS BRIDGMAN: [12:10:13] And it's about on the fifth line of that paragraph. I'll
2 move on.

3 Q. [12:10:37] Now, Mr Witness, talking about your observations after the attack,
4 you talked about seeing bodies of dead civilians. Do you know if a post-mortem
5 report -- if any examination was made and a report made to that regard about their
6 cause of death?

7 A. [12:11:07] After the attack, I didn't see bodies of members of the population
8 who had been killed, but I received information from local leaders. And I also think
9 that it was the same local authorities who drafted a report on the members of the
10 population who had died. But I repeat once again that I didn't see the bodies. I
11 quite simply had information or a report from local leaders.

12 Q. [12:12:19] What about your soldiers? Did you see the dead bodies -- I believe
13 you testified that you saw the bodies of your soldiers that were killed. Did you
14 participate in their burial?

15 MR CHOUDHRY: [12:12:42] Again, your Honour, I would ask my learned friend
16 to reference that comment.

17 PRESIDING JUDGE SCHMITT: [12:12:47] Yes.

18 MR CHOUDHRY: [12:12:48] Thank you.

19 PRESIDING JUDGE SCHMITT: [12:12:50] Perhaps in the meantime, when you are
20 looking for it, I have a question, Mr Witness. I refer to paragraph 109 of the former
21 statement that is -- the last three figures are 193 of the statement. And there you
22 said:

23 "I saw the dead bodies of the LRA fighters and the civilians killed in the military
24 barracks area myself."

25 So to which civilians are you referring to in this statement that you speak of in the

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1 military barracks? Do you recall that?

2 THE WITNESS: [12:13:58] (Interpretation) I remember that the bodies that I saw at
3 the military camp were those of soldiers as well as rebels who had been killed during
4 the fighting.

5 PRESIDING JUDGE SCHMITT: [12:14:21] But what I read to you gives a little bit a
6 different impression. These civilians that you are speaking of here, at least in your
7 statements, killed in the military barracks, could it have been family members of
8 military men?

9 THE WITNESS: [12:14:59] (Interpretation) Yes. They were members of the
10 families of soldiers.

11 PRESIDING JUDGE SCHMITT: [12:15:05] Thank you.

12 So I think we can assume that there he saw some dead civilians, but others he did not
13 see. So we have to, I think, differentiate here.

14 Mrs Bridgman.

15 MS BRIDGMAN: [12:15:20] And for purposes of Mr Choudhry's question, I hope
16 what the witness has just said at page 39, line 2, satisfies my question, at least the
17 basis on which I asked my question.

18 Q. [12:15:52] So, Mr Witness, regarding the civilians that you saw, the family
19 members of your soldiers, and the dead bodies of your soldiers that you said you saw,
20 did you participate in their burials?

21 A. [12:16:23] Personally I didn't participate in their burial. But people went to
22 represent me at the burial.

23 Q. [12:16:46] Do you know if any examination was made on their bodies, a
24 medical examination to determine their cause of death?

25 A. [12:17:21] When a soldier dies under such conditions, the body is taken to the

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1 morgue. Thereafter the body is transported to the place of burial or given to the
2 members of the family.

3 Q. [12:18:00] Do you know if there was any forensic or ballistic examinations of
4 the bullets that you received that were -- or the cartridges that were picked from the
5 attack?

6 A. [12:18:30] I stated that the soldiers -- or the bodies of the soldiers that had been
7 killed, they were transported to the morgue. When the bodies were taken to the
8 morgue they were treated such that they wouldn't be damaged before being handed
9 over to their families. They were treated such that they wouldn't degrade before
10 handing over their family. Now, where it concerns the examination that you were
11 speaking about, or investigations which might have been carried out, it could be the
12 case that they took place, but I was not a witness thereto. But what I'm describing to
13 you here is what we would do in such cases when soldiers died in the period when I
14 was the commanding officer.

15 Q. [12:20:09] Now, going back to the rebels that were killed in action as depicted
16 in the photograph that we saw yesterday, can you explain why some of them do not
17 have any clothes on them?

18 A. [12:20:47] According the information that I had from the captives, when the
19 rebels came to fight they took off their shirts in order to be able to identify each other
20 during the fighting. And that's the reason why you will see that the bodies do
21 not -- or the bodies are not wearing shirts.

22 PRESIDING JUDGE SCHMITT: [12:21:20] Mr Witness, we have looked at this
23 photograph yesterday and we don't have to look at again because you will it also in
24 your mind again, but some of at least, yes, some of the bodies you see there are
25 completely naked and the question would be why they are completely naked.

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1 THE WITNESS: [12:22:03] (Interpretation) I couldn't tell you the reason. I don't
2 know.

3 MS BRIDGMAN: [12:22:22]

4 Q. [12:22:23] After taking photos of these rebels, did you try to identify them?

5 A. [12:22:44] According to what I remember, the one that was the intelligence
6 coordinator arrived with the rebels who had already surrendered such that they
7 could identify some of the bodies. And, for example, they identified bodies, a body
8 which was that of a sergeant major. That's what I can explain to you on that point.

9 Q. [12:23:32] Thank you, Mr Witness. At paragraph 110 of your statement you
10 said that those rebels who had been killed were buried near the defence west of the
11 military barracks. My question is: Did you try to notify the families of those whose
12 bodies had been identified?

13 A. [12:24:15] That was difficult. We weren't able to identify their families.
14 That's the reason why we carried out the burial. We weren't able to identify their
15 family.

16 Q. [12:24:41] Did you try to identify their families?

17 A. [12:25:03] We weren't able to locate their families. But I do remember that in
18 accordance with the procedure that we followed when an enemy was killed and the
19 family was identified, then we would hand over the body to members of the family.
20 But where it concerned this precise case, the family of the rebels were not identified.

21 Q. [12:25:42] You mentioned that for the civilians -- or the soldiers that were
22 killed, your soldiers, that their bodies were sent to the hospital before being buried.
23 Were the bodies of the rebels also taken for examination before being buried?

24 A. [12:26:23] No.

25 Q. [12:26:33] Now, Mr Witness, you said that several abductees were rescued or

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1 were released after the attack. From the practice that you had in the UPDF, can you
2 help us to distinguish between an abductee who had been released and an LRA
3 captive?

4 A. [12:27:21] I'm sorry, could you repeat your question, please. I haven't
5 understood it well.

6 PRESIDING JUDGE SCHMITT: [12:27:27] I think you would have to make more
7 clear that you -- I understood you at least in this way, that you want to ask the
8 witness if he could distinguish between recently abducted people, for example, at this
9 attack that had been released relatively shortly afterwards and abductees who had
10 stayed for a longer period in the LRA. I don't know if this was the purpose of your
11 question.

12 MS BRIDGMAN: [12:27:54] That is indeed correct, Mr President. Let me try to
13 find a way to articulate myself.

14 Q. [12:28:06] During your time as a commander did you have people whom you
15 called prisoners of war?

16 A. [12:28:32] Yes. I remember it even features in the report that I drafted.
17 I think I spoke about two or three prisoners of war and also spoke about captives,
18 nine of them.

19 Q. [12:28:52] Thank you. Now, can you help me distinguish between a prisoner
20 of war and a captive?

21 A. [12:29:19] As far as I know, a prisoner of war is an enemy participant who took
22 part in fighting and who was captured or who surrendered, whereas a captive is
23 someone who had been abducted against his will and taken hostage. That's how
24 I would explain those two words.

25 Q. [12:29:59] Mr Witness, are you aware that most, if not all of the prisoners of

1 war that you interacted with had been abducted against their will?

2 A. [12:30:36] That may be the case, but afterwards those same people who had
3 been abducted could have decided to continue taking part in fighting, whereas the
4 ones who had been abducted and said that they had been forcibly abducted, we saw
5 that they had no weapons. But there was this second category of people, people
6 who had been initially abducted but who then agreed to take up weapons and take
7 part in fighting. And it would happen that during the fighting those people might
8 be captured or might surrender. And in that case those people were deemed to be
9 prisoners of war.

10 Q. [12:31:39] Thank you, Mr Witness. Just a follow-up question on that: In
11 your opinion, how long would one have stayed with the LRA to shift from being an
12 abductee to being a prisoner of war if captured or if they had surrendered? Would it
13 be a matter of weeks, days, months? Just give us a guideline in that regard.

14 A. [12:32:17] In my view a captive is someone who has not been in captivity for
15 very long, and it's a person who has not yet -- a person that the enemy is not sure of
16 whether or not the person should take part in fighting. That's what I think.

17 PRESIDING JUDGE SCHMITT: [12:33:03] I think we have to take this -- these
18 answers, two answers, one lengthy and one shorter, as it is.

19 MS BRIDGMAN: [12:33:14]

20 Q. [12:33:18] Mr Witness, you talked about Rwot Oywak who was abducted
21 during the October attack. You also talked about the allegations of his collaborating
22 with the LRA and you told this court how you detained him and interrogated him
23 before you determined that those allegations were false. Other than the information
24 you received from the civilians, were you also aware that the UPDF itself suspected
25 the rwot of being a collaborator?

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1 A. [12:34:12] No.

2 Q. [12:34:33] Are you aware of reports that suggest that Rwot Oywak called Otti
3 on his satellite phone, telling him that your soldiers were drunk from the
4 Independence Day celebrations and that it would be a good time to attack the camp?

5 A. [12:35:10] I don't have that information. I don't know about that.

6 Q. [12:35:57] Are you -- did you hear any reports that Rwot Oywak was abducted
7 that day to give the impression to the UPDF that he was not indeed a collaborator,
8 especially considering that you had previously interrogated him about these
9 rumours?

10 A. [12:36:39] I don't know about that. I don't have that information.

11 Q. [12:36:47] Yesterday you told the Court that when he returned, you talked to
12 him and he told you that Otti's group had about a hundred people. Did you believe
13 him about his reports on the strength of the enemy?

14 A. [12:37:21] In yesterday's testimony I said that Rwot had told me that he had
15 spoken to Otti and had asked him to release the captives. He released 50 people.
16 But I didn't mention the number of captives that Otti had. Rather, I didn't talk to
17 him about Otti's strength.

18 PRESIDING JUDGE SCHMITT: [12:37:58] I also have at least -- of course, I do not
19 have every sentence and phrase in mind that the witness has said, but he might be
20 correct. Or otherwise, if you want to continue in that way, you would have to tell us
21 the reference.

22 MS BRIDGMAN: [12:38:14] I shall, Mr President. This is at page 44 of yesterday's
23 realtime transcript.

24 Q. [12:38:23] Mr Witness, you stated yesterday, starting from -- let me start from
25 line 8:

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1 "Yes. He was among the people who had been taken hostage by the enemy camp."

2 Then the Prosecutor asked you:

3 "Did you ever learn anything about his release from being a hostage?"

4 You answered: "Yes. When he was released he came to ... me and he told me that
5 when the enemy had taken him hostage, he himself discussed with Vincent Otti, who
6 was the commander of that group, he asked him to let him go. He also said that he
7 was a part of a group that made up approximately 100 persons."

8 PRESIDING JUDGE SCHMITT: [12:39:20] Thank you. I simply did not recollect
9 it.

10 I think witness was not sure if he should answer a question and, after our exchange,
11 perhaps was not even sure what the question was.

12 MS BRIDGMAN: [12:40:04]

13 Q. [12:40:04] Mr Witness, what I have just read to you, does that refresh your
14 memory about what you said was your conversation with Rwot Oywak?

15 A. [12:40:33] When Rwot Oywak was released, I spoke to him and he told me that
16 he had spoken to Otti Vincent and had asked him to release the people that he had in
17 detention. And he said that if he had been able to speak to Otti, it was because he
18 was an influential person amongst the Acholi people in particular and the peace
19 initiative, the Acholi peace initiative group. After speaking to Otti, Otti released 50
20 people and these people went back with Rwot Oywak. That is what I said yesterday.

21 Q. [12:41:32] Mr Witness, when Rwot Oywak returned, did you ever hear stories
22 that he had been abducted so that he could help the LRA identify the wives of your
23 soldiers among the abductees?

24 A. [12:42:17] No. I don't know anything about that, honestly. I don't have any
25 such information.

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1 MS BRIDGMAN: [12:42:30] And, your Honours, this is in reference to
2 paragraph 67 of tab 6.

3 Q. [12:42:38] When you met with Rwot Oywak, did he appear to you that he was
4 injured and needed medical assistance from his time with the LRA?

5 A. [12:42:53] He was in good condition. He did not show any signs of poor
6 health. He did not need any medical care.

7 Q. [12:43:47] Did he tell you that the LRA had mistreated him and kicked him
8 during the process of his abduction?

9 A. [12:43:57] He didn't say anything to me about that.

10 Q. [12:44:20] Did Rwot Oywak tell you that he saw our client, Mr Ongwen, at the
11 place where he negotiated the release of the abductees with Otti?

12 A. [12:44:37] No, he didn't tell me anything about that.

13 Q. [12:44:57] Thank you, Mr Witness, for your patience with me.

14 MS BRIDGMAN: [12:45:06] Your Honours, I have concluded my line of
15 questioning, but I believe lead counsel has a few questions to wrap up.

16 PRESIDING JUDGE SCHMITT: [12:45:14] Thank you, Mrs Bridgman.
17 Mr Ayena.

18 QUESTIONED BY MR AYENA ODONGO:

19 MR AYENA ODONGO: [12:45:41]

20 Q. [12:45:42] Mr Witness, good afternoon.

21 A. [12:45:45] Good afternoon.

22 Q. [12:45:47] Mr Witness, it's very instructive that you were yourself one time a
23 rebel and therefore you have been very useful to this Court talking about how to deal
24 with rebels.

25 Now, Mr Witness, I'm concerned especially that you originate from Kapeeka, which

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1 was the epicentre of the NRA rebellion. Is that correct, Mr Witness?

2 A. [12:46:39] Yes.

3 Q. [12:46:43] Mr Witness, before your own abduction or before you joined the
4 then NRA, did you witness the recruitment of other people into the NRA or how they
5 joined the NRA?

6 A. [12:47:31] When the army of the day attacked our locality, we fled to a place
7 that was much safer and that place was occupied by NRA soldiers. Once we got
8 there, I said to myself, instead of fleeing at any time when attacks occur, it would be
9 better for me to enroll in the army and become a combatant -- for the rebellion.

10 THE INTERPRETER: Correction from the Swahili booth.

11 MR AYENA ODONGO: [12:48:34]

12 Q. [12:48:37] Mr Witness, is it possible that at certain times it was the then NRA
13 that would attack the villages dressed in UPC clothes and government uniforms and
14 then withdraw, and in the morning they would come and show empathy for the
15 population as a strategy to win their support?

16 A. [12:49:34] That's what you say. I have no idea. I'm telling you what I know
17 about. What I have learned about.

18 Q. [12:50:01] Mr Witness, do you sometimes -- or do you all the time read the
19 local newspapers?

20 PRESIDING JUDGE SCHMITT: [12:50:14] Mr Ayena, I would like to remind you
21 that of course we give a lot of leeway here in the courtroom when it comes to matters
22 of, that lie far away in the past, because we have rules to a conflict and everything. I
23 said that before. But we should also not detach ourselves too much from the issues
24 of this case, especially from the charges confirmed, and I sense a little bit then when
25 you ask the witness about if he reads sources that are available to everybody, that this

1 might lead into a direction where I think we should not, we should not go further to
2 explore that because I really think it's not of the utmost significance here.

3 MR AYENA ODONGO: [12:51:07] I'm guided, Mr President.

4 PRESIDING JUDGE SCHMITT: [12:51:08] No, what I want to say about that is of
5 course we have, we have had the information now that, how the professional life, so
6 to speak, of this witness has started. And I do not say that it is not of potential
7 significance, but as you see he has answered to your question no. I just want to make
8 you alert to that, that we should not take our, too much time in that respect.

9 MR AYENA ODONGO: [12:51:40] I'm acutely aware of my limitations,
10 Mr President and your Honours. But you see, what is in issue here is the war
11 strategies that were used, especially against the civilian population, even in the
12 charge instances.

13 PRESIDING JUDGE SCHMITT: [12:52:06] Yes. Then if it relates to that, then
14 please continue.

15 MR AYENA ODONGO: [12:52:11] Yes.

16 Q. [12:52:16] Mr Witness, I was referring to one of the statements which was
17 ascribed to some of the top NRA veterans, in particular Major General Kahinda
18 Otafiire, and General Elly Tumwine during the burial of Professor Adonia
19 Tiberondwa, when they openly stated that their war strategy was to attack the civilian
20 population, wreak havoc on them in the evening, withdraw, then in the morning
21 come back and empathise with the population and tell them, you see what the
22 government has done, your only way to safety is to join us.

23 PRESIDING JUDGE SCHMITT: [12:53:39] Okay, but this is of course more a
24 statement of yourself than a question. So the question would be, and I think the
25 witness has already sort of answered it, but let me put a question to Mr Witness.

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1 Mr Witness, do you have any own knowledge of such a strategy that has been
2 described by the counsel, Mr Ayena?

3 THE WITNESS: [12:54:18] (Interpretation) No.

4 MR AYENA ODONGO: [12:54:25]

5 Q. [12:54:26] Mr Witness, could this, in your experience, have been one of the
6 ways that was used to discourage the population in northern Uganda --

7 PRESIDING JUDGE SCHMITT: [12:54:46] Mr Ayena, really, you know, I'm really
8 an indulgent person, but this would really be a case where in a common law system
9 I think one party would object and say this calls for speculation, if I'm correct.
10 I don't know. I don't know a lot of common law.

11 MR GUMPERT: [12:55:05] Your Honour is absolutely right. Most questions
12 which begin with the word "if" are liable to that sort of --

13 PRESIDING JUDGE SCHMITT: [12:55:15] Yes, yes.
14 The witness has said he has no own knowledge. Because of that, because it's always
15 important if witnesses can give us unique information, meaning information that they
16 themselves have and not what anybody could have heard. And this was the reason
17 why I worded it this way. And when you follow up and say could it be, many
18 things could be, so I would really ask you to move to another point.

19 MR AYENA ODONGO: [12:55:44] I can sense that that line is very uncomfortable.
20 I'll abandon it.

21 Q. [12:55:49] Mr Witness, you talked about the law of war, that in your training
22 you were taught about the law -- the law of war, of war. Can you tell Court what
23 you learnt about the treatment of vanquished forces or captured enemies?

24 A. [12:56:37] The people who have lost the war or people who have been
25 captured are well -- welcomed properly by our camp and they receive the necessary

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1 assistance. Moreover, they are settled in a place -- or, rather, in a rehabilitation camp
2 so that they should be rehabilitated. So I think that was seen several times.

3 Q. [12:57:21] Mr Witness, you also told Court that you commanded a force of
4 about 650. Can you tell Court how many of those you would put up against an
5 invading LRA force like in the attacks that you described like in Pajule?

6 A. [12:58:23] When I was asked the first time about the military strength I had, I
7 said I had 650 men. Now these men were not positioned at one single spot, they
8 were positioned at a number of locations; and where I was in Pajule I had 150 men,
9 150 soldiers.

10 Q. [12:58:50] And, Mr Witness, can you tell Court the type of weapons the rebels
11 used whenever they came?

12 PRESIDING JUDGE SCHMITT: [12:59:05] This is a similar thing that I had an
13 exchange that I had with Mrs Bridgman. This is in the statement of the witness
14 already so we don't have to repeat it. This is paragraph 97. The attackers used
15 AK-47s, SPG-9 and 12.7 millimetre anticraft gun. So we have this already so we
16 need not ask it.

17 MR AYENA ODONGO: [12:59:32] I'm much obliged. Sorry.

18 Q. [12:59:36] Now, Mr Witness, having been correctly assisted by the Presiding
19 Judge, can you tell Court now whether you are aware of the difference between
20 weapons of mass destruction as opposed to weapons -- normal weapons?

21 PRESIDING JUDGE SCHMITT: [13:00:06] Mr Ayena, perhaps I'm in a competitive
22 mood a little bit today, but we should not interrogate knowledge of the witness in the
23 abstract, knowledge about Geneva Conventions or laws of war or about what
24 is -- what are weapons of mass destruction. Just steer concretely what you really
25 want to know from the witness.

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1 MR AYENA ODONGO: [13:00:36] Much obliged.

2 Q. [13:00:39] Mr Witness, would you call the use of helicopter gunships as a
3 weapon of mass destruction?

4 A. [13:01:08] No.

5 Q. [13:01:15] Is it your statement, therefore, to this Court that the use -- I mean,
6 helicopter gunships were not weapons of mass destruction?

7 PRESIDING JUDGE SCHMITT: [13:01:25] He has answered that, according to
8 what he -- what his answer is.

9 MR AYENA ODONGO: [13:01:31] Okay.

10 PRESIDING JUDGE SCHMITT: [13:01:32] So we have to take this. And I would
11 also like to remind you of the time, Mr Ayena.

12 MR AYENA ODONGO: [13:01:40] Can you give me five minutes, your Honour.

13 PRESIDING JUDGE SCHMITT: [13:01:44] Of course. When I say remind, that
14 does not mean that you have to immediately stop. That is just like always, I think
15 you can really say that, a friendly reminder.

16 MR AYENA ODONGO: [13:01:55]

17 Q. [13:01:56] Now, Mr Witness, during battles when the LRA attacked, you
18 already said there would be crossfire. Was there any method that you used to
19 protect the civilians against crossfire?

20 A. [13:02:46] We asked the soldiers to ensure the protection of civilians. The
21 soldiers would be at the front and they would keep a distance of 200 metres. When
22 there was crossfire, that could be going in all directions. It could hit the place where
23 the civilians were.

24 Q. [13:03:22] Now, Mr Lubwama, you told Court that the LDUs were generally
25 recruited from the local population. Did they remain at their station permanently

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1 without being integrated into the UPDF as a regular -- I mean, regular force?

2 A. [13:04:01] It's difficult to answer this question for me. It's as if you're taking
3 me for somebody who's responsible for the case.

4 Q. [13:04:45] Mr Witness, when you were in those areas of Pader, your area of
5 responsibility, did you ever receive any complaint, especially from members of
6 parliament coming from those areas, that some of these people who were recruited
7 for purposes of protecting their home turf were quite often after sometimes taken
8 away and sometimes they were believed to have been taken to Somalia? Did you
9 ever hear this?

10 A. [13:05:40] I don't know. Could you ask me questions in relation to my
11 statement with regards to -- which are in relation to this case?

12 PRESIDING JUDGE SCHMITT: [13:06:12] Mr Witness, counsel is entitled to ask
13 the question that he thinks are of interest for the case of his client. And as you have
14 seen, when there is something that has -- that there is an issue where the
15 Presiding Judge has to intervene, he intervenes. So please answer the questions that
16 are put to you as you have done in the past two days.

17 Mr Ayena, but I assume there is not so -- there are not so many more questions, but
18 I had to tell him of course.

19 MR AYENA ODONGO: [13:06:52] Yes. Do I repeat it?

20 PRESIDING JUDGE SCHMITT: [13:07:05] He has answered the question, and this
21 was a remark by him, that for future questions --

22 MR AYENA ODONGO: [13:07:11] (Overlapping speakers) yeah --

23 PRESIDING JUDGE SCHMITT: [13:07:11] -- in the future, future meaning also the
24 near future, meaning the next question --

25 MR AYENA ODONGO: [13:07:17] From now on.

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1 PRESIDING JUDGE SCHMITT: [13:19:00] From now on, yes.

2 MR AYENA ODONGO: [13:07:19] He was teaching me how (Overlapping
3 speakers)

4 PRESIDING JUDGE SCHMITT: [13:07:20] Yes. And because of that I intervened
5 because, as you know, I never allow that.

6 MR AYENA ODONGO: [13:07:27] He's a great teacher, but I will guard myself
7 against those, except those which are very relevant.

8 Q. [13:07:34] Mr Witness, you know when you are here, you have some special
9 knowledge that only you can give for -- I mean to assist Court. So it's not to aggress
10 you, Mr Witness, just that you're a specialist in certain areas because you are in a
11 peculiar position at that time.

12 Now, Mr Witness, there was this house which you said was bombed and it was
13 unoccupied. Was this a house within the camp IDP?

14 A. [13:08:24] Yes. The camp was in -- the house was in the IDP camp.

15 Q. [13:08:38] Now, Mr Witness, since you said this house was unoccupied but it
16 was within the camp, can you describe to Court what kind of house it was, its location
17 and how come it remained unoccupied in such a congested place?

18 A. [13:09:17] I've never seen the house in reality. But according to the local
19 authorities, they explained to us that the house had been hit at a time when nobody
20 was there, that the shell had hit when nobody was there. There were cases of people
21 who were injured. They were wounded by mortar fire, and a mortar wound is
22 different to that from an AK-47. But where it concerns the house in question, it was
23 a straw house. That's the truth.

24 MR AYENA ODONGO: [13:10:34] No more questions.

25 PRESIDING JUDGE SCHMITT: [13:10:35] Thank you, Mr Ayena.

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1 This concludes the testimony of Mr Lubwama. On behalf of the Chamber, I would
2 like to thank you that you have made yourself available as a witness in these
3 proceedings, and on behalf of the Chamber, I wish you a safe trip back to your home.

4 This concludes also the hearing completely for today, and we resume on Monday,
5 9.30, with a witness.

6 MR GUMPERT: [13:11:07] Your Honour is probably aware of some email
7 discourse.

8 PRESIDING JUDGE SCHMITT: [13:11:12] Of course.

9 MR GUMPERT: [13:11:13] We needn't embark on it now.

10 PRESIDING JUDGE SCHMITT: [13:11:16] Yes, and I would assume that we are
11 not talking about a problem that cannot be solved, I would say, in any way, I would
12 say?

13 MR GUMPERT: [13:11:23] I'm going to hold my peace on that one, your Honour.

14 MR TAKU: [13:11:28] May it please your Honour --

15 PRESIDING JUDGE SCHMITT: [13:11:30] I fear that Mr Taku disagrees
16 respectfully.

17 MR TAKU: [13:11:37] May it please your Honour, if it is in respect of witness
18 number 38, we've discussed with our friend and conveyed our opinion to him that
19 that particular witness, indeed we want the witness to be here and testify. We have
20 copious documents.

21 In fact, he -- in the course of the disclosure we had, he -- yes, your Honours, in respect
22 of that particular witness, you will find out that he worked -- in the course of his
23 interaction with the investigation in this case over a number of years, he came across a
24 number of documents. He was not just a conduit. He met on occasions, he took
25 part in a number of sessions involving several witness processes.

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1 We've prepared, your Honours, and we're going to tomorrow probably, today
2 perhaps, by now, to forward the list of documents we intend to use, and there are
3 extremely many. They cannot be copied on the screen as we did with other
4 witnesses. We will crave your indulgence, your Honours, to consider seriously
5 maybe ensuring that this witness actually comes here to testify.

6 I would like Mr Obhof, your Honours, with your kind permission, who is following
7 all this issue for us, to make some representations. But with this particular witness,
8 we consider, looking at the scope of his testimony, the scope of his participation in
9 this case over a period of -- a very long period, that that witness should actually be
10 here. The video link would do a lot of injustice for us. Mr Obhof, your Honours,
11 can --

12 PRESIDING JUDGE SCHMITT: [13:13:19] No, no --

13 MR OBHOF: [13:13:20] I'm working on the email. It will be in your office by
14 1400.

15 PRESIDING JUDGE SCHMITT: [13:13:26] Yes, yes, exactly. Exactly. I think we
16 have already indicated that we want email submissions on that because that's hard to
17 decide only when you hear that. You have to reflect on it.

18 I want to say just one additional thing: In principle, of course, there is jurisprudence
19 of this Court, so to speak, saying that testifying via video link is nothing specifically
20 different to testifying in the courtroom. Nevertheless, this leaves open
21 considerations on a case-by-case basis.

22 But as I said, we can't discuss this here. I think we have a deadline 2 o'clock the
23 afternoon of written submissions and then we look into the matter.

24 This concludes the hearing, as I have already said. We resume on Monday at 9.30
25 with whatever we are doing then.

Trial Hearing
WITNESS: UGA-OTP-P-0047

(Open Session)

ICC-02/04-01/15

- 1 THE COURT USHER: [13:14:21] All rise.
- 2 (The hearing ends in open session at 1.14 p.m.)