

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 Cano Pangalangan
7 Trial Hearing - Courtroom 3
8 Monday, 30 October 2017
9 (The hearing starts in open session at 9.30 a.m.)
10 THE COURT USHER: [9:30:14] All rise.
11 The International Criminal Court is now in session.
12 PRESIDING JUDGE SCHMITT: [9:30:36] Good morning, everyone, after the break
13 that was a little bit more extended than normally.
14 Could the court officer please call the case.
15 THE COURT OFFICER: [9:30:46] Good morning, Mr President, your Honours.
16 The situation in the Republic of Uganda, in the case of The Prosecutor versus
17 Dominic Ongwen, case reference ICC-02/04-01/15.
18 And for the record, we are in open session.
19 PRESIDING JUDGE SCHMITT: [9:31:00] I call for the appearances of the parties,
20 please.
21 MS GILG: [9:31:06] Good morning, your Honours. Today the Prosecution is
22 represented by myself, Colleen Gilg, my colleagues Julian Elderfield,
23 Benjamin Gumpert, Pubudu Sachithanandan, Beti Hohler, Yulia Nuzban,
24 Paul Bradfield, Ramu Fatima Bittaye, Kamran Choudhry, Ayodele Akenroye and
25 Paul Bradfield.

1 PRESIDING JUDGE SCHMITT: [9:31:25] Thank you very much.

2 And for the Legal Representatives of the Victims.

3 MR COX: [9:31:31] Good morning, your Honours. Mr James Mawira and myself,
4 Francisco Cox.

5 PRESIDING JUDGE SCHMITT: [9:31:37] And for the second team, so to speak.

6 MR NARANTSETSEG: [9:31:40] Good morning, Mr President, your Honours. My
7 name is Orchlon Narantsetseg. With me, Ms Caroline Walter. Thank you.

8 PRESIDING JUDGE SCHMITT: [9:31:45] Thank you.

9 And now for the Defence. Mr Ayena.

10 MR AYENA ODONGO: [9:31:48] Yes, good morning, Mr President and your

11 Honours. This morning I am accompanied by Chief Charles Taku,

12 Mr Tibor Bajnovic, Madam Abigail Bridgman, and our client, Mr Dominic Ongwen, is
13 in court.

14 PRESIDING JUDGE SCHMITT: [9:32:04] Thank you very much.

15 And then we should have, at least I am told, the legal adviser for the witness. Okay,
16 that's no problem. If she is together with the witness, then we can welcome her
17 when she is in the courtroom.

18 So the Prosecution is now calling P-138 as its next witness but it would, of course,
19 make more sense to have the legal adviser of the witness in the courtroom when we
20 discuss the matters concerning this witness. So perhaps we can call her and then we
21 continue. It should not last long.

22 Good morning. Mrs Ellis, you may be seated here, please. Perhaps in the
23 meantime, I am not sure if Ms Gilg has introduced herself, for the record. She did,
24 okay, good.

25 So we welcome in the courtroom now Mrs Diana Ellis. Thank you very much. We

1 thought it would make sense that we have you in the courtroom when we discuss the
2 matters concerning your client, and that we are doing here. Welcome.

3 The Chamber briefly recalls at the outset that this witness has been granted face
4 distortion and the use of a pseudonym in decision 612. The Chamber considers that
5 no further order is necessary in this regard, noting that the VWU does not
6 recommend any additional protective measures.

7 We will now discuss the Rule 74 assurances and for that, like always, we go into
8 private session.

9 (Private session at 9.35 a.m.)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Open session at 9.36 a.m.)

22 THE COURT OFFICER: [9:36:07] We are back in open session, Mr President.

23 PRESIDING JUDGE SCHMITT: [9:36:09] Thank you. The Chamber will now
24 render its decision on the requested assurances.

25 Mindful of the factors specified in Rule 74(5) of the Rules, the Chamber has decided to

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Open Session)

ICC-02/04-01/15

1 provide assurances pursuant to Rule 74 of the Rules in order to enable the witness to
2 testify without fear of the consequence of self-incrimination.

3 And this concludes the ruling of the Chamber and we can now bring the witness into
4 the courtroom.

5 I asked if you introduced yourself, and I heard you did, but it was not reflected in the
6 transcript. So this was the reason why I asked. If I am not wrong in the transcript,
7 you are still only "myself", or yourself, of course.

8 MS GILG: [9:37:20] Well, let me introduce myself then. My name is Colleen Gilg,
9 for the record.

10 (The witness enters the courtroom)

11 PRESIDING JUDGE SCHMITT: [9:38:01] Mr Witness, do you hear me?

12 WITNESS: UGA-OTP-P-0138

13 (The witness speaks Acholi)

14 THE WITNESS: [9:38:13] (Interpretation) Yes, I do.

15 PRESIDING JUDGE SCHMITT: [9:38:14] Good morning, Mr Witness. You are
16 going to testify before the International Criminal Court, and on behalf of the Chamber
17 I would like to welcome you to the courtroom.

18 There should be a card in front of you with a solemn undertaking to tell the truth.

19 Mr Witness, could you please be so kind to read this undertaking aloud.

20 THE WITNESS: [9:38:45] (Interpretation) I solemnly swear to tell the truth, the
21 whole truth and nothing but the truth.

22 PRESIDING JUDGE SCHMITT: [9:38:55] Thank you very much, Mr Witness. I
23 explain now to you the protective measures that the Chamber has put in place for
24 your testimony. These are the following. Face distortion has been put in place,
25 which means that no one outside the courtroom can see your face. We will all here

1 in the courtroom refer to you only as "Mr Witness", as I do at the moment. This is to
2 make sure that the public does not know your name.

3 When you are asked to describe anything that relates specifically to you, or when
4 you are asked to mention facts that might reveal your identity, we will do this in
5 private session. Private session means that there is no broadcast and no one outside
6 the courtroom can hear your answer. If ever anything gets said during public
7 session which should have been said in private session, we will do our best to protect
8 this information. Your testimony will be broadcast on a delay and we will remove
9 such remarks from the public broadcast.

10 Mr Witness, you have also been assigned a lawyer to provide you with legal advice
11 about possible self-incrimination. Mrs Ellis is sitting to the right.

12 The Chamber gives you the assurance that your testimony will not be used against
13 you in any subsequent proceedings before this Court. This applies as long as you do
14 not commit any offences or misconduct when testifying here in this courtroom,
15 especially, of course, by giving testimony which is false, but you have already given
16 the undertaking that you will tell the truth.

17 If anyone is asked -- excuse me, if any question is asked that could lead to your
18 self-incrimination, we will hear your answer in private session and keep the answer
19 confidential.

20 Mr Witness, have you understood all this?

21 THE WITNESS: [9:41:01] (Interpretation) Yes, I have.

22 PRESIDING JUDGE SCHMITT: [9:41:03] Thank you. I will finish my preliminary
23 remarks with a few practical matters that you please keep in mind when you give
24 your testimony.

25 As you know, everything we say here in the courtroom is written down and

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Private Session)

ICC-02/04-01/15

1 interpreted. To allow for the interpretation, it is important to speak clearly and at
2 a slow pace. Please speak into the microphone and only start speaking when the
3 person asking the question has finished. If you have any questions yourself, please
4 raise your hand so we know that you wish to say something.

5 Have you understood all this too?

6 THE WITNESS: [9:41:43] (Interpretation) Yes, I have.

7 PRESIDING JUDGE SCHMITT: [9:41:46] Thank you. Then we start with your
8 testimony and I give Mrs Gilg the floor.

9 QUESTIONED BY MS GILG:

10 Q. [9:41:51] Mr Witness, good morning. My name is Colleen Gilg. We have met
11 before. I will be asking you questions today on behalf of the Prosecution.

12 I just have one additional thing to add to what the Presiding Judge just said. If any
13 of my questions don't make sense or you don't understand them, please just ask me
14 and I will be happy to ask it in a different way. Do you understand that?

15 A. [9:42:23] Yes, I have.

16 Q. [9:42:24] Your Honours, I have grouped my private session questions as much
17 as possible. Could we please go into private session now?

18 PRESIDING JUDGE SCHMITT: [9:42:29] Yes. Yes, private session.

19 (Private session at 9.42 a.m.)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: UGA-OTP-P-0138

(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 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Open session at 9.44 a.m.)

15 THE COURT OFFICER: [9:44:43] We are back in open session, Mr President.

16 MS GILG: [9:44:48]

17 Q. [9:44:48] Mr Witness, you said you attended school until primary 4 and then

18 you were abducted. In a moment I am going to ask you about your abduction.

19 However, we all want to make sure your identity stays confidential; therefore, right

20 now and a few other times I am going to ask you to tell us about things that happened

21 to you but without mentioning the names of people or locations. If you need to talk

22 about a specific person or place, you could speak generally, saying like "my friend" or

23 "my town".

24 And later I will ask to go into private session to ask you the names of anything

25 important. Does that make sense?

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Open Session)

ICC-02/04-01/15

1 A. [9:45:49] Yes, it does.

2 Q. [9:45:50] So now, without mentioning any names, please tell us the story of your
3 abduction.

4 A. [9:46:03] I was abducted on 14 April 1996. At the time the LRA activities were
5 heightened. We would leave our homes. We would -- and go and sleep in the
6 bushes. On that day, the LRA manoeuvred, they came, they found us in the bushes
7 where we were spending the night. They abducted about -- over 10 of us but
8 a number of us. Among the people abducted there were three of us who were taken.
9 They took us and walked with us for approximately 20 or so miles. Among the
10 people that were abducted some of them were released because they had some
11 luggage, they had goats and other kind of -- other luggage that they were holding. I
12 do not recall every single thing, but these were the things that the LRA took from
13 people's homes.

14 THE INTERPRETER: [9:47:22] Could the witness please be asked to slow down
15 a little bit.

16 PRESIDING JUDGE SCHMITT: Mr Witness, may I shortly interrupt you. You are
17 speaking a little bit too fast. I am asked by the interpreters to tell that you. That
18 happens to everybody in the courtroom, especially also to the Presiding Judge, but
19 please keep in mind that you try to speak at a slower pace so that they can follow.
20 Mrs Ellis.

21 MS ELLIS: [9:47:44] Mr President, if I could just ask that the Prosecution don't
22 require specific dates because they always have potential difficulties.

23 PRESIDING JUDGE SCHMITT: [9:47:56] No, I think we just, we can trust into the
24 preparation, so to speak, and foresight of Madam Prosecutor in that respect and
25 I don't have anything to reproach here.

1 Please continue. You have it in mind and if anything arises which really specifically
2 could lead to identification of the witness, we will then redact that and we will of
3 course take the appropriate measures. Please continue.

4 THE WITNESS: [9:48:33] (Interpretation) When we were taken, three of us were
5 picked out of the lot, two girls and myself, I was the only male person among the
6 three people. One of them, someone was referred to as an old soldier, the person
7 was taken and was shot. When they took us, they trained us to become fighters.
8 After training us we were given guns, I was given a gun about three months. After
9 that we continued, we stayed in the bush. They continued to threaten us. All the
10 people that are abducted and taken to the bush, all civilians, all recruits are brought to
11 us to kill. If you attempt to escape. If you are apprehended, the recruits are
12 collected, they are gathered and taken to kill that person who attempted to escape
13 irrespective of how many people there are, so we would all group up and kill that
14 person. We were told that we were made to kill so that we would not go home
15 because if you decide to go home then the person's cen would follow you and
16 kill you.

17 When we were given guns they sent us to, to collect food, on mission to collect food
18 or to go and pillage food from the camps in Adjumani. The place is known as Opuu.
19 When we went and pillaged food, on the way back there was a civilian who was
20 unable to carry his luggage, so they told the civilian that the civilian should rest.
21 When they say somebody should rest, they mean the person should be killed. When
22 they stopped us, the new, new recruits, we were told to go and break sticks. We
23 went. We brought sticks. The civilian was stopped. The civilian was told to place
24 down their luggage and we, the recruits, were asked to beat the civilian. (Redacted)
25 (Redacted)

1 Those are some of the things that I saw. Those are some of the painful things that
2 happened when I was in the bush. When we went to the camps we were firing our
3 guns. (Redacted)
4 (Redacted). That's how the LRA used me up till the
5 day I left.

6 Q. [9:51:24] Thank you for sharing that, Mr Witness. I want to go back and ask
7 you a couple of questions about what was happening when you were abducted.
8 You mentioned an old soldier who was killed. Why did they call him an old soldier?

9 A. [9:51:50] He was a, he was somebody who was in the army, but he had retired.
10 So he was now a civilian. He was in the UPDF army.

11 PRESIDING JUDGE SCHMITT: [9:52:04] May I perhaps shortly one question.
12 Mr Witness, what you told us as your answer to the question before this last question,
13 how old were you there, at the time when this happened that you told us? Do you
14 recall that?

15 THE WITNESS: [9:52:28] (Interpretation) At the time I was 14 years old, 14
16 years old.

17 PRESIDING JUDGE SCHMITT: [9:52:39] Thank you. You know why I ask that,
18 because I think for that we would not need any assurances.

19 MS GILG: [9:52:49]

20 Q. [9:52:50] And, Mr Witness, you mentioned that there were -- you mentioned
21 there were a number of people abducted with you. What was the age of the
22 youngest person who was abducted with you?

23 A. [9:53:12] The youngest person was 13 years old.

24 Q. [9:53:23] And what was the age of the oldest person that was abducted with
25 you?

1 A. [9:53:32] I was the oldest person, I was 14 years old.

2 Q. [9:53:38] And you mentioned that you received guns. Where did that happen?

3 A. [9:53:48] We were given the guns while we were Tegot Kilak, which is in Pabbo.

4 Q. [9:54:00] And, Mr Witness, I am not going to ask you the name of the specific
5 person who abducted you. What I want you to help the Court understand was who
6 was the leader of the group? Who did they report to?

7 A. [9:54:22] The group was known as sickbay. And the group was under the
8 leadership of Thomas Kwoyelo. It was based under Tegot Kilak.

9 Q. [9:54:41] And do you recall what Kwoyelo's rank was?

10 A. [9:54:48] At the time Kwoyelo was a major.

11 Q. [9:54:53] And did Kwoyelo's group have a name?

12 A. [9:55:02] Kwoyelo, Kwoyelo's group was known as sickbay. And it was
13 responsible for taking care of injured people.

14 Q. [9:55:16] Now, after you were abducted you said you first went about 20 miles
15 away. Where did you go or where were you taken next?

16 A. [9:55:39] After that, after the 20 or so miles, the group that went to pillage and
17 we were taken to Kwoyelo, where Kwoyelo was based and that was Tegot Kilak, near
18 as river known as Auji.

19 Q. [9:55:58] And was that in Uganda?

20 A. [9:56:01] Yes, it is in Uganda?

21 Q. [9:56:05] And how long did you stay with Kwoyelo's group, roughly? Was it
22 a week, month, years?

23 A. [9:56:23] I was in Kwoyelo's group for approximately four years.

24 Q. [9:56:28] And where were you living when you were with Kwoyelo? Can you
25 tell us the name of some places.

1 A. [9:56:47] We, we were mostly based about the Te Kilak area, we were mostly
2 based in that area. We did not go to any other place other than that area.

3 Q. [9:57:02] And while you were with Kwoyelo did you ever end up travelling or
4 spending time in Sudan?

5 A. [9:57:22] I went to Sudan afterwards. When I left Kwoyelo's group then I went
6 to Sudan. But while I was in Kwoyelo's group I did not go to Sudan for the four
7 years.

8 Q. [9:57:38] And was Kwoyelo the most senior commander in the LRA or were
9 there more senior people?

10 A. [9:57:55] In the group that he was commanding under Te Kilak, the sickbay
11 group, he was the senior commander, but within the LRA he was not the highest
12 ranking person.

13 Q. [9:58:12] And who was the highest ranking person?

14 A. [9:58:19] Within the LRA?

15 Q. [9:58:22] Yes, within the LRA.

16 A. [9:58:28] The most senior person in the LRA is Joseph Kony.

17 Q. [9:58:36] And can you tell us a little about how the LRA was organised. Were
18 there different groups?

19 A. [9:58:53] The LRA had approximately five brigades. The fifth is the
20 headquarters. Kwoyelo was responsible for the sickbay. He would -- was
21 responsible for people who had sustained injuries from the different brigades. The
22 sickbay is like a hospital. And Kwoyelo was responsible for taking care of any
23 person who had sustained injuries from any brigade. But the brigades, there was
24 Sinia, there was Stockree, there was Control Altar. Those are the ones that I recall.

25 Q. [9:59:37] Now you mentioned you stayed approximately four years with

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Open Session)

ICC-02/04-01/15

1 Kwoyelo. Which commander did you report to next?

2 A. [9:59:53] When I left Kwoyelo I went to a commander known as Otti,

3 Otti Vincent. He was in Control Altar.

4 Q. [10:00:08] And, Mr Witness, are you familiar with a term "Operation Iron Fist"?

5 A. [10:00:20] Operation, I am aware of Operation Iron Fist and it was the operation
6 that dispelled the LRA from Sudan.

7 Q. [10:00:33] And where were you when Operation Iron Fist started?

8 A. [10:00:42] When the Operation Iron Fist started, I was in Uganda, together with
9 Kwoyelo.

10 Q. [10:00:54] Do you recall which year Operation Iron Fist started?

11 A. [10:01:06] If I can remember, Operation Iron Fist started in 2002.

12 Q. [10:01:12] Now you said you were still with Kwoyelo at the time
13 Operation Iron Fist started and then you went to Otti. How long, approximately,
14 after Iron Fist did you start working with Otti?

15 A. [10:01:39] Operation Iron Fist disorganised and chased away the LRA from
16 Sudan. They came to Uganda. Thereafter we left and I went and joined Otti.
17 They had left Sudan. They came back to Uganda and I went and joined Otti's group.

18 Q. [10:01:57] And who was Vincent Otti? What was his role in the LRA?

19 A. [10:02:12] In the LRA Vincent Otti was the second-in-command after Kony.
20 Kony would issue all the orders to him. Then he would transfer the orders to the
21 various brigades.

22 Q. [10:02:29] And what was the name of Otti's brigade?

23 A. [10:02:40] Otti was under the Control Altar, which is the LRA's headquarters.

24 MS GILG: [10:02:51] Your Honour, may we please move back into private session?

25 It will be less than 10 minutes.

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Open Session)

ICC-02/04-01/15

- 1 PRESIDING JUDGE SCHMITT: [10:02:58] Okay. Private session.
- 2 (Private session at 10.03 a.m.)
- 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 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Open Session)

ICC-02/04-01/15

1

2

3

4

5

6

7

8

9

10

11

12 Page redacted-Private session

13

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: UGA-OTP-P-0138

(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-P-0138

(Open Session)

ICC-02/04-01/15

1

2

3

4

5

6

7

8

9

10

11 (Open session at 10.12 a.m.)

12 THE COURT OFFICER: [10:12:37] We are back in open session, Mr President.

13 MS GILG: [10:12:48]

14 Q. [10:12:48] Mr Witness, I want to now ask you some general questions about the
15 districts and locations where you were moving with Otti. You said you were in
16 Uganda when you first joined his group. Which area or district of Uganda were you
17 moving in at the time?

18 A. [10:13:22] In Uganda we were moving about. We were in Gulu. We went to
19 Amuru. We left and went to Lira. We moved to Gulu, to Kitgum, Pader, Apach to
20 Soroti. Those are the districts where we would be moving.

21 Q. [10:13:48] Okay. Mr Witness, I want to ask you some questions about your
22 time in Soroti. First, is Soroti -- what is Soroti?

23 A. [10:14:06] Soroti is a district in Teso region. We moved to Soroti and while we
24 were there, we were moving about in Teso areas. We went to Wera. We went to
25 Amuria. We were in Katakwi, Kapelebyong. Those were the areas we were

1 moving in while in Soroti.

2 Q. [10:14:37] And if you recall when you were in this area, about how long was this
3 after you joined Otti's group?

4 A. [10:15:03] That was from around August 2003. That was around that time that
5 we were in Soroti.

6 Q. [10:15:15] And while you were moving in Soroti and the Teso region, were other
7 LRA commanders moving there as well?

8 A. [10:15:33] Most of the LRA commanders in the brigade were instructed to go to
9 Soroti. All the brigade commanders were going there. There was Tabuley and all
10 the other brigade commanders who went to Soroti. There was Brigadier Lakati. I
11 would say all the LRA brigades went to Soroti because the order had come from Kony
12 that all the brigades should go to Soroti, and that was what happened.

13 Q. [10:16:08] Can you tell us some of the names of the commanders that you recall
14 that were in this region at the time?

15 A. [10:16:30] The commanders who were in Soroti included Buk Abudema. We
16 had Ocan Bunia. We also had Okot Odhiambo. We also had Charles Okot,
17 Opoka Signaller, and many other Sinia commanders were there. I cannot mention
18 all their names.

19 Q. [10:17:12] Mr Witness, do you know a person called Dominic Ongwen?

20 A. [10:17:22] Yes, I know him very well.

21 Q. [10:17:25] Where was he at this time?

22 A. [10:17:36] At that time he was in Sinia brigade. He was in charge of the
23 3rd battalion of the Sinia brigade.

24 Q. [10:17:44] And was he in the Soroti area as well?

25 A. [10:17:59] Yes, we were all there.

1 Q. [10:18:01] Did Dominic Ongwen have any other names in the bush?

2 A. [10:18:08] The name we used to refer to, the name we used to use was Odomi.
3 I actually didn't know his name was Dominic Ongwen while in the bush. I only
4 came to know his real name when I came back home because in the bush we would
5 call him "Odomi".

6 Q. [10:18:29] Do you know what his rank was at the time you were moving around
7 Soroti?

8 A. [10:18:39] Odomi at that time was a major. He didn't have any higher rank at
9 that time.

10 Q. [10:18:50] Now, you mentioned that the commanders were there because Kony
11 had instructed them to go to the region. Did you hear Kony issue this instruction?

12 (Redacted)

13 (Redacted)

14 Q. [10:19:28] What did Kony say exactly?

15 A. [10:19:39] Kony gave an order that everyone should travel to Soroti. They
16 should go to Soroti. They should go and begin talking to the civilians, telling them
17 how bad the Yoweri government is, so that if they could accept, then they join
18 together to support him to overthrow Yoweri's government, because Yoweri's
19 government was such a bad government and it was not taking care of the Acholi
20 people, it was a segregative government, and that was what Kony said.

21 Immediately he gave an order that all the soldiers in the brigade should go there.

22 The commanders went and started doing exactly the instruction Kony had given
23 them. And, yes, at that time we went to Soroti, we started staying very well with
24 the civilians, but after about a week the relationship between us and the civilians
25 broke down.

1 Later on, one of the commanders, who was called Lakati, Brigadier Lakati, wrote
2 a letter and sent it to one of the radio stations in Soroti. He said the letter should be
3 read out to the public so that the people would understand that they travelled to
4 Soroti not to kill the civilians, but they went to tell the people, to teach them how bad
5 Yoweri's government was. So at that time when the letter was taken to the radio and
6 read out, immediately they closed down that radio. They closed down the radio
7 because that letter was read on it.

8 Later on, as we were leaving there, the relationship between us and the civilians
9 broke down completely. A group was started, a group called Arrow group was set
10 up, and they started fighting against us. From that time, Kony gave an instruction
11 that we needed to start killing the civilians because they had become stubborn. At
12 that time the relationship between the LRA and the civilians went sour because they
13 were no longer working well. That was because the Arrow group militia were put in
14 place and that spoiled the relationship.

15 PRESIDING JUDGE SCHMITT: [10:22:23] I think that seems to have answered
16 perhaps some of the questions you would have had.

17 MS GILG: [10:22:31]

18 Q. Yes, it certainly did. A few follow-up questions, Mr Witness. You said the
19 radio station was closed. Who closed it?

20 A. [10:22:48] Well, we heard about the closure of the radio station and we were told
21 that it was the Uganda government that closed it.

22 Q. [10:22:57] And you said there was a group, an Arrow group set up. Who set
23 up the Arrow group?

24 A. [10:23:08] The Arrow group was composed of the Teso youth, together with
25 youths from Lira. They were established by the government. They were trained by

1 the government and armed so that they could go and begin fighting to flush out the
2 LRA from Teso. They were called the Arrow group not because they were using
3 arrows, they were actually armed with guns.

4 Q. [10:23:40] And you said that Kony said the civilians were stubborn. What did
5 you understand that to mean?

6 A. [10:23:53] When Kony said -- whenever Kony said the civilians had become
7 stubborn, that meant that the civilians were the ones who were joining the army, they
8 were the ones who were joining the home guard groups. They were also the very
9 people who were taking information to the UPDF soldiers about their movements
10 and they were the ones who were also fighting against them. That was how he felt
11 they were stubborn, and for that reason they needed to be disciplined.

12 Q. [10:24:28] And what did he mean by being disciplined?

13 A. [10:24:42] He meant that whenever his people are moving, the civilians were not
14 supposed to go and report to the UPDF about their movements. Civilians were also
15 not supposed to join the UPDF or join the home guard or even go and set up the
16 Arrow group. That was what it meant.

17 Q. [10:25:08] And after this order, what would happen if a civilian reported on an
18 LRA movement?

19 A. [10:25:25] Could you please repeat the question?

20 PRESIDING JUDGE SCHMITT: [10:25:29] Perhaps more specific, I would also
21 suggest, if he has any knowledge about what happened to a certain person in a
22 certain incident. And if not, we can move on.

23 MS GILG: [10:25:45]

24 Q. [10:25:45] Were you ever aware of an instance where a civilian reported on an
25 LRA location, and can you tell us about that if you are?

1 A. [10:26:07] Most times the civilians would give reports whenever the LRA passed
2 near them. They would rush to the military establishments and report about that.
3 And according to Kony, that was a very bad practice. For instance, one of the
4 reasons Kony was very angry with the civilians was that -- was in 1997, when
5 a civilian had gone to -- hunting in Palabek. He came across Kony's weapons that
6 were hidden somewhere. He went and reported about the armoury and the UPDF
7 came and all these ammunition and arms, they were taken away.
8 And Kony was very angry and then he gave an instruction that his people should go
9 and kill every single thing that was alive in Palabek, and in 1997 his people went and
10 killed so many people in that area. That was an instance where Kony had got very
11 angry with the civilians.

12 Q. [10:27:35] Now, you gave an example of something that happened in 1997.
13 Can you remember any examples of what happened after the relationship with the
14 civilians broke down in 2003?

15 A. [10:28:02] The things that were happening in Teso were that -- well, the civilians
16 that were being killed, there was -- you know, many times people were on the run
17 and it was very difficult to find them. You would find one or two along the way and
18 they would be killed. And whenever each civilian was got, he or she would be
19 killed, though this was majorly happening on the male civilians.

20 Q. [10:28:36] And just to be clear, why were the civilians being killed at this time?

21 A. [10:28:49] The killings came as a response to the establishment of the Arrow
22 group. They said all the male civilians were part of the Arrow group, so they should
23 be killed.

24 Q. [10:29:18] Now, moving to a different topic but still about your time in the Soroti
25 area. While you were there were there new recruits in the LRA?

1 A. [10:29:41] Abductions were carried. We kept on abducting civilians as we were
2 moving. We were abducting children from 10 onwards, from 10 to about 17, they
3 were being abducted during the time.

4 Q. [10:30:00] Who gave the order for abductions?

5 A. [10:30:12] Orders normally come directly from Kony to Otti and then Otti would
6 relay to the brigades. That was how the LRA orders would move.

7 Q. [10:30:25] And did you hear these orders with your own ears?

8 A. [10:30:35] Yes, I did. I heard them over the radio call on several occasions
9 from Otti.

10 Q. [10:30:44] Did you see any of the people who were abducted in this area?

11 A. [10:30:57] Yes, I saw them.

12 Q. [10:31:00] What was the age of the youngest person you saw?

13 A. [10:31:13] The youngest person was about 11 years old.

14 Q. [10:31:20] And was this order to abduct people from 10 onwards to 17 a new
15 order or was it something that you had heard before?

16 A. [10:31:39] When I was abducted this was already a standing order. I do not
17 know when this order was issued, but I was also part of the people that were
18 abducted pursuant to that order.

19 Q. [10:31:54] And what role would people abducted at this age between 10 and 17,
20 what role would they play in the LRA?

21 A. [10:32:17] Most of these people in the LRA were used as trainees. They were
22 taught to become fighters. But at the outset they would help carry luggage,
23 especially smaller luggages, while also being trained to become soldiers. After three
24 to four months, after they have assessed and determined that you are not going to be
25 able to escape and go back home, then you would be armed. You would be given

1 a gun and then you would become an LRA soldier. If that does not happen, you
2 would be taken to training in Sudan. You would be trained in Sudan. You would
3 stay in Sudan for about one or two years and then sent back to Uganda to fight. But
4 most times people that age were abducted and sent to Sudan for training. They were
5 rarely trained in Uganda, they were mostly taken to Sudan. But as soon as you are
6 abducted you are trained to become a soldier.

7 Q. [10:33:29] And, Mr Witness, what did you understand to be the overall purpose
8 of the LRA? Why were they abducting people and training them to be fighters?

9 A. [10:33:54] They stated it clearly that the way Kony trains his people or his
10 soldiers was in order for them to go and overthrow Museveni's government so that he
11 can become the president of Uganda. So if people do not want to voluntarily join his
12 group, then he has to abduct them. He was also meant to abduct younger children
13 because they were easier to be trained and they would forget easier -- easily. So
14 when somebody is abducted they immediately want the person to kill so that the
15 person does not go back home. Because they are threatened that if you go back
16 home, then the cen would follow you. As a child you have never killed anybody,
17 you have never seen a dead body, you become frightened and that frightens you from
18 going back home. So that's the reason why people were being abducted.

19 Q. [10:35:01] Mr Witness, I want to move to a different topic now. We have been
20 talking about your time in the Soroti area and you told us that civilians were killed
21 there because Kony thought they were stubborn. Apart from Teso, did you hear
22 similar orders at any time or in other places?

23 A. [10:35:40] In the LRA orders are issued regularly. There is no specific time that
24 orders are issued. They are issued at any time. Sometimes on a daily basis. When
25 some of the things that happened at the time, at the time that we left Teso and went

1 back, some of the orders that were issued included attacking several places such as
2 Pajule. At the time I was still in the bush as well. They also attacked other places,
3 for example, Orum sub-county which is in Lira. They also attacked a camp. They
4 also attacked Adilang. That was also an order issued. So when you go on an attack,
5 these attacks relate to killing civilians or abducting civilians as well as pillaging their
6 food and shooting soldiers. They usually split people into two groups. When an
7 order is issued for such an attack, some people go to the barracks and some people go
8 to the civilian settlement. That's how the LRA usually issues its orders.

9 Q. [10:37:04] And do you have an understanding of why particular places were
10 selected for attack? You mentioned a number of places, why were those places
11 selected?

12 A. [10:37:27] The places were selected because perhaps somebody from that area
13 has escaped and gone back home with an LRA gun. If you are LRA who has
14 escaped with a gun and your home is in that area, then they would issue orders for
15 your home to be attacked. Sometimes such orders are issued, when, for example,
16 a civilian snatches an LRA gun from his hand, they issue orders for such an attack to
17 take place. Sometimes, if there is an understanding that the soldiers in that area, for
18 example, there are not that many soldiers in that camp and the LRA would be able to
19 defeat those soldiers, they send soldiers to attack that camp as well. That's how they
20 used to issue orders to carry out attacks.

21 Q. [10:38:31] And, Mr Witness, when you needed to get food in the LRA, where did
22 you go?

23 A. [10:38:46] In the LRA, most times we would collect food or pillage food from
24 camps. When we go to pillage camp, that means they are going to fight. In order to
25 enter into a camp you have to fight with the UPDF soldiers because UPDF soldiers are

1 also based at camps. But when you go to pillage food from camps there is a crossfire
2 between UPDF soldiers and LRA. And that -- that's the one that aggravates people
3 resulting in houses being burnt and people being killed. Because he says that the
4 UPDF are not able to take care of the camps, which means the civilians should be
5 killed. Sometimes he would say the barracks should be a barracks, a barracks
6 should not be close to a civilian settlement, which means that any civilians that are
7 based close to an army barracks should be attacked. So the LRA would go and
8 attack food -- and pillage food by attacking the camps. They would not go and
9 collect the food, they would just go and pillage the food from the camps.

10 Q. [10:40:11] And when you say "he" was issuing orders, who do you mean "he"?

11 A. [10:40:20] I'm referring to Joseph Kony.

12 Q. [10:40:31] Mr Witness, I want to move back to the topic of abductions. You
13 have told us that the LRA abducted people, including people 10 and onward. Can
14 you tell us more about what types of people were abducted, was it men and women
15 or just one or the other?

16 A. [10:41:07] The LRA would abduct male boys, as well as female girls. If you're
17 15 to -- or 10 to 17 you would be abducted, they would not leave you.

18 Q. [10:41:28] And what role did female girls play in the LRA?

19 A. [10:41:41] The girls that were abducted by the LRA were mostly abducted to, to
20 become -- you would be given out to different brigades, you would be distributed to
21 different brigades and when the time is ready, for example, after six months, then
22 they would be given to their husbands. And that's what they used to do with girls in
23 the LRA. They would be distributed to their husbands. Nobody would -- nobody
24 was allowed to abduct their own wives or nobody would select their own husbands.
25 You would be abducted, you would stay there for about six months and then you

1 would be given to a husband.

2 Q. [10:42:37] And when you say that girls would be given to husbands when they
3 are ready, what do you mean by "ready"?

4 A. [10:42:57] Most times in the LRA, based on my observation, the girls that were
5 abducted would be kept for about six months and -- to get used to being in the LRA,
6 maybe also to determine that they do not have any illness. So somebody who has
7 been there for six, seven or one year, if that person has any sort of illness it will
8 become apparent. And if the person is ill they will, they will make that decision that
9 such-and-such a person is sick.

10 Q. [10:43:37] And in your words you said girls would be given to their husbands
11 after this period. Can you tell us a little bit about the typical process at that point.
12 What would happen?

13 A. [10:43:59] In the LRA if girls are abducted and the girls have been there for
14 a certain period, then orders are issued for the girls that the girls who have been
15 abducted should now be given to their husbands. Then they will determine, each
16 LRA member and make a decision, for example, how long the person has been in the
17 LRA or whether the person needs a wife, then the -- for example, a commander would
18 make a decision and say, "My escort or somebody who is within my group has been
19 in the LRA for a long time, is it possible for this person to be given a wife?" and then
20 they make the decision. They take a girl and give it to that person. There is no
21 courtship.

22 Any commander makes the decision, decides that such-and-such a person is capable
23 of being a husband or such-and-such a person has been in the LRA for a long time,
24 then that person would make that decision. Such an order does not necessarily have
25 to come from Kony, but it can come from the specific brigade commanders. So once

1 the person has been there for the relevant time, then they are given to a husband.
2 Secondly, if an LRA person decides that they want a wife, then you go and state your
3 case. If there is an LRA -- if there are girls who have been abducted or if there are
4 going to be abductions, you go to your brigade commander and you tell the brigade
5 commander that I would also like a wife. The brigade commander would then
6 decide and say such-and-such a person came and stated their case to me, they said
7 they wanted a wife, so it's time that I should give this person a wife. And that's how
8 they would make the decisions to distribute women.

9 Q. [10:46:06] You said the men would or could make their case about being given
10 a wife. Could the girl or woman refuse to marry the man who was selected to be her
11 husband?

12 A. [10:46:36] No, there is no way that you can refuse when you are in the LRA. If
13 you are given to any man, irrespective of his age, whether he is young or whether he
14 is old, you have to go. Because an order has been issued, you have to go. Any
15 commander can take any girl and make a decision that this girl is going to become my
16 wife. He can do that at any time. Let's say if you are sent to abduct girls in
17 a particular area, you abduct the girls, you bring the girls to the brigade commander,
18 the brigade commander starts distributing the girls, but before distributing the girls
19 he would take the ones that he prefers. He would make his choice and then the
20 leftover girls would be distributed to the rest of the group.

21 Q. [10:47:32] What would happen if a girl or a woman tried to refuse the man who
22 had been chosen as her husband?

23 A. [10:47:51] If a girl refused the person that she was given to, then -- well, that's
24 a rule. If you refuse to go to a particular husband, that means that you do not want
25 to live, that means that you will be killed and you will be killed immediately. So you

1 make the decision: Do I want to live or do I want to die? So you make that decision.

2 If they give you to a particular man, if you decide to live, then you go to that man.

3 That's how it is.

4 Q. [10:48:33] And how do you know this?

5 A. [10:48:46] I knew this from the time that we were abducted. There were two

6 girls that I was abducted with. We were all in one place. The two girls were

7 distributed while I was still there. I witnessed this personally. One of the

8 girls -- well, two of the girls that were abducted, one was 13, one was 12, they were

9 given to, to their husbands. And I personally witnessed this. Nobody told me.

10 They did not have any authority, they were young. They had no way of escaping.

11 They did not have any way to refuse because they were under constant security. So

12 if they -- when they were distributed they went and they started -- they went to their

13 husbands.

14 Q. [10:49:46] And you said refusing, if a woman refused it was a question of

15 whether someone wanted to live or die? How do you know girls or women would

16 be killed if they refused their husband?

17 A. [10:50:12] This is something that would happen in the LRA. Most times the,

18 the girls were scared or the newly abductees, when you are scared, if they give

19 you -- if they ask you to do anything, if they issue any orders, you decide to obey,

20 because if you witness somebody being killed you become afraid because you know

21 that will happen to you. So you make the -- you make the decision that you are

22 going to follow orders.

23 Q. [10:50:46] Can you give us an example of a time when you saw abducted

24 women or girls and tell us about what happened to them?

25 A. [10:51:08] The ones that I saw were when I had been newly abducted we were

1 still at Tegot Kilak, they killed a girl who refused her husband. They killed a girl.
2 They collected a number of recruits, the female recruits, and asked them to go and kill
3 that girl. And I saw this. This is what happened.

4 Q. [10:51:40] Now, you mentioned you saw people who were abducted in Teso.
5 Did you see any girls or women adducted in Teso?

6 A. [10:51:57] In Teso I saw girls that were abducted. There was a commander
7 known as Tabuley. He abducted girls from a school. He brought the girls and gave
8 them to Otti. There were approximately 10 girls and the girls were distributed to
9 different brigades. Some of the girls were left behind. Four girls stayed at Otti's
10 household. Otti said one should be taken to Kony so that the person could be
11 a member of Kony's household. That is an example of an abduction that I saw in
12 Teso. Sometimes they would abduct one or two or three girls. That happened on
13 several occasions because sometimes you come across one girl, two girls or three girls
14 and they would be abducted and this happened in most of the brigades.

15 Q. [10:53:12] Now I want to focus on these girls that -- the 10 girls you said were
16 abducted in Teso. When did you first hear about these girls?

17 A. [10:53:30] I do not recall the exact date, but it was the time when
18 Charles Tabuley, who was a senior LRA commander, brought the girls, the girls,
19 approximately 10 girls to Otti. He said that he abducted the girls from a school in
20 Teso. And when the girls were brought, I did indeed see the girls. The girls were
21 distributed. Charles Tabuley, it was Otti who distributed the girls. They gave
22 some of the girls back to Charles Tabuley and some of the girls were distributed to
23 different brigades, some of them stayed within Otti's household. He stated that
24 some of the girls should stay with him and at least one girl should be sent to Kony.
25 The girls in Otti's household, the ones that stayed behind were four, and I personally

1 saw the four.

2 Q. [10:54:47] And you said Otti said one girl should be taken to Kony. Do you
3 know if that happened?

4 A. [10:54:59] Yes, that happened. It happened because the time that we met Kony
5 when the girls were being taken to him, one of the girls escaped when she was being
6 taken to Kony. He was in an area in Kitgum. From Kitgum in an area known as
7 Tem Palukok, and the rest were taken.

8 Q. [10:55:35] And were you with Otti when the girl was taken to Kony?

9 A. [10:55:48] I was on my own.

10 Q. [10:55:56] What do you mean you were on your own?

11 (Redacted)

12 Q. [10:56:13] Now just one question going back to when Tabuley brought the girls
13 to Otti. Was anyone else there at the time, any other commanders?

14 A. [10:56:33] The commanders, there were other commanders that were there,
15 because Otti did not travel on his own. There were other commanders. There was
16 Nyeko Tolbert Yadin, there was Sam Kolo, Ocitti Jimmy, Lakati. Yes, there were
17 other commanders.

18 MS GILG: [10:57:07] Your Honour, I am about to start a new topic, but maybe it
19 would be wise to take the break.

20 PRESIDING JUDGE SCHMITT: [10:57:20] I assume that too. So we have now the
21 break until 11.30.

22 THE COURT USHER: [10:57:30] All rise.

23 (Recess taken at 10.57 a.m.)

24 (Upon resuming in open session at 11.36 a.m.)

25 THE COURT USHER: [11:36:34] All rise.

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Open Session)

ICC-02/04-01/15

1 PRESIDING JUDGE SCHMITT: [11:36:51] You have still the floor, Mrs Gilg.

2 MS GILG: [11:36:54] Thank you, your Honour.

3 Q. [11:36:57] Mr Witness, you mentioned before an attack on Pajule. I want to ask
4 you now some questions about that attack. And first can you tell us, were you near
5 or at the attack on Pajule?

6 A. [11:37:31] During the Pajule attack, I was not personally there. But during the
7 same period, I was still (Redacted), and he was the one who selected people.

8 He did the selection at about 7 p.m. at a place approximately a mile away from Pajule
9 camp. He selected people to go and attack Pajule. A group would have to go to the
10 barracks while another would go to the camp. And the people were prepared that
11 evening, with the instruction to leave and go and station near the barracks or near
12 the camp.

13 And, as was usually done by the LRA when they are going for an attack on a camp or
14 in a barracks, they would begin their operation at about 5 or 6 in the morning. And
15 on that day the people were selected and sent to Pajule and they went and attacked
16 Pajule in the morning.

17 (Redacted), because in the LRA

18 not everybody goes for an attack. Some people would remain to give protection to
19 the commander, and at that time I had stayed behind with Otti. And it's true at
20 about 5 a.m. Pajule was attacked. We could hear the gunshots even from the place
21 where we were. Otti could also hear and he kept on talking about that.

22 And in the morning at about 7 a.m., after the attack, those who were retreating from
23 Pajule came and found us where we had stayed. The operation they went for was
24 carried out. They went and attacked the barracks. They overran part of the
25 barracks. Some of the soldiers who were in the barracks and others who were not in

1 the barracks came and provided reinforcement to the soldiers who were at the
2 barracks. They eventually managed to flush back the LRA who were attacking the
3 barracks.

4 Another attack was in the camp. A group also went to go and pillage in the camp.
5 They collected food items and abducted civilians who were meant to help them ferry
6 the loot. During the same attack on Pajule in the barracks, the LRA was able to
7 recover one B-10 gun. I saw that personally. And also the UPDF who came to
8 provide reinforcement were able to shoot two of the LRA fighters.

9 One of the injured in the LRA was having an SPG-9. He was called
10 Captain Charles Lukwiya. When Charles Lukwiya was shot, one of the sergeants, he
11 was called Ojara, he went to try and get the SPG-9. He was also shot. Therefore the
12 attack on Pajule, during the attack on Pajule, an SPG-9 of the LRA was lost and then
13 a B-10 gun from the UPDF was recovered.

14 The people who were abducted I think would reach about 300 in number. They
15 were over 300. It was a huge number. It was actually uncountable. They were
16 taken to the bush, and while they were moving early morning, they also came under
17 attack from a government helicopter.

18 The helicopter was hovering above, trying to track down the LRA fighters, but they
19 didn't fire at the people. It was instead the LRA fighters who fired at the aircraft.
20 They were using SPGN gun and then G3 guns to fire at the helicopter. They also
21 used RPG, and some of the people who were firing at the plane included
22 Raska Lukwiya and many others.

23 Out of the over 300 people who were abducted, there was also a local chief from
24 Pajule. He was called Oywak Ywakamoi. He was part of the people who were
25 abducted. The LRA moved with the people until the next day. They gathered all

1 the people who were abducted, and one of the people who was moving with the
2 civilians was Raska Lukwiya.

3 There were many other commanders. They started displaying the items they
4 recovered from Pajule. For instance, the B-10, they showed the civilians that they
5 were having the B-10, and that was a show of power. If the government soldiers
6 were so strong and was able to provide protection to the people, the LRA should not
7 have been able to recover these items and should not have attacked the camp.

8 Some of the people who were released included older people, among whom included
9 Rwot Oywak. The younger people, from 10 to about 17 years, were retained by the
10 LRA. They went with the younger ones. That was how the Pajule attack was
11 carried out. I was not there in person, but it was a group that was selected by Otti
12 and the selection was done in my presence.

13 PRESIDING JUDGE SCHMITT: [11:44:36] I think I have said this on another
14 occasion with another witness, I think on questioning by Mr Gumpert, that sometimes
15 a narrative by a witness can make life easier for the examiner, but sort of also a little
16 bit more difficult to just only follow on the things that have not been said and are of
17 interest.

18 MS GILG: [11:44:56] Yes, that's my intention, your Honour.

19 Q. [11:45:00] So, Mr Witness, thank you for that detailed description of the Pajule
20 attack. I want to go back now and ask you some follow-up questions about a few
21 details. And just as a reminder, we are in public session, so please don't mention
22 any specific details about your roles or anything that might identify you.
23 You mentioned that Otti was in charge of planning the attack. Just so we're clear,
24 just focusing on the day before the attack, can you describe what Otti was saying and
25 doing?

1 A. [11:46:05] Before the attack, Otti was thinking or had an idea that Pajule camp
2 had very few soldiers. That's what I came to learn and that was the reason they
3 planned to go and attack it.

4 Q. [11:46:40] And you were with Otti the day before the attack on Pajule; is that
5 right?

6 A. [11:46:53] That's correct.

7 Q. [11:46:55] And when he was organising the attack, did you hear him speaking to
8 particular people?

9 A. [11:47:14] When they finished the planning, because the planning didn't -- the
10 planning was done at about -- it was not done at 7 p.m. I think it had been planned
11 much earlier. I heard about that because he kept on mentioning that there were very
12 few soldiers in Pajule. I think it started a day or two earlier.

13 Q. [11:47:40] And was Otti planning the attack by himself or was he discussing the
14 plans with other people?

15 A. [11:47:58] At the time of the Pajule attack, Otti was together with the
16 commanders like Raska Lukwiya, who was the operation commander at that time.
17 He was the third in -- the third person in the line. The other commanders included
18 Nyeko Tolbert Yadin. There was Sam Kolo. There was also Okot Odhiambo, who
19 was coming from Trinkle. There was Charles Tabuley, who was also a commander
20 in the LRA.

21 There were very many other commanders at that time, and I think all these
22 commanders must have sat down to come out with a plan because that's what they
23 used to do. And I remember, when they planned to go and attack, the person who
24 was addressing the fighters was Nyeko Tolbert Yadin. He was also there. There
25 was also Raska Lukwiya. Ocitti Jimmy was also there. These were the people who

1 were addressing the fighters after finishing the plan to go and attack.

2 Q. [11:49:21] Now, before this time when Yadin and Raska were addressing the
3 fighters, when Otti was planning the attack with other commanders, you said he must
4 have been planning the attack with other people. Where were you?

5 (Redacted) wherever he would be going, I would have to be
6 with him. And any commander who would be coming to meet Otti wherever he
7 would be, I would have to make sure I am near him before that commander comes
8 around.

9 Q. [11:50:12] And did you see those commanders come around or did you hear
10 them speaking? Or how did you know they were there?

11 A. [11:50:31] All the commanders converged at Otti's home and then they started
12 planning, because in the LRA such senior commanders also eat together. They do
13 not eat individually. They come together and eat communally together with
14 Otti Vincent, and during such sittings there would be planning.

15 PRESIDING JUDGE SCHMITT: [11:51:02] You mentioned a lot of names,
16 Mr Witness, that have been present at Otti's home, as you said, for the planning.
17 Was Mr Ongwen one of them?

18 THE WITNESS: [11:51:17] (Interpretation) At that time Dominic Ongwen was not
19 a brigade commander and the commanders whose names I mentioned were higher in
20 rank than him. Dominic was a major at that time. For that reason, he could not sit
21 together with the brigadiers or the other commanders whose names I mentioned
22 earlier. He was under a brigade commander and he would only receive instructions
23 from his brigade commander. He was not part of the team.

24 PRESIDING JUDGE SCHMITT: [11:51:57] Please continue.

25 MS GILG: [11:51:58]

1 Q. [11:51:58] And still talking about this meeting at Otti's household with the
2 commanders, do you recall around what time of day that occurred?

3 A. [11:52:23] That meeting started at around 1. We had sat somewhere to rest
4 because we had been moving. We sat there at about 1 and the meeting started at
5 around that time. You know, in the LRA most times they would communicate on
6 radio call at 11, at 1 and at 4 and then at 8. Those were the communication hours.
7 That meeting took place after a radio call communication at 11, and then the meeting
8 took place at around 1. Then later at around 5, they started selecting the people.
9 We stayed at the same point for all this time. Those of us who remained behind
10 stayed and waited for the fighters who had gone. They came back and found us
11 back at that very same point before eventually we left and went away.

12 Q. [11:53:24] I am going to ask you later about the radio call at 11 a.m. But right
13 now what I want to ask you is about the meeting when the fighters were selected and
14 you said Raska and Yadin addressed the fighters. Which other LRA commanders
15 were there at that meeting?

16 A. [11:54:03] The LRA commanders who were there at the meeting included
17 Colonel Bogi. There were several captains, among whom included Bosco. There
18 was Lukwiya, who was part of the support, and other brigade leadership members.
19 I mentioned the name of Buk Abudema. I mentioned the name of Odhiambo, who
20 was coming from Trinkle. There was also Tabuley coming from Stockree.

21 Q. [11:54:47] Was Dominic Ongwen present at that meeting?

22 A. [11:54:52] Ongwen was part of the people who went to attack Pajule.

23 Q. [11:55:00] Now, just focusing on the selection meeting that took place around
24 5 p.m., did you see Dominic Ongwen at that meeting or do you just know that he
25 went to Pajule?

1 A. [11:55:22] He was there because at that time he was a major and he would only
2 wait for instructions from the brigade commander. But the person who went to
3 attack the barracks was Captain Bogi. He was the commander who led the team to
4 the barracks. In the camp, Raska Lukwiya was there. Dominic Ongwen was just
5 one of the people who went for the attack. But when they went to the camp, I am
6 not very sure where exactly he went to attack. I am not sure whether he went to the
7 barracks or he went to the camp. And for the fight I was not there in person, so I am
8 not very sure about his location at that time.

9 Q. [11:56:14] Now, just going back a minute. Who was Dominic Ongwen's
10 brigade commander at this time?

11 A. [11:56:32] At that time it was Buk Abudema.

12 Q. [11:56:36] And was Buk Abudema at the meeting around 1 p.m. at Otti's
13 household?

14 A. [11:56:53] No, he was not there.

15 Q. [11:56:59] Now, returning to the meeting where fighters were selected around
16 5 p.m., were you present?

17 A. [11:57:09] Yes, I was there.

18 Q. [11:57:12] What did you hear being said at the meeting?

19 A. [11:57:25] What I heard during the address to the fighters was that they should
20 go, attack the barracks. Another group should go and abduct civilians and loot food
21 items. That was the instruction that I heard Otti, together with Raska Lukwiya and
22 other commanders who were also addressing the team, commanders like Sam Kolo,
23 Tolbert Yadin, Ocitti Jimmy, were giving to the people. After the address, the
24 fighters were then dispatched to go to Pajule.

25 Q. [11:58:13] And can you tell us about how soldiers were selected for the attack at

1 Pajule? Who decided which people went?

2 A. [11:58:36] The selection of the fighters in the LRA is such that they would
3 identify a brigade, and if the requirement is each brigade is supposed to provide 50
4 fighters, then they will have to do that. Within the brigade there are battalions and
5 in a battalion there are coys. Therefore, the number of people required for an
6 operation, for instance, when there is supposed to be an attack in Pajule and they
7 needed 300 people, they would distribute the number to the various departments to
8 provide the fighters to that team. The fighters would then be put together and if
9 Otti Vincent or Raska Lukwiya feels that a commander has to lead the group, they
10 would then identify, together with the battalion OC, they would be the ones to select
11 the commander to go and attack Pajule. And at that time they selected Bogi to go
12 and lead the team that went to the barracks. That is how the LRA carries out
13 selection for operations.

14 Q. [12:00:03] And which units or brigades were selected to go to Pajule?

15 A. [12:00:14] The brigade that went to Pajule was Control Altar. There were some
16 fighters selected from Control Altar. They also selected some fighters from Trinkle
17 and others came from Stockree. Some also came from Sinia. Those were the
18 brigades that provided fighters to go to Pajule.

19 Q. [12:00:40] And you mentioned both Otti and Raska were addressing the fighters
20 at the selection meeting. What was Raska's role at that meeting?

21 A. [12:01:01] Most occasions Raska was the operations commander, so he was the
22 senior operations commander of the LRA and he was responsible for addressing
23 people and he would also be the last person to issue instructions once he has received
24 those instructions from Otti.

25 Q. [12:01:28] And did Raska or Otti give instructions specifically to

1 Dominic Ongwen?

2 A. [12:01:47] Dominic Ongwen was given instructions based on the instructions
3 from Raska Lukwiya and he was among the people that went to Pajule. An officer
4 like Dominic would receive orders from a brigade commander or from
5 Raska Lukwiya. He would then go with them to help supervise the soldiers or to
6 help him, advise him on what the soldiers were doing so most times such people
7 were taken to make sure that everything is being -- everything is okay and also to
8 provide supervision.

9 Q. [12:02:31] And did you hear anyone at the selection meeting give instructions to
10 Dominic Ongwen? Did you hear with your own ears?

11 A. [12:02:50] I, I did not personally hear such instructions, but I realised that he was
12 also part of (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted) Did any of the

17 fighters from your coy go to Pajule?

18 A. [12:03:36] Yes, there were several fighters from my coy that went to Pajule,
19 including a sergeant known as Ojara. He sustained injuries when he went to try and
20 retrieve the SPG-9 when somebody else was injured, so he was taken from my coy.

21 Q. [12:04:11] Now, Mr Witness, you said you were not selected to go to Pajule; is
22 that right?

23 A. [12:04:15] That's correct.

24 Q. [12:04:19] But did you come to learn about what happened at Pajule?

25 A. [12:04:28] Yes, I did, because they came back from Pajule, came back directly to

1 the location where we -- they had left us.

2 Q. [12:04:38] And can you tell us some of the names of the people who told you
3 about what happened at Pajule?

4 A. [12:04:56] Among the people who told me what happened in Pajule were one of
5 the people that came from my coy, he sustained injuries on his, on his thigh, but he
6 was able to speak, and that was Ojara. There was also somebody else who sustained
7 injuries, known as Charles Lukwiya, who also told me about what happened at Pajule.
8 And there are also other soldiers or fighters who told me the same thing, they told me
9 what happened at Pajule, but I do not recall all their names.

10 Q. [12:05:36] And did these people tell you what happened right after the attack?

11 A. [12:05:50] After the attack they told me that some government soldiers came,
12 government reinforcements came and they were chased out of the barracks, but they
13 had already overrun part of the barracks and they had taken a B-10, some of the other
14 things that they pillaged. And there were also civilians that were abducted. I
15 personally saw the civilians. I also saw food that was pillaged. Among the
16 abductions, included children.

17 Q. [12:06:36] Can I stop you just for a moment. I just wanted to ask about when
18 you learned about what was happening and I am going to ask you in a minute more
19 about what you saw and heard after the attack. So just before that, can we -- let's
20 talk about the people -- actually, no, I want --

21 MS ELLIS: [12:07:06] Your Honour, could I just interrupt?

22 PRESIDING JUDGE SCHMITT: [12:07:08] Yes.

23 MS ELLIS: [12:07:09] The reference to the names, along with the position of the
24 witness, it seems to me could be sensitive, and I wonder why it is necessary to have
25 those names linked to the position of the witness himself within the coy. It seems to

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Open Session)

ICC-02/04-01/15

1 me that is a matter of concern.

2 PRESIDING JUDGE SCHMITT: [12:07:40] I think we are vigilant in that respect.

3 But of course it's also necessary that everybody in the courtroom, especially of course
4 the judges of the Chamber, know where a witness has his or her knowledge from.

5 So if it is hearsay, if it is something -- what kind of hearsay, and if it is something that
6 the witness has personally experienced, heard or so, this has to be elaborated, of
7 course. But I would agree with you.

8 And when you continue, you are vigilant in that respect that we need not relate now
9 everything to the position of the witness. And I think we had this already so we
10 know what -- the role of the witness and we -- I think we already also know where he
11 was and why he was where he was at Pajule.

12 MS GILG: [12:08:37] Yes. And just to be clear, the names we are going to request
13 be redacted. I probably should have --

14 PRESIDING JUDGE SCHMITT: [12:08:47] I would not say that the names are
15 necessarily to be redacted. What names did you -- it depends. I don't think that we
16 should redact every name that is now being said.

17 MS GILG: [12:09:00] No. Though --

18 PRESIDING JUDGE SCHMITT: [12:09:01] I think only, only names that would
19 clearly identify the witness. But we should also not -- and we cannot also, also be
20 too, too narrow-minded in that respect. We have also the obligation here to have
21 transparent proceedings. We have talked about that quite a lot and we have to
22 balance that and I think -- and we can only do that on a case-by-case basis. And
23 because of that I would not say that any name that is now going to be mentioned
24 should be redacted or should be elaborated in, in closed session.

25 MS GILG: [12:09:43] Yes, excuse me, I meant just the names associated with his

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Open Session)

ICC-02/04-01/15

1 particular responsibility. So the names of people that were in his coy, that reference.

2 But I think we can move on.

3 PRESIDING JUDGE SCHMITT: [12:09:57] Yes, I think we can move on. And

4 I think we have already quite a lot about Pajule and I indicated a couple of minutes

5 ago that this was a, a remarkably detailed narrative by the witness for Pajule and it's

6 always, you know, it's -- when we have a narrative, and you did, so it is absolutely

7 correct how you reacted, you did not interrupt him, we should not interrupt because

8 then this only shows it is something whatever. If it is true or not, that we don't know.

9 But it is at least something that is in the mind of the witness, it's his recollection and

10 we should let him or her go.

11 MS GILG: [12:10:39] Yes, I won't belabour the topic, your Honours, but I do have

12 a few more questions.

13 Q. [12:10:45] Mr Witness, just to be clear, you mentioned that Dominic Ongwen

14 was selected to go fight at Pajule. Did you see him leave for the attack with your

15 own eyes?

16 A. [12:11:02] Yes, I saw him personally with my own eyes because I was present. I

17 stated clearly that the brigade, the brigades that went to Pajule, I mentioned the

18 brigades that went to Pajule, and Sinia was part of the brigades that went to Pajule

19 and at the time he was a member of Sinia brigade.

20 Q. [12:11:29] And now moving to -- actually, one question about -- actually,

21 moving to what happened, what you saw after the attack. You mentioned that you

22 saw many abductees. Can you describe what they looked like as they were coming

23 toward your location?

24 A. [12:12:01] People that were abducted were clear, because they are put in

25 different groups. Each battalion abducts their own people to carry, to help them

1 carry food. They are always divided in different battalions. Each battalion takes
2 care of its own abductees. So once they get to the place where they want to release
3 these abductees, they collect them all together and then they select the ones that they
4 want to keep -- the ones they want to keep. The ones they want to keep stay behind
5 and the ones they do not want to keep are sent back home.

6 And in -- something else that I saw, that I personally saw was that the SPG that the
7 LRA went with was left behind, but they came back with a B-10, a UPDF B-10, and I
8 determined that the barracks was attacked.

9 And the people that also sustained injuries, sustained these injuries as a result of the
10 attack and that is why I came to the determination that Pajule was attacked.

11 Q. [12:13:22] And the people who sustained injuries, were they able to walk back to
12 the location? Did you see them coming back?

13 A. [12:13:41] The people that sustained injuries did not walk. The civilians who
14 were abducted were made to carry them and they brought them back to the place
15 where we had encamped.

16 Q. [12:14:01] And you mentioned before that you saw young people among the
17 abductees. Can you explain what age range you mean?

18 A. [12:14:17] The young people that were abducted from Pajule, I believe the
19 youngest were approximately 11, 12 to 17 years old. Those are the people that I saw
20 and those are the ones that LRA took with them to the bush.

21 Q. [12:14:40] And once the abductees reached the location where you were, what
22 happened next? Did anyone speak to them?

23 A. [12:14:59] When the abductees were, were coming to the place where we were
24 encamped, they did not tell them anything immediately because at the time they were
25 being pursued by UPDF gunships. The UPDF gunships were also attempting to

1 shoot people. So on that day they did not address them because at the time there
2 was also an exchange of gunfire between the LRA and the UPDF gunship, the LRA
3 fighters were shooting at the gunship because they were using the G3 and other
4 weapons that the LRA were using to shoot at the gunship.

5 Civilians were addressed the next day when they were being released, so that was the
6 time that they were addressed. Otti and another commander, as well as
7 Raska Lukwiya, were addressing the civilians to explain and show them what
8 happened, to show them the weapons that they had captured. And that's what I saw
9 happen the next day. But that happened on the following day.

10 Q. [12:16:19] Why do you think they were showing the civilian abductees the
11 weapons?

12 A. [12:16:36] Most times this would happen within the LRA so that the civilians
13 would go back and make the determinations or the civilians would make the
14 determination that the LRA has strength, the LRA is able to defeat the government
15 and the LRA is able to capture weapons from the government. That's why they
16 did that.

17 Q. [12:16:58] And you said when the abductees returned some of them were
18 carrying the wounded fighters. Were they carrying any -- were other civilians or
19 those civilians carrying anything else?

20 A. [12:17:16] The injured fighters were being carried by different abductees.
21 Other abductees were carrying food, food that was pillaged from the camp. That's
22 what they were carrying. That's what I saw.

23 Q. [12:17:34] And you mentioned that Rwot Oywak was also abducted, and what
24 happened to him?

25 A. [12:17:48] Rwot Oywak was -- sorry, when people were addressing -- when the

1 people were being addressed, that's when Otti was explaining the strength of the LRA
2 and he was explaining this to Rwot Oywak. He was telling Rwot Oywak that
3 Rwot Oywak should see the LRA strength, they have managed to capture guns from
4 the UPDF, which means the UPDF is no longer able to take care of them. So when
5 they go and live in the camps they are there for nothing because there is no proper
6 protection in the camps. If there was proper protection at the camps, the UPDF
7 would have stopped them from entering the camps, but the UPDF were not strong
8 enough, which enabled them to go to the camps. But other than that, I did not hear
9 them discuss anything in depth with Rwot Oywak. The only thing I heard them talk
10 about were the things that had been captured.

11 Q. [12:18:57] And did the LRA keep -- did he stay with -- did Rwot Oywak stay
12 with the LRA?

13 A. [12:19:16] Well, before I had heard of Rwot Oywak, I heard that he was a chief.
14 At the time he was trying to talk to the LRA through some white person. There was
15 a person who was trying to make the connections between Rwot Oywak and another
16 commander. And that was Colonel Charles Lukot (phon), who was in Sinia brigade,
17 he was trying to make connections between Rwot Oywak and some white person.
18 This was for peace talks and this happened at Koyo-Lalogi, which is close to Pajule.
19 And that is how Rwot Oywak first came to my attention.
20 Among the other people who knew Rwot Oywak were Opira, who is also from Pajule,
21 and he told us that that was the chief. Nothing else happened from that. The peace
22 talks did not come to any fruition, so I knew the -- I knew Rwot Oywak. The LRA
23 also knew Rwot Oywak because he attempted to negotiate a peace settlement.

24 Q. [12:20:32] Now, Mr Witness, you mentioned before that there were people,
25 especially younger people who were selected after Pajule to stay in the LRA. What

1 I was trying to understand is if the Rwot was selected to stay in the LRA or did
2 he -- was he released?

3 A. [12:21:00] Rwot Oywak was released with some of the other people and he went
4 back home.

5 Q. [12:21:07] And were the younger people who were selected to stay only boys or
6 were there boys and girls?

7 A. [12:21:24] There were girls and boys. Girls and boys were among the people
8 that stayed behind.

9 Q. [12:21:33] And how did you know that the younger people were between 11 to
10 17 years old, as you said before.

11 A. [12:21:54] Most times it is able to tell when somebody is a child. Some of them
12 stayed where I was. I asked them, I asked them questions. They told me that they
13 were in primary 3 or 4. If you abduct somebody, you ask them to determine their
14 ages. That's what the LRA used to do. And in my assessment these were young
15 children.

16 Q. [12:22:20] And what role did the young girls taken at Pajule have in the LRA?

17 A. [12:22:35] The young girls that are taken, as I stated earlier, most of the girls,
18 once they are abducted, they are kept for a while and after a certain time they are
19 given to husbands, they are given to fighters who do not have wives.

20 Q. [12:23:02] And going back for just a minute to the actual attack, where was Otti
21 during the Pajule attack?

22 A. [12:23:16] I said that Otti was approximately one mile away from where they
23 selected the standby to go to Pajule. We stayed behind with him and we were taking
24 care of him.

25 Q. [12:23:35] Okay, Mr Witness, we have been talking about all the things that

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Private Session)

ICC-02/04-01/15

1 happened at Pajule. I want to now ask you about the timing of the attack. Do you
2 remember when the attack on Pajule happened?

3 A. [12:23:54] The attack on Pajule happened on 10 October 2003.

4 MS GILG: [12:24:10] Your Honours, may we move into private session for just one
5 or two minutes.

6 PRESIDING JUDGE SCHMITT: [12:24:13] Yes. Private session.

7 (Private session at 12.24 p.m.)

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-P-0138

(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 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Open session at 12.27 p.m.)

17 THE COURT OFFICER: [12:27:32] We are back in open session, Mr President.

18 MS GILG: [12:27:45]

19 Q. [12:27:45] Mr Witness, you said you heard a report from Otti to Kony about the
20 Pajule attack after it happened. What did you hear Otti saying?

21 A. [12:28:05] I heard Otti saying, explaining what happened at Pajule. He stated
22 that people had been abducted, approximately 200 or 300 people had been abducted.
23 They had captured a B-10 from Pajule. Those are the things that Otti was relaying to
24 Kony and they were also discussing other things about the attack on Pajule.

25 Q. [12:28:39] Thank you.

1 I want now to move to a different topic and ask you about audio recordings. During
2 your interview were you ever played audiotapes or audio recordings by the
3 interviewers during your interview with the Office of the Prosecutor?

4 A. [12:29:09] Yes, they did.

5 Q. [12:29:11] And just so everyone understands what took place, can you tell the
6 Court what happened when you listened to those audio recordings?

7 PRESIDING JUDGE SCHMITT: [12:29:45] I think this was a relatively general
8 question. It would have to be more specific, how to -- how was it entertained, the
9 process? You know, did anybody tell you what was going on now and so on?
10 I think he did not understand. The witness did not understand the question.

11 MS GILG: [12:30:06]

12 Q. [12:30:26] Excuse me. I am going to try to be more clear with my question,
13 Mr Witness. When you listened to the audio recordings, what was the process like?
14 What happened when you were listening and what happened afterwards?

15 MR AYENA ODONGO: [12:30:29] Your Honours, at this point in time I don't know
16 whether it would not be necessary for the Prosecution to find out from the witness
17 whether what he was listening to was enhanced or it was original.

18 PRESIDING JUDGE SCHMITT: [12:30:45] Yes. I think I am relatively sure that
19 Mrs Gilg will ask that, or we can entertain that later on. But we are at an early stage
20 now. So we are simply asking the witness, he has been played audio recordings and
21 how the sequence of events was. For example, the witness listened to it, did he make
22 any remarks to it, was there made a statement, and these things. And you can, of
23 course, also ask the witness if he has any knowledge if these recordings were
24 enhanced or what he listened to. It might be that this is a technical matter that was
25 not -- that is not to the knowledge of the witness, but I don't know.

1 For example, why not pick it up now? Why should I not do it?
2 Mr Witness, when you listened to these audio recordings, have you been told
3 anything by the Prosecution, told anything about what kind of recordings these were?
4 If these were the original recordings or if they were in any way modified or enhanced
5 whatsoever?

6 THE WITNESS: [12:32:28] (Interpretation) When Prosecution asked me regarding
7 the recordings, I listened to the recordings and they were in line with the occurrences
8 in the bush. Nothing was added on to that. It was very clear and well filtered. It
9 was clearly the voices of the LRA and nothing else was added on to that.

10 PRESIDING JUDGE SCHMITT: [12:33:06] I think we can take from that that the
11 technical aspect is not to the knowledge of the witness. I think this would perhaps
12 serve the purpose of your intervention, so to speak, Mr Ayena.

13 MR AYENA ODONGO: [12:33:19] I am much obliged, your Honour.

14 PRESIDING JUDGE SCHMITT: [12:33:22] And did you listen several times to the
15 recordings or only one time to each recording?

16 THE WITNESS: [12:33:35] (Interpretation) I listened to it several times.

17 PRESIDING JUDGE SCHMITT: [12:33:42] And of course afterwards what did he do
18 and so on.

19 MS GILG: [12:33:45]

20 Q. [12:33:46] And in addition to listening to the recordings, were you also shown
21 any written papers or transcripts of those recordings?

22 A. [12:34:10] Yes, I was shown.

23 Q. [12:34:12] And were you asked to make any corrections or annotations to the
24 transcripts?

25 A. [12:34:26] Yes.

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Open Session)

ICC-02/04-01/15

1 MS GILG: [12:34:31] Your Honours, I now plan to play two sound recordings to the
2 witness and show him one document. I plan to follow the approach that was
3 previously adopted.

4 PRESIDING JUDGE SCHMITT: [12:34:41] I think we should not change these
5 matters during --

6 MS GILG: [12:34:43] Yes.

7 PRESIDING JUDGE SCHMITT: [12:34:44] -- at least during one consecutive
8 proceeding.

9 MS GILG: [12:34:50] And just to remind the court officers in particular -- what we
10 will do is this: During the playing of the sound recording, we will put a transcript of
11 it on your screens on evidence 2 so everyone in the courtroom will have that. But
12 the court officers, please do not display the video on the witness's screen.

13 MR TAKU: [12:35:10] Your Honours, I think it is very fair now, as the Prosecutor
14 previously did, to inform the Court whether this was enhanced or not, that he's going
15 to listen that I'm saying to the witness. It can be the witness who answered this.
16 The Prosecution also say that this recording was enhanced version, as they previously
17 did with others, your Honours.

18 PRESIDING JUDGE SCHMITT: [12:35:32] Why not, Mrs Gilg? I would assume
19 even that we are going to listen to enhanced recordings.

20 MS GILG: [12:35:37] Yes, your Honour, we are listening to enhanced. The witness
21 was last interviewed in 2006, so there were no enhancements at that point, and we
22 have indeed played enhanced versions in court in the same circumstance.

23 PRESIDING JUDGE SCHMITT: [12:35:50] So to understand it correctly, the witness
24 listened to the original recordings and we are listening now to the enhanced
25 recordings?

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Open Session)

ICC-02/04-01/15

1 MS GILG: [12:35:57] Yes, and the witness --

2 PRESIDING JUDGE SCHMITT: [12:36:00] And then, of course, we would have to
3 ask the witness if there is anything different to what he has heard 2006. This is the
4 purpose, I understand, Mr Taku?

5 MR TAKU: [12:36:09] If that were the case, there should be a record to indicate
6 before the Court that in 2006 the witness listened to the original and this is the report.
7 Now, in -- thereafter the witness listened to enhanced. This is important, your
8 Honours, because to ascertain that in 2006 the witness listened, the Prosecutor or the
9 investigator will have kept a record to say, "Here is a record that he listened to this.
10 He signed this that 'I listened to this original'", original numbered this, because they
11 themselves attributed numbers to the different audiotapes.

12 And now thereafter, many years after, he listened to the enhanced, and then the
13 question can be asked whether it was exactly consistent with what he listened in 2006.
14 Because even in 2006, he could listen and was able to make sense out of it, to know
15 what happened. What was the need to put him on the enhanced copy? What was
16 the need for the enhanced copy if 2006 clearly he could identify, except there were
17 some problems in 2006 with the audio to necessitate an enhancement for him to be
18 able to identify the voices?

19 PRESIDING JUDGE SCHMITT: [12:37:18] Mrs Gilg, please.

20 MS GILG: [12:37:19] Your Honours, I am going to give all the ERNs so it will be
21 clear and on the record what was originally played to the witness. But what
22 the Prosecution is planning to do today is ask the witness, according to what he hears,
23 what to tell us about, the content of what he is hearing.

24 PRESIDING JUDGE SCHMITT: [12:37:38] And we have, of course, also something
25 that still has, so to speak, survived from 2006. That is the statement from the time

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Open Session)

ICC-02/04-01/15

1 and his comments. So like always, this in the end would have been put together.

2 This is the approach that you have to take when you assess evidence in the end. So
3 please continue.

4 THE COURT OFFICER: [12:38:03] May I kindly ask counsel to confirm the
5 confidentiality of this item. Thank you.

6 MS GILG: [12:38:10] The video that will be played on evidence 2 can be shown to
7 the public as it is a redacted version.

8 Your Honours, I refer you to tab 22 of your binders. The ERN of the sound
9 recording is UGA-OTP-0247-1110. This is the enhanced version of the original
10 sound recording UGA-OTP-0054-0014. We are going to play a short excerpt of track
11 one, from minute 12.09 to minute 16.

12 And, Witness, I am going to now play a sound recording for you, I should be clear.
13 Please listen carefully. After you listen to the recording, I am going to ask you to tell
14 us about what you hear. You have a pen and paper in front of you, so you can use
15 that in case you want to take notes. If you have any difficulties and need to listen to
16 the recording another time, please tell the Court.

17 PRESIDING JUDGE SCHMITT: [12:39:23] And by the way, Mr Taku, how the
18 process evolved, so to speak, is now on the record. You know, we have elaborated
19 this via a discussion between the parties and with the Presiding Judge so we know
20 exactly initially there was the -- listening only to the original audio recording in 2006.
21 Now we have an enhanced version and we have to put this together. Yes?

22 MR TAKU: [12:39:55] Yes, your Honours. My problem was that if in 2006 he
23 listened and he was able to identify the voices and the content, what would be the
24 reason to enhance? There should be some evidence why it became necessary to play
25 the enhanced. He had a record already of what was in 2006 --

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Open Session)

ICC-02/04-01/15

1 PRESIDING JUDGE SCHMITT: [12:40:15] There might be different reasons, perhaps.
2 If you want to reveal them, there might be different reasons why the Prosecution
3 deems it fit to produce an enhanced version. It might be because a witness, which
4 was obviously not the case here, did not -- was not able to listen properly. It might
5 be -- it might have a service aspect, so to speak, for the Chamber or whatsoever. But
6 I think I would not lay too much weight on that.

7 Mr Gumpert, do you want to comment shortly on that?

8 MR GUMPERT: [12:40:47] Briefly, to explain the Prosecution's policy in case it is
9 interesting or important.

10 PRESIDING JUDGE SCHMITT: [12:40:54] We don't know if it is important but it
11 might be interesting.

12 MR GUMPERT: [12:40:58] I will stick with the interesting and leave you to decide
13 the importance.

14 We didn't decide it on a witness-by-witness basis. We looked at those recordings,
15 out of the very large mass we had, which we thought might be most likely to help the
16 Court arrive at a just decision overall, and we targeted those recordings, irrespective
17 of who had listened to them previously, for enhancement so that you yourselves, the
18 Judges, and indeed everybody else, could listen to them in the best state available.

19 PRESIDING JUDGE SCHMITT: [12:41:37] So what I have labelled as "the service
20 aspect" would be perhaps relatively correct.

21 MR GUMPERT: [12:41:43] Dead on.

22 PRESIDING JUDGE SCHMITT: [12:41:47] So then, please, we now start with the
23 audio recording.

24 (Playing of the audio excerpt)

25 MS GILG: [12:45:50]

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Open Session)

ICC-02/04-01/15

1 Q. [12:45:51] Mr Witness, please describe for the Court what you just heard.

2 A. [12:46:06] What I have heard was information exchange on radio between Otti
3 and Kony following the Pajule attack. Among the things they talked about was that
4 Otti was saying that the B-10 they captured from Pajule, they were able to exhibit it to
5 them and they saw he was referring to the civilians. Otti added that they abducted
6 civilians of between 200 and 300 of them. Kony also said that they needed to have
7 shouted with his name, "Kony, yeeee, Kony yeeee", that would have been very good.
8 Other things that were also exchanged was that Kony also mentioned that however
9 much the government talks there is no way he is going to have a change of mind
10 towards the Acholi people. That is what I was able to hear from the recording.

11 Q. [12:47:57] Witness, I want to show you a document now. Please turn to tab 22
12 of your binder.

13 Can you please -- do you have that there, Mr Witness?

14 PRESIDING JUDGE SCHMITT: [12:48:31] I think the witness gets help from the
15 lady at his right side. So you can show him this tab 22 in the binder is the best way,
16 I think, to do it.

17 MS GILG: [12:48:45] It is tab 22 and the first page is UGA-OTP-0191-0623.

18 And just for the Court, this tab is not the full document. The full -- the rest of the
19 pages of the document can be found in tab 33.

20 Q. Do you have that there before you, Mr Witness?

21 Can you please look through the pages briefly. You don't need to read them, just
22 sort of flip the pages and look at it briefly.

23 Okay, I am going to ask you to go now to the second page and the ERN is

24 UGA-OTP-0191-0624. Do you have that there before you, Mr Witness?

25 A. [12:50:17] Not yet.

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Open Session)

ICC-02/04-01/15

1 Q. [12:50:19] The ERN ends in 0624.

2 PRESIDING JUDGE SCHMITT: [12:50:26] And the ERN is very small, at the bottom,
3 at the right side, bottom.

4 THE WITNESS: [12:50:43] (Interpretation) Correct. Yes.

5 MS GILG: [12:50:45] And court officer this is a confidential document. It should
6 not be shown to the public.

7 Q. Mr Witness, please look at the bottom of the page where there are a number of
8 signatures. Do you recognise any of those signatures?

9 A. [12:51:08] Yes, I do.

10 Q. [12:51:11] And which one do you recognise?

11 A. [12:51:25] The one in the middle is mine.

12 Q. [12:51:28] And next to your signature in the middle do you see the date
13 29 June 2006?

14 A. [12:51:44] Yes, I can see it very clearly.

15 Q. [12:51:48] Now that you have briefly looked through the pages of this document
16 and seen your signature on this page, can you tell the Court if you recognise this
17 document, what is it?

18 A. [12:52:18] This document, during the time I was being interviewed about the
19 things that happened, this question was done by the investigators and this document
20 was produced on the date that is indicated down there. That was the day they
21 interviewed me on the recordings that were played and I gave my testimony about
22 the things that we are talking about today. That is what I, I know about this
23 document. It was produced on that day. There was nothing much. The
24 document bears my signature and it's actually the same document.

25 MS GILG: [12:53:23] Your Honours, I'm going to take the witness briefly through

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Open Session)

ICC-02/04-01/15

1 four other pages in this tab. I don't --

2 PRESIDING JUDGE SCHMITT: [12:53:30] I would assume where the comments are.

3 MS GILG: [12:53:33] Right.

4 Q. [12:53:33] Mr Witness, please turn to the page with ERN ending in 0635. The
5 full ERN is UGA-OTP-0191-0635. Do you have that before you?

6 A. [12:53:55] Yes, I do.

7 Q. [12:53:57] First I want to draw your attention to the bottom right side of the page.
8 Do you recognise any of the signatures or initials there?

9 A. [12:54:22] Well, I cannot clearly recognise this.

10 Q. [12:54:35] Do you see your handwriting there?

11 A. [12:54:51] Yes, my signature is there.

12 Q. [12:54:55] Now in the middle of the page on the left-hand side there are
13 a number of markings in red ink. Do you see that?

14 A. [12:55:09] Yes, I can see.

15 Q. [12:55:11] Please read that portion with the red markings silently to yourself.
16 Can you remember who made those markings?

17 A. [12:55:54] That was done by myself.

18 Q. [12:55:57] And why were those markings made?

19 A. [12:56:10] The markings were made because the voices that were coming were
20 not necessarily correct and they needed to, to be corrected.

21 Q. [12:56:27] Can you please read out loud to the Court how you think the lines
22 should read in the transcript, the lines where you made the red ink corrections?

23 A. [12:56:53] This was Kony and this is how it goes:

24 "This is a B-10 that -- this is the B-10 that you captured. All were displayed and was
25 shown to them. Over."

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Open Session)

ICC-02/04-01/15

1 Q. [12:57:18] And with the corrections you made, is that portion accurate according
2 to what you heard on the recording today?

3 A. [12:57:39] Yes, it's correct.

4 MS GILG: [12:57:42] Your Honour, I just have two passages more on this page that I
5 would like to clarify with the witness. This won't happen again on any other pages,
6 but your Chamber, your Honours have ruled previously that we can explore with the
7 witness ambiguous phrases.

8 PRESIDING JUDGE SCHMITT: [12:58:01] Yes, of course.

9 MS GILG: [12:58:02] Thank you.

10 Q. [12:58:04] Mr Witness, moving a few lines down from the red ink can you find
11 the name Tango Mike on the left-hand side of the page? The transcript has
12 Tango Mike saying "Go ahead". Do you see that?

13 A. [12:58:27] Yes.

14 Q. [12:58:28] Do the words "Tango Mike" have any special meaning in the context
15 of the LRA?

16 A. [12:58:50] The name Tango Mike was a call sign referring to a particular
17 commander in signal terms.

18 Q. [12:59:09] Now I am going to ask you about that again in a moment, but now I
19 want you to go a few lines down the page to the next place where Tango Mike is
20 listed as the speaker. Looking at the text, it begins with the English word "laughter"
21 and then the Acholi words "Ni wuni", and on the right-hand side of the transcript it is
22 timestamped "12:42". Do you see that portion, Mr Witness?

23 A. [12:59:52] Could you please repeat that.

24 Q. Yes.

25 PRESIDING JUDGE SCHMITT: [12:59:54] I think you should refer to the portion

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Open Session)

ICC-02/04-01/15

1 where it is in Acholi. That is easiest for him.

2 MS GILG: [12:59:59] Yes.

3 PRESIDING JUDGE SCHMITT: [13:00:00] You did already, but I think just to point
4 him to it.

5 MS GILG: [13:00:05]

6 Q. So I want you to look, it's about -- it's a little below the middle of the page and
7 the voice is listed as Tango Mike and the text starts "Ni wuni". Do you see that?
8 Perhaps we can try a different way, if our colleague from VWS, if perhaps you could
9 direct him to the level of timestamp 12.42.

10 A. [13:01:19] Yes.

11 Q. [13:01:19] Can you please read out what is written here, starting with Ni wuni?

12 A. [13:01:34] "That you and, and Tabu, you are going to Pajule. I have already
13 given a huge instruction and you have received a new office. Over."

14 Q. [13:02:03] What do you understand the reference to "new office" to mean in this
15 passage?

16 A. [13:02:22] Receiving any office, according to what I understand was in reference
17 to Tabu, who at that time was given a rank as a colonel. It had not yet taken long
18 and Tabu was then given the role of a field commander and he had his separate
19 fighters. That's what I understood to have happened at that time. And I think that
20 also helps us to understand that during the movement to Pajule Tabu was also there.
21 That's what I can make out.

22 Q. [13:03:14] And are the words in the transcript here accurate, according to what
23 you just heard on the audio recording?

24 A. [13:03:36] Yes, all these are correct.

25 MS GILG: [13:03:38] Your Honours, I think we can take a break now.

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Open Session)

ICC-02/04-01/15

- 1 PRESIDING JUDGE SCHMITT: [13:03:41] Yes, break until 2.30.
- 2 THE COURT USHER: [13:03:43] All rise.
- 3 (Recess taken at 1.03 p.m.)
- 4 (Upon resuming in open session at 2.30 p.m.)
- 5 THE COURT USHER: [14:30:23] All rise.
- 6 PRESIDING JUDGE SCHMITT: [14:30:43] So Mrs Gilg has still the floor.
- 7 MS GILG: [14:30:47] Thank you, your Honour. And we're still on
- 8 UGA-OTP-0191-0635. And can I ask the VWS support person to point to the passage
- 9 at timestamp 12.53.
- 10 PRESIDING JUDGE SCHMITT: [14:31:20] Perhaps before, a question that arose
- 11 between the Judges. If we go back a little bit on the same page, please, Mr Witness,
- 12 that we have been before and then look at the line which starts with -- unfortunately I
- 13 do not speak your language, but "Awaci aneko wa omeru weng over". What does that
- 14 mean, if you can explain to us what that means? This is at timestamp 12.37.
- 15 THE WITNESS: [14:32:03] (Interpretation) It's a signalling code that they use. It
- 16 means -- well, it's not very -- it's not very clear. It's coded. It's a coded language, so
- 17 it's not very clear what that means.
- 18 PRESIDING JUDGE SCHMITT: [14:32:35] And if you would simply -- even would,
- 19 say, translate it for us literally word by word, what would it say then?
- 20 THE WITNESS: [14:32:55] (Interpretation) It says, "I killed your brother as well.
- 21 Over." In -- as a signaller, in order for me to understand it, it's also very difficult for
- 22 me to explain because it's coded. And it's -- the code is in a book that the signallers
- 23 use, but when I look at it as it is, it's very difficult for me to explain what it is because
- 24 it's coded. But generally it means, "I killed your brother as well".
- 25 PRESIDING JUDGE SCHMITT: [14:33:34] Thank you very much. Of course, we

- 1 would have been a little bit interested what the coded message would mean in the
2 end, but, yes, you already answered that, that you can't tell us at the moment.
3 So please continue then.
- 4 MS GILG: [14:33:49] Okay. Can we go back to timestamp 12 minutes --
- 5 MR AYENA ODONGO: [14:33:51] Excuse me.
- 6 PRESIDING JUDGE SCHMITT: [14:33:53] Perhaps shortly, Mr Ayena might
7 help --
- 8 MR AYENA ODONGO: [14:33:55] I think --
- 9 PRESIDING JUDGE SCHMITT: [14:33:56] -- in language matters.
- 10 MR AYENA ODONGO: [14:34:01] No, no.
- 11 PRESIDING JUDGE SCHMITT: [14:34:02] No? Okay.
- 12 MR AYENA ODONGO: [14:34:03] I think he didn't get it right. He thought maybe
13 you want him to give the signaller's meaning, but maybe you want to ask him in
14 another way, you want to tell him in another way that all we need to know is what
15 the literal meaning of this is.
- 16 PRESIDING JUDGE SCHMITT: [14:34:20] I think the literal meaning, he has, upon
17 inquiry by me, so to speak, he has told us: I said, "I kill even your brother", or
18 something like that. He said that, but he can't tell us what this perhaps might have
19 meant --
- 20 MR AYENA ODONGO: [14:34:35] Okay.
- 21 PRESIDING JUDGE SCHMITT: [14:34:36] -- the underlying meaning, so to speak.
22 But literally it is nearly the same that has been written down here in the transcript.
23 Please, Mrs Gilg.
- 24 MS GILG: [14:34:51]
- 25 Q. [14:34:52] Okay. So back to 12.53, and on the left-hand side it shows the

1 speaker as Tango Mike. Do you see that? Can you read this portion silently to
2 yourself and then tell us what you understand it to be saying?

3 A. [14:35:22] He's saying he was going when he was smiling, Teso -- that Teso
4 run, they did not -- it was unbelievable. Over.

5 Q. [14:36:11] Do you recall from the recording who was saying those words?

6 A. [14:36:24] I heard -- I believe it was -- well, I do not recall who spoke these
7 words because there are many, there are several radio calls within the LRA. There is
8 not only one. Each department has a radio call and each brigade has its own. So I
9 do not recall who uttered these words.

10 Q. [14:36:53] Okay. Thank you. I'm going to now show you the next page -- no,
11 UGA-OTP-0191-0637. So if you look at the bottom, the ERN should end in 0637.
12 Do you see that?

13 PRESIDING JUDGE SCHMITT: [14:37:16] But I have another, excuse me, that I'm a
14 little bit late, but I have another question, Mr Witness: Did you recognise voices of,
15 for example, the speakers or the signallers that spoke? Did you recall the voices?

16 THE WITNESS: [14:37:43] (Interpretation) When I listen to the recording earlier,
17 the voice that I recognised was the communication between Otti and Kony. Those
18 are among the voices that I recognised. But I, I believe that this may not have been
19 Otti, but it may have been other groups that were heading towards Teso, when all the
20 brigades were ordered to go to Teso. So I believe that this is a discussion between
21 the various brigades that are going to Teso. And I did not hear the -- I do not
22 recognise the voices, the two voices that I mentioned.

23 PRESIDING JUDGE SCHMITT: [14:38:32] Perhaps you entertain something
24 similar now; in 637 at the end there is a -- there are some red annotations by the
25 witness. I would assume that you dwell into that and perhaps this is related a little

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Open Session)

ICC-02/04-01/15

1 bit on a more basic level.

2 MS GILG: [14:38:51] Just a proposal, if the Chamber's interested we could play just
3 those ten seconds at the end of 0635 and see if he can --

4 PRESIDING JUDGE SCHMITT: [14:39:02] I think this would perhaps be not a bad
5 idea so that we have really, that we really can distinguish what can -- the witness
6 recognises, still recognises and what is here on paper so that we are sure that we don't
7 mix this.

8 MS GILG: [14:39:26] So we will play timestamp 12.50 to the end of the page, so
9 13.00.

10 PRESIDING JUDGE SCHMITT: [14:39:35] And please, Witness, just listen to the
11 voices that you hear and tell us if you recognise the voices.

12 (Playing of the audio excerpt)

13 MS GILG: [14:40:08]

14 Q. [14:40:09] Can you please tell us who you heard speaking?

15 A. [14:40:14] That is Kony. It's Kony who is speaking. Kony -- the person
16 Kony is speaking to is not very familiar as I stated earlier, but it's a discussion
17 between Kony and somebody, but I do not recognise the voice of the other party.

18 PRESIDING JUDGE SCHMITT: [14:40:36] Thank you, that was I think quite
19 interesting too. And it also shows that the witness not at all costs identifies voices,
20 so to speak.

21 MS GILG: [14:40:49] Okay, let's move on now to 0637, the page ending in 0637.

22 Q. And Mr Witness, I want you to look at, first, at the bottom right-hand side of the
23 page where there is handwriting in black. Do you recognise any of the signatures or
24 initials there?

25 A. [14:41:19] I can recognise my signature.

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Open Session)

ICC-02/04-01/15

1 Q. [14:41:23] Okay. And now moving over to the left-hand side of the page, do
2 you see the markings in red ink?

3 A. [14:41:35] Yes, I can.

4 Q. [14:41:37] Can you please explain why those markings were made?

5 A. [14:41:48] The markings were made because of the voices that I heard.

6 Initially, it was stated that it was Kony's voice, but later they changed and stated that
7 it was Otti's voice. So it was Otti's voice and not Kony's voice. It was incorrect.

8 Q. [14:42:20] Okay. Let's move to the next page, the ERN is

9 UGA-OTP-0191-0638. Again, please look at the bottom right-hand side of the page.

10 PRESIDING JUDGE SCHMITT: [14:42:36] I think we don't have to do this again.

11 MS GILG: Okay.

12 PRESIDING JUDGE SCHMITT: Simply ask him if this has been annotated by him.

13 I think --

14 MS GILG: [14:42:44] Yes (Overlapping speakers).

15 PRESIDING JUDGE SCHMITT: [14:42:47] -- we don't have to do it each time.

16 MS GILG: [14:42:50] Okay, I'm guided.

17 Q. [14:42:50] Mr Witness, could you please look at the changes in red ink on this
18 page. There is one at the top of the page and one toward the bottom. Please, could
19 you explain why you made those corrections?

20 A. [14:43:05] It's the same thing, because it was Kony who responded, it was
21 not -- they hadn't written it properly. It was Kony -- it was Kony who said "Over".
22 And the bottom one as well, the annotation at the bottom is the same thing because it
23 was Kony who spoke.

24 Q. [14:43:35] Okay. Thank you.

25 Let's move on now to the second recording. The ERN of this recording is

1 UGA-OTP-0247-1102. Again, we have a transcript that will be displayed on
2 evidence 2 and can be shown to the public, but not to the witness. We are going to
3 play track 2 from timestamp 29.08 to 31.32.

4 And Mr Witness, please listen carefully to this recording as I will again ask you to
5 summarise what you hear. And you still have the pen and paper in front of you in
6 case you wish to take notes.

7 One important piece of information for everyone in the courtroom, there is a loud
8 burst of interference at the outset of the recording, so it may be prudent for everyone
9 to turn down the volume for the beginning of the recording.

10 (Playing of the audio excerpt)

11 MS GILG: [14:47:28]

12 Q. [14:47:31] Mr Witness, please summarise what you just heard.

13 A. [14:47:41] Summarily, I heard, with respect to the voices, it was a discussion
14 between Kony and Otti. Otti was informing Kony that he sent people for an attack.
15 Other -- other people, people who -- there was a different group that went to the
16 barracks. There was another group that went to the civilian camp. He issued
17 orders that they are supposed to carry out the mission as they did in Atiak, which
18 includes killing people and burning houses. That's what Otti is stating. He's
19 relaying the orders that he issued. Kony responds that "The civilians are stubborn,
20 the civilians should be killed. Even if there are no civilians, there will only be
21 soldiers and that's not a problem." That's the discussion between Kony and Otti.

22 Q. [14:49:08] Now, you mentioned a place called Atiak, that they should carry out
23 the mission like in Atiak. Can you tell us more what this reference to Atiak means as
24 you understand it?

25 A. [14:49:33] There was a massacre that happened in Atiak, a very painful

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Open Session)

ICC-02/04-01/15

1 massacre in 1995. At the time I was still at home. Because Atiak is not very
2 (Redacted). They went and they killed. They do not know the number of
3 people that were killed. They killed women, men, children, students who were in
4 school at Atiak Technical School. And that's what happens when you mention the
5 name Atiak, it's the massacre that people recall.

6 PRESIDING JUDGE SCHMITT: [14:50:16] Mr Witness, do you -- now listening to
7 this audio recording, do you have an idea when it was recorded and to which
8 incident it refers?

9 THE WITNESS: [14:50:34] (Interpretation) The -- when I listen to the recording, I
10 do not recall exactly when it was recorded or the location it was recorded at because
11 within the LRA, as I stated earlier, there are scheduled times for radio calls; at 11, at 1,
12 at 4, at 6. So such kind of information may have happened at any time. The
13 communication may have come at any time. What I do recall is that they are talking
14 about an attack that happened at Adilang because this kind of relates to an order that
15 was given to attack Adilang and Orum, in Lira district. Those are the two things that
16 I believe the two -- the two are discussing here.

17 PRESIDING JUDGE SCHMITT: [14:51:34] Thank you, Mr Witness. My question
18 was not clear enough. I wanted to know if you can say when this happened, for
19 example, was it in 2000, 2002, 2003, if you recall it, if you can have any idea about it?

20 THE WITNESS: [14:51:55] (Interpretation) The recording took place in 2003. It's
21 about events in 2003.

22 PRESIDING JUDGE SCHMITT: [14:52:08] Thank you.

23 Mrs Gilg.

24 MS GILG: [14:52:11]

25 Q. [14:52:12] And just to be clear, Mr Witness, is the name of the place that Kony

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Open Session)

ICC-02/04-01/15

1 and Otti are talking about, is the name mentioned or not?

2 A. [14:52:23] They did not mention a place, but based on their discussion, based
3 on what Otti is relaying, that is something -- is an attack that happened at two places
4 that I mentioned, Adilang and Orum, because at the time I was with Otti. But I did
5 not personally go to the attacks, but I did go to one of them in Lira in Orum
6 sub-county. I was present at that attack but I was not present at the attack in
7 Adilang. So I believe that he's discussing the two attacks. He may have had the
8 discussion when I had already left and gone for the attack at Orum sub-county. So
9 I believe that is what he is discussing.

10 PRESIDING JUDGE SCHMITT: [14:53:24] Please be indulgent with me, but what
11 I was interested in, if we can situate it in time and space, so to speak, and the witness
12 has said something to it. It is not mentioned -- I also have not the impression that
13 the locations are mentioned in the recording, but he has given some explanation
14 where it could have been. Thank you.

15 MS GILG: [14:53:43]

16 Q. [14:53:44] Mr Witness, I'm almost done with my questions. I want to ask you
17 now about the time when you left the LRA. I'm going to ask to go into private
18 session to tell you -- when I ask you about specific details about your escape, but I
19 have a few preliminary questions that won't identify you.
20 Can you tell us about why you decided to leave the LRA?

21 A. [14:54:27] I decided to leave the LRA because at the time I was -- I wasn't
22 brainwashed anymore. When I was recruited, I was a soldier. They were fighting
23 constantly. We were constantly being pursued by UPDF gunships as well. They
24 were constantly attacking people, people were died, you'd witness your colleagues
25 dying. And I decided that Kony's war could not overthrow the government because

1 the government was stronger than the LRA.
2 Kony's intention was to finish the Acholi people and other tribes, so we
3 decided - there was approximately four of us, four to five of us - we decided that we
4 should not continue staying in the bush. And on that day there was a gunship that
5 came. The gunship attacked people. UPDF soldiers also came and attacked people.
6 At the time we were in Teso.
7 Among the people that was shot was Acel Calo Apar. They shot his leg and they
8 broke it. He was shot by the UPDF gunship. There was also somebody who was
9 shot and killed, a young person. And we decided that it was pointless for us to stay
10 there. There was also another child that was -- that got lost and we believe that he
11 was killed. (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted).

15 Q. [14:56:36] Mr Witness, can I stop you for one minute because I'm going to ask
16 you more questions about this in a moment. But just before I do that, I wanted to
17 ask you about some of the things you said at the beginning. You said that Kony's
18 intention was to finish the Acholi tribe. What do you mean by that?

19 A. [14:56:58] When I talk about finishing the Acholi tribe, if you listen to the
20 recordings, he said that the Acholi people do not want to support him, he will only
21 remain with the Acholi that are in the bush. So there is -- the war is not to help the
22 Acholi people but it is to overthrow the government. And that's what he was
23 saying.

24 Q. [14:57:32] And you said you weren't brainwashed any more at the time of your
25 escape. Can you tell us more what you mean by that?

1 A. [14:57:44] I had grown up, I was more matured. I knew -- I was able to
2 distinguish between something bad and something good, because at the time when
3 I was abducted, we were told that if you escape and go home, the cen of people that
4 you killed would follow you and kill you. They also stated that most of the people
5 that were escaping from the LRA would be killed by government soldiers. At the
6 beginning we believed that, but later we heard about the amnesty and that also
7 helped us to make that decision. But we decided to come out, and in coming out, we
8 decided to go through the religious leaders.

9 Q. [14:58:45] You mentioned the amnesty programme. What did you hear
10 about that?

11 A. [14:58:58] The amnesty programme was -- we heard that through the religious
12 leaders who were always on radio programmes; they would inform us about the
13 amnesty programme. When the amnesty was initiated, they took away all the radios
14 from the LRA soldiers, but some of us had radios and some of the commanders had
15 radios, so we would listen to their radios.

16 Q. [14:59:39] Now, you said at the time of your escape, you had reached the point
17 where you could distinguish something good and bad and that you had stopped
18 believing certain things that you had been told by the LRA. Do you remember when
19 you stopped believing those things? Maybe you can tell us how that happened.

20 A. [15:00:06] I started doubting what the LRA was saying in 2003 because what
21 the LRA was doing at the time was not good, killing civilians, burning houses, killing
22 your mother. Those were some of the things that they were -- some of the atrocities
23 that they were carrying out. And we made the decision that this is not a war to
24 overthrow the government, this is a war about something else, and that's when we
25 made the decision to come back home.

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Private Session)

ICC-02/04-01/15

1 Q. [15:00:51] Your Honours, may we move into private session just for a few
2 minutes to ask some --

3 PRESIDING JUDGE SCHMITT: [15:00:56] Private session.

4 MS ELLIS: [15:01:05] And, your Honour, could I --

5 PRESIDING JUDGE SCHMITT: [15:01:09] Yes, wait a moment, please. We can
6 discuss this in private session. Perhaps it's better. So we wait until private session
7 and then you have the floor.

8 (Private session at 3.01 p.m.)

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-P-0138

(Private Session)

ICC-02/04-01/15

1

2

3

4

5

6

7

8

9

10

11

12 Page redacted-Private session

13

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Private Session)

ICC-02/04-01/15

1

2

3

4

5

6

7

8

9

10

11 Page redacted-Private session

12

13

14

15

16

17

18

19

20

21

22

23

24

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Open Session)

ICC-02/04-01/15

1 (Redacted)

2 (Redacted)

3 (Open session at 3.08 p.m.)

4 THE COURT OFFICER: [15:08:48] We're back in open session, Mr President.

5 MS GILG: [15:08:51]

6 Q. Mr Witness, I have no more questions for you. Thank you very much for your
7 assistance.

8 PRESIDING JUDGE SCHMITT: [15:08:57] Thank you, Mrs Gilg.

9 Any questions by the Legal Representatives of the victims and, if so, who wants to
10 start? I see, yeah, I see movement on the first row. Mr Cox, please.

11 MR COX: Thank you, your Honour.

12 QUESTIONED BY MR COX:

13 Q. [15:09:18] Good afternoon, Mr Witness. My name is Francisco Cox. I
14 represent victims that are participating in these proceedings. Thank you.

15 I have some questions. Regarding you mentioned cen, so I would like to explore
16 that with you if that's okay with you.

17 Mr Witness, you mentioned on three occasions that persons that were abducted were
18 made to kill people so that if they returned home cen will follow them. You
19 mentioned that, just for reference, I don't know if you need a --

20 PRESIDING JUDGE SCHMITT: [15:09:57] I think we have heard it.

21 MR COX: Okay.

22 PRESIDING JUDGE SCHMITT: We don't need it word by word, but we have heard
23 the content.

24 MR COX: [15:10:02] Okay.

25 Q. [15:10:03] So Mr Witness, could you explain to the Court what is this concept

1 of cen that you've mentioned?

2 A. [15:10:13] When you talk about cen, this is a spirit, the spirit of somebody. If
3 you killed somebody innocently, the spirit would possess you, would attack you, can
4 make you run mad. You will not be a very normal person. That is the concept of
5 cen. It also makes you fail to sleep. Sometimes you have nightmares. And that
6 was what we were scared of; we feared cen because it will make you run mad. And
7 that only comes after you've killed an innocent person.

8 Q. [15:11:22] Mr Witness, who told you that you would suffer from cen if you ran
9 away?

10 A. [15:11:46] On the day you are abducted, it's the same day you are told all these
11 things. There are some herbs that are used there, that includes shea butter and many
12 other herbs. They say that is meant to make you part of the fighters. And if
13 somebody tries to escape, they will identify all the recruits and take you to go and kill
14 that person.

15 And because you are still young and you cannot, you are not yet mature enough to
16 think critically, you will think the cen can really kill you. But after growing up, you
17 would be able to realise that that does not necessarily happen.

18 Some people who returned home went through some of the problems of cen, they had
19 to go through traditional practices to try and cleanse them. Personally, I was also
20 taken through a ritual. They killed a goat to perform that, to try and cleanse me
21 against the evil deeds that I could have committed. That is to -- that happens in the
22 Acholi tradition.

23 Q. [15:13:04] (Microphone not activated)

24 PRESIDING JUDGE SCHMITT: [15:13:08] Microphone, please.

25 MR COX: [15:13:09] Sorry, sorry.

1 Q. [15:13:12] Did yourself suffer from cen while in the bush and after you came
2 back?

3 A. [15:13:28] When I returned, immediately they conducted the traditional
4 ceremony, the rituals before I arrived home. It was done before I arrived home.
5 But for those who did not go through the rituals, they had to suffer from that. For
6 myself, I did not because the traditional ritual was done as is always done in the
7 Acholi culture. And it was good for me. But for the other people I think the
8 practice came later on.

9 Q. [15:14:07] How did you learn about those other people that did not go through
10 the ritual and what happened to them because of cen?

11 A. [15:14:31] Most times they would take you through such a ritual. If that is not
12 done that really means that you are not an Acholi. That automatically has to be
13 done.

14 Q. [15:14:43] Could you describe what consequences would a person that is
15 suffering from cen go through?

16 A. [15:15:05] A person who is possessed by cen sometimes would live normally,
17 but other times would act like a mad person, because the person would be dreaming
18 or having nightmares and dreaming about the persons that they killed previously,
19 and that affects them several times.

20 Out of the three of us who were abducted, one of us died, but myself and the other
21 person were able to come back. One of the girls with whom I was abducted had
22 started running mad, she wouldn't stay in the house, and sometimes in the night she
23 abandons the house and goes away. And in Acholi tradition, they were saying that
24 this girl was being possessed because of cen. And the Acholi rituals were conducted
25 on her before she came back to normal.

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Open Session)

ICC-02/04-01/15

1 Q. [15:16:20] Would the effects of cen be only on the person that committed the
2 killing or would it affect the family and community?

3 A. [15:16:30] The effect of cen comes directly on the person who committed the
4 murder. That follows the killing of somebody. If you found somebody has been
5 killed in the bush, if you came across such a person and then you ran away, you
6 might also be affected by cen, even if you're not the one who killed that person. That
7 is what I have been witnessing in Acholi area.

8 Q. [15:17:12] Mr Witness, what are the burial rituals in Acholi culture and
9 tradition?

10 PRESIDING JUDGE SCHMITT: [15:17:41] I think this is very general, what are the
11 burial rituals. Could you be more specific? I know what you're heading at, because
12 we had this with other witnesses, but I think it might be clear that there -- normally
13 people are buried when they die, and if not, that this is perhaps -- and it must not
14 necessarily be different in other cultures, so to speak.

15 MR COX: [15:18:08] Your Honour, just one or two pinpoint to the specific
16 traditions because, as a joint mission we've done recently, we've learned of special
17 rituals (Overlapping speakers).

18 PRESIDING JUDGE SCHMITT: [15:18:19] Then perhaps I would really suggest,
19 and I would not object or nothing, and nobody, not Defence, not Prosecution would
20 object if you are -- really headed it more specifically and more directly.

21 MR COX: Okay, okay.

22 PRESIDING JUDGE SCHMITT: Because this really calls -- I would not go so far calls
23 for speculation that not -- but calls for a narrative which would cause too much time,
24 I would even say.

25 Yeah, please continue.

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Open Session)

ICC-02/04-01/15

1 MR COX: [15:18:40]

2 Q. [15:18:40] Mr Witness, where do Acholi people bury their relatives when
3 they die?

4 A. [15:18:55] In Acholi, if you lost somebody you will bury the person in the
5 compound. You don't have to take the person to be buried in the bush.

6 MR COX: [15:19:17] I don't have more questions, your Honour.

7 PRESIDING JUDGE SCHMITT: [15:19:22] Thank you very much.

8 MR COX: Thank you, Mr Witness, very much.

9 PRESIDING JUDGE SCHMITT: Mr Narantsetseg.

10 MR NARANTSETSEG: [15:19:26] Mr President, thank you for the opportunity.
11 We don't have any further questions.

12 PRESIDING JUDGE SCHMITT: [15:19:31] Thank you very much.

13 But I have a question for you, Mr Witness: Do you sometimes nowadays, these days
14 think of what has happened in the bush in these years where you have been in the
15 bush?

16 THE WITNESS: [15:19:47] (Interpretation) Well, there is no way I can entirely
17 forget about what happened in the bush.

18 PRESIDING JUDGE SCHMITT: [15:20:04] And does this affect your personal life
19 today, psychologically, for example, your well-being as a person, as a human being
20 even today?

21 THE WITNESS: [15:20:35] (Interpretation) At this time there is nothing much that
22 I'm going through as a result of my life in the bush. I am living freely back at home.
23 But if somebody begins narrating stories about what happened in the bush,
24 automatically that will remind me of what happened when I was there.

25 PRESIDING JUDGE SCHMITT: [15:20:59] Okay. Thank you very much.

Trial Hearing
WITNESS: UGA-OTP-P-0138

(Open Session)

ICC-02/04-01/15

1 I think we finish for today. I would not require now the Defence to start with the
2 questioning today of course. But I would assume that you can finish tomorrow with
3 the questioning of the witness.

4 Mr Ayena.

5 MR AYENA ODONGO: [15:21:14] Without a doubt, your Honours, we shall
6 finish tomorrow.

7 PRESIDING JUDGE SCHMITT: [15:21:18] Thank you very much. So we are
8 prepared, especially of course the Prosecution is prepared to present the next witness
9 on Wednesday of course will -- so we abate the proceedings for today and we
10 convene tomorrow at 9.30.

11 THE COURT USHER: [15:21:37] All rise.

12 (The hearing ends in open session at 3.21 p.m.)