

Trial Hearing
WITNESS: UGA-OTP-P-0445

(Open Session)

ICC-02/04-01/15

1 International Criminal Court
2 Trial Chamber IX
3 Situation: Republic of Uganda
4 In the case of The Prosecutor v. Dominic Ongwen - ICC-02/04-01/15
5 Presiding Judge Bertram Schmitt, Judge Péter Kovács and
6 Judge Raul Cano Pangalangan
7 Trial Hearing - Courtroom 3
8 Wednesday, 28 March 2018
9 (The hearing starts in open session at 9.44 a.m.)
10 THE COURT USHER: [9:44:57] All rise.
11 The International Criminal Court is now in session.
12 PRESIDING JUDGE SCHMITT: [9:45:23] Good morning, everyone.
13 Good morning, Ms Abbo.
14 WITNESS: UGA-OTP-P-0445 (On former oath)
15 (The witness speaks English)
16 THE WITNESS: [9:45:33] Good morning, your Honour.
17 PRESIDING JUDGE SCHMITT: [9:45:34] Could the court officer please call the case.
18 THE COURT OFFICER: [9:45:37] Good morning, your Honour.
19 The situation in the Republic of Uganda, in the case of The Prosecutor versus Dominic
20 Ongwen, case reference ICC-02/04-01/15.
21 And we are in open session.
22 PRESIDING JUDGE SCHMITT: [9:45:46] Thank you.
23 For the appearances of the parties, the Prosecution, Mrs Gilg.
24 MS GILG: [9:45:49] Good morning, your Honours. Colleen Gilg for
25 the Prosecution, here today with Colin Black, Pubudu Sachithanandan,

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- 1 Sanyu Ndagire, Paul Bradfield, Agnese Valenti, Adesola Adeboyejo, Jasmina
- 2 Suljanovic and Ramu Fatima Bittaye.
- 3 PRESIDING JUDGE SCHMITT: [9:46:06] Thank you.
- 4 And Mr Mawira for the legal representative.
- 5 MR MAWIRA: [9:46:08] Good morning, Mr President, your Honours.
- 6 For the Legal Representative of Victims, James Mawira and Maria Radziejowska.
- 7 Thank you.
- 8 PRESIDING JUDGE SCHMITT: [9:46:15] Thank you.
- 9 Mr Narantsetseg for the second team.
- 10 MR NARANTSETSEG: [9:46:19] Good morning, Mr President, your Honours.
- 11 For the Common Legal Representatives team, with me, Ms Caroline Walter; our
- 12 visiting professional, Mr Innocent Mpoko; and my name is Orchlon Narantsetseg.
- 13 Thank you.
- 14 PRESIDING JUDGE SCHMITT: [9:46:32] Thank you, Mr Narantsetseg.
- 15 And for the Defence, Mr Ayena, please.
- 16 MR AYENA ODONGO: [9:46:34] Good morning, Mr President and your Honours.
- 17 This morning I am accompanied by Chief Charles Achaleke Taku, Mr Thomas Obhof,
- 18 Madam Abigail Bridgman, Mr Michael Rowse, and I'm Krispus Ayena Odongo.
- 19 PRESIDING JUDGE SCHMITT: [9:47:01] Thank you.
- 20 MR AYENA ODONGO: [9:47:03] And, of course, Mr President, our client,
- 21 Mr Dominic Ongwen is in court.
- 22 PRESIDING JUDGE SCHMITT: [9:47:11] Of course. Thank you, Mr Ayena.
- 23 You can continue with your examination.
- 24 MR AYENA ODONGO: [9:47:16] Yes.
- 25 QUESTIONED BY MR AYENA ODONGO: (Continuing)

1 Q. [9:47:21] Good morning, my sister, Dr Abbo.

2 A. [9:47:26] Good morning, honourable.

3 Q. [9:47:30] Yes, yes. Dr Abbo, maybe you will give me time to really profoundly
4 apologise to the Court for recycling some of this. It's very unusual that we take this
5 long about follow-up questions, but the purpose is that -- is ingrained in my first
6 comment, that I find you in a very peculiar expert position in this case, and therefore I
7 thought we would take a bit of your time to help Court to understand certain very
8 basic concepts --

9 A. [9:48:08] Okay.

10 Q. [9:48:08] -- about what can help to guide us. So you would bear with me, and,
11 by extension, I am requesting Court to bear with me.

12 Now, Professor Abbo, when you answered the question put to you yesterday about
13 Joseph Kibwetere, isn't it interesting that the spiritual people in Uganda are both
14 Josephs. Joseph Kibwetere's Restoration of the Ten Commandments of God, you
15 said that the sick ones were the leaders and the rest were only followers. Doctor,
16 would I be right to conclude that you do agree that the followers were at least
17 believers?

18 A. [9:49:07] Yes, I think that's what led them to, to follow, because they believed.
19 They were believers.

20 Q. [9:49:19] Thank you very much.

21 A. [9:49:21] Yes.

22 Q. [9:49:21] If that is the case then, Doctor, could you describe and classify the
23 mental disposition of those followers. If they were not sick, were their minds
24 completely free from the consequences of their beliefs?

25 A. [9:49:48] Again, I -- I think I would like to draw the line between beliefs that are

1 regarded as normal beliefs and those that are regarded as pathological. And in this
2 case, to be able to answer your question, whether their minds were completely free of,
3 of the consequences of their beliefs, I think that someone has to do an assessment.
4 I can't make a general statement here, but what I can make a general statement about
5 is what I have experienced about, about shared beliefs is that usually the -- the people
6 who follow, they hold their beliefs, but you can shake those beliefs and so it doesn't
7 make them pathological. But the leaders are the ones who are usually having, you
8 know, pathological beliefs and not the followers. But when it comes to individual
9 consequences of those beliefs, I really must do assessment. I can only talk about like
10 the cases I have seen where I have assessed and found out that the ones who follow
11 are usually, you can shake those beliefs and therefore not, not fixed and so you don't
12 have to treat them. It is the leaders usually that you treat.

13 Q. [9:51:43] Thank you very much, Doctor. I like the way you professionally
14 restrain yourself from asserting yourself in situations which may be tricky for you.
15 But in this case, would you help Court in the particular case of LRA that was brought
16 to your attention, and, perhaps you made some assessment, would you say that the
17 followers in the LRA were very much in the same position as the followers in that
18 cult?

19 A. [9:52:27] Same in, in terms of what they believed in?

20 Q. [9:52:37] Was it pathological or the other one?

21 A. [9:52:44] The nonpathological, perhaps to a large extent, there could be some
22 similarities. There's a leader here, there's also a leader here. This leader holds
23 beliefs, this leader also holds beliefs. Then they have followers. This leader has
24 followers who perhaps may have been convinced to believe, to get into his beliefs.
25 These two here, they have -- has followers who has -- he has convinced to follow his

1 beliefs. So there are those similarities or, generally, but when it comes to individual
2 cases, I think that one still has to, to get below that generalisation, to get underneath
3 the individual differences because if we are to also draw some differences, maybe we
4 could find them. Yeah.

5 Q. [9:53:59] Doctor, now that brings me to something fairly curious. The LRA as
6 an organisation, a military organisation, was, to a great extent, so inextricably
7 interwoven in spiritualism. In your studies, did you draw any parallel between the
8 LRA as a military organisation and any other military set up in relation to the
9 psychiatric presentations within the organisation?

10 A. [9:55:04] Not at that time, but maybe now I can try to draw some parallel, as you
11 call it. I think that the underlying issue here are the beliefs, and I think that any
12 organisation, whether, whether military organisation or academic organisation, there
13 are some core beliefs and sometimes they even write them and say, "These are our
14 core beliefs, one, two, three, four, five."

15 So I think that the core beliefs of any organisation remains, but what might make the
16 difference is what, what forms those core beliefs. In the LRA, it was spirits or
17 something. In an ordinary army, it might be something else. So I think the core
18 beliefs really, even as individuals we all have core beliefs that define us, that make us
19 who we are, that -- but what the difference is that what forms my beliefs might be
20 different from what forms another person's beliefs. I don't know whether I
21 answered your question.

22 Q. [9:56:34] You have answered as well as I would have wished you to do.

23 A. [9:56:41] Okay.

24 Q. [9:56:41] But that now brings me to this thing called indoctrination.

25 A. [9:56:51] Okay.

1 Q. [9:56:52] Of course I know that my colleague touched on it in respect to several
2 questions, but I want us to discuss the question of indoctrination in relation to LRA.
3 And perhaps it would serve great purpose if before I put some questions to you, so
4 that we may read from the same page --

5 A. [9:57:26] Okay.

6 Q. [9:57:28] -- I put certain, you know, the definition, as I understand it first.
7 Somewhere I found a definition that indoctrination is the process of inculcating
8 a person with ideas, attributes, cognitive strategies or professional methodologies.

9 A. [9:58:12] Yes.

10 Q. [9:58:14] I don't know, Doctor, whether this definition would help us, both of us.
11 Do we agree on this definition so that it may help us to proceed or would you, in your
12 field of study, define indoctrination differently?

13 A. [9:58:44] I think I would likely agree with this.

14 Q. [9:58:47] Thank you very much. And there are certain follow-up propositions
15 that I want to make again and see whether we agree so that the next questions may
16 be -- so that you don't have to be rescued by the Judge like he did yesterday or vice
17 versa, because you know we are professionals, there are certain hard words you've
18 been throwing at us and I suppose you got it in equal measure yesterday a little bit.
19 But we want to simplify it.

20 Now, Doctor, it is believed that humans are social animals, inescapably shaped by
21 cultural context?

22 A. [9:59:48] Yes.

23 Q. [9:59:51] Do we -- would you agree with me on that proposition, Doctor?

24 A. [9:59:58] Humans are social --

25 Q. [10:00:03] Animals.

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1 A. [10:00:07] -- animals.

2 Q. [10:00:08] Inescapably shaped by cultural context.

3 A. [10:00:12] They can't escape being shaped by their cultural context?

4 Q. [10:00:24] That is the proposition.

5 And I ask you this because you, you know, like I said yesterday, you studied
6 transcultural aspects of psychiatry.

7 A. [10:00:41] Mm-hmm.

8 Q. [10:00:42] And that's why I had to dig deep into, you know, some of these things
9 to understand.

10 A. [10:00:56] Mm-hmm.

11 Q. [10:01:06] Do we agree that this proposition might as well be correct, at least
12 within the context of what we are discussing in court?

13 A. [10:01:17] Largely.

14 PRESIDING JUDGE SCHMITT: [10:01:18] Yeah.

15 MR AYENA ODONGO: [10:01:19] Thank you.

16 THE WITNESS: [10:01:21] Yeah.

17 MR AYENA ODONGO: [10:01:22] My lord --

18 PRESIDING JUDGE SCHMITT: [10:01:24] (Microphone not activated) you recognise
19 that I am also interested in these matters. Inescapable I think we would not say so,
20 but of course we are all shaped by our cultural background, our social background.

21 That is, that seems to be clear to me from a layman's perspective. But inescapable I
22 would not say and not in all cases. It might be, but because -- that might be --

23 MR AYENA ODONGO: [10:01:56] Well, the witness has volunteered her opinion.
24 You may take it or you may not.

25 PRESIDING JUDGE SCHMITT: [10:02:01] But be indulgent with me, Mr Ayena.

1 So please continue, yeah.

2 THE WITNESS: [10:02:08] I was going to explain, if you allow me, what I
3 understand by inescapable in this context, that a child is born into this environment,
4 yeah, and that is the environment that they find themselves in, and in that way
5 someone who is born in that environment may not, unless someone else comes and
6 removes them, for themselves it might not be that easy to, to escape that environment
7 because they have no control, yeah. They have no control. It's the adults who have
8 the control, the adults who are taking care of this child who has been born in this
9 environment. The child themselves may not have control in terms of escaping that
10 environment. Otherwise, if they had, maybe we would all escape some harsh
11 conditions that we find ourselves in, but somehow some people manage to wiggle
12 through that.

13 MR AYENA ODONGO: [10:03:36] I mean, we are reading from the same
14 page because I am saying I come from a certain cultural background in Uganda and
15 that cultural background certainly shapes my, my beliefs, yes.

16 A. [10:03:59] It does shape your beliefs, yes. However, if you have been exposed
17 to other situations, then you incorporate these other whatever you have been exposed
18 to and that keeps on reshaping your beliefs.

19 Q. [10:04:14] Indeed.

20 A. [10:04:16] Yeah.

21 Q. Yes.

22 A. So you find there are some Ugandans who don't believe in witchcraft and there
23 are those who hold on to it like, you know, there is no life without witchcraft.

24 Q. [10:04:29] I totally agree with you. Doctor, the other proposition is
25 indoctrination implies forcibly or coercively causing people to act and think on the

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1 basis of a certain ideology.

2 A. [10:04:52] To act and think on the basis on --

3 Q. [10:04:56] Indoctrination --

4 A. Yes.

5 Q. -- implies forcibly or coercively causing people to act and think on the basis of
6 a certain ideology?

7 A. [10:05:22] Yes. Yes.

8 Q. [10:05:28] Do we agree on that.

9 A. [10:05:31] Yes, I do agree.

10 Q. [10:05:35] And then the third one is that the LRA ideology was based on belief
11 in and strict adherence to spiritualism where the leader that was Joseph Kony was the
12 alpha and the omega and he was the spirit medium with the attributes to prophesise
13 and predict the future and also had the power to know what was in the mind of his
14 subject wherever he was.

15 PRESIDING JUDGE SCHMITT: [10:06:20] Mr Ayena, I am not sure if Ms Abbo is an
16 expert in this matter.

17 MR AYENA ODONGO: [10:06:25] I did a proposition, my lord.

18 PRESIDING JUDGE SCHMITT: [10:06:27] So if it was like that, so what I would
19 allow is if, if you ask Ms Abbo to take this as a precondition of a question, then I
20 would allow it, but not ask her if she agrees with that because this is really something
21 she is not an expert, I would say, to. Because it also depends on how to assess
22 evidence also with regard to the past, historically, culturally and so on, and we have
23 a psychiatrist here in the courtroom. But please continue with this question under
24 this proposition.

25 MR AYENA ODONGO: [10:07:05] Yes. I'm guided, Mr President.

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1 Q. [10:07:06] Madam Abbo, you see, the President is there to rescue either of us
2 when we get entangled and that is his role because we are supposed to help Court.
3 I take it that you understand that this is a proposition I'm giving to you - you may,
4 you may not - is a premise from which I shall ask some questions that will follow.
5 Then again, perhaps the last one is that once an abducted subject --

6 A. [10:07:46] Just, just a moment, please. The one just before the spiritualism, I -- I
7 have not responded to that.

8 Q. [10:08:00] Adherence.

9 A. [10:08:04] Yes, spiritual leader, the alpha and omega could predict the future.
10 Yeah. What were you asking about that?

11 PRESIDING JUDGE SCHMITT: [10:08:18] No, no. This is, Ms Abbo, this is the
12 premise.

13 THE WITNESS: [10:08:22] Okay.

14 PRESIDING JUDGE SCHMITT: [10:08:23] It's not -- let me put it this way: Because
15 of my intervention, it's a not a question to you --

16 THE WITNESS: Okay.

17 PRESIDING JUDGE SCHMITT: -- that you should comment, because --

18 THE WITNESS: [10:08:31] Okay.

19 PRESIDING JUDGE SCHMITT: [10:08:31] I think we agreed upon that this is not
20 part of your expertise, so to speak, but as a premise, take it as a premise and from
21 there on --

22 THE WITNESS: Okay.

23 PRESIDING JUDGE SCHMITT: -- now derive the next questions.

24 THE WITNESS: Okay.

25 MR AYENA ODONGO: [10:08:46]

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1 Q. In other words, we are saying this is from -- is some form of information to you.

2 A. Okay, okay.

3 Q. This is what it was in the bush.

4 A. [10:08:57] Okay.

5 Q. [10:08:57] And you know, and once an abducted subject was passed through the
6 process of indoctrination by use of smearing shea butter, he was spiritually attached
7 to the organisation and would not either escape or safely do what was contrary to the
8 strict rules.

9 PRESIDING JUDGE SCHMITT: [10:09:30] Again, everything a premise.

10 MR AYENA ODONGO: Yes.

11 THE WITNESS: [10:09:34] Okay.

12 PRESIDING JUDGE SCHMITT: [10:09:35] Because there was also evidence on the
13 record where people made different testimonies and you had it also I think in the
14 excerpts provided by the Prosecution. But just for the understanding of the expert.

15 THE WITNESS: [10:09:50] Okay.

16 MR AYENA ODONGO:

17 Q. [10:09:55] Lastly, another premise, is that throughout his stay in the bush, the
18 abductee, of course in this case including Dominic Ongwen, is subjected to constant
19 reminders about the ideology and at every opportunity he witnessed rituals being
20 performed in the name of warding off enemy forces and he also witnessed
21 punishment being meted out to those nonconformists or, in other words, in simple
22 terms, those who did not conform to the strict dictates of the policies and rules.
23 Now, Doctor, after an elaborate commitment ceremony as a child of 14 years or
24 younger, like Dominic Ongwen was at his abduction, and from the background that
25 we discussed yesterday, for a period of say, 15 years, like in the case of

1 Dominic Ongwen, 15 years plus, is it possible that that child would have a mind of his
2 own?

3 A. [10:11:50] Again, for me it's not a yes or no answer because I will need to do
4 some explanation here.

5 Q. [10:12:06] Doctor, I recognise that your -- you know, yes and no is, you know --

6 PRESIDING JUDGE SCHMITT: [10:12:16] No, please, Mr Ayena, let her answer.

7 MR AYENA ODONGO: [10:12:20] Okay.

8 PRESIDING JUDGE SCHMITT: [10:12:20] Because it's -- I know especially in
9 common law environments people like yes or no answers, but I have always the idea
10 that life is more complicated, perhaps, than to be able to answer everything with yes
11 or no.

12 So, please, Ms Abbo, elaborate on what you want to say.

13 THE WITNESS: [10:12:45] Okay. Thank you, your Honour.

14 I just want us to go back to this -- the previous proposition that you put to me about
15 doctination, and specifically -- because for a child, or even an adult, to be able to
16 form their own mind there has to be some space for alternatives and there has to be,
17 there has to be space for alternatives but they also have to be provided that
18 opportunity to have, to have those alternatives.

19 However, if the intention of, of making this individual not have the alternative is not,
20 is not, is not adequate or it is not -- I don't know what word to use -- it leaves some, it
21 leaves some room, then the child will have that space. And I think that, looking at
22 what could have been taking place in terms of, in terms of indoctrination, most likely
23 there was some room for this kind of alternative thinking or alternative, but again that
24 depends on individual, individual -- individuals.

25 I will give an example where I think that there might have been alternatives. For

1 example, by defect, by creating some kind of family-like structure, they were actually
2 assisting the people they put in this family structure to be able to cope and to be able
3 to have alternative ways of thinking since they were not all of them in one, in one set
4 of, in one set of compounds say, it appears like they could have been in different sets
5 of compounds. So I really think that the room was not completely dark, there might
6 have been some other lights coming from different directions. The leader himself
7 could have been somewhere else and not in touch all the time with these households
8 that were -- or family settings that was described yesterday by Ms Bridgman.

9 PRESIDING JUDGE SCHMITT: [10:16:07] I have a follow-up question, if you allow
10 me, Mr Ayena.

11 Ms Abbo let's assume a successful indoctrination, according to the premises that we
12 had here, would such a successful indoctrination amount to or signify a mental
13 disease or defect?

14 THE WITNESS: [10:16:33] No. Still a full psychiatric examination has to be carried
15 out. I have had an experience with people who have been alleged to be terrorists
16 and they want psychiatric evaluation to determine whether or not they have mental
17 illness and the findings would vary, some would really have mental illness and others
18 wouldn't. So a full -- you can't just say that because someone has been indoctrinated,
19 therefore they have mental illness. So a full psychiatric evaluation must be carried
20 out.

21 PRESIDING JUDGE SCHMITT: [10:17:20] Please continue.

22 MR AYENA ODONGO: [10:17:21]

23 Q. [10:17:22] Thank you very much for your kind answers.

24 Now, after talking in outline about indoctrination, I would like us now to paint the
25 environmental picture, the environmental picture in which Dominic Ongwen lived.

1 And by the way, Doctor, yesterday you made my day when you mercifully brought
2 out the issue of the monkey boy which has always been my pet subject with members
3 of my team, and I hope you are actually talking about Joseph. Is it Joseph?

4 A. [10:18:12] Yeah, his name is -- I think his name is Joseph.

5 Q. [10:18:16] Joseph, the monkey boy in Luwero Triangle?

6 A. [10:18:19] Uh-huh, yes. I think he now lives in UK or somewhere.

7 Q. [10:18:24] Yes. You see, you were thinking about him also.

8 But, you see, when you brought out that, you know, very illuminating example about
9 environmental atmosphere within which -- I mean environmental context within
10 which a being, a person may find himself, I was rather intrigued about the -- what
11 you talked about the alleged early secure attachment of your conclusion -- I mean
12 I was intrigued like when you were answering about the alleged early secure
13 attachment of your conclusion was that the bush was a highly favourable
14 environment for him to be able to come through -- I mean for him to be able to come
15 through it and come out alive. To him -- I mean to you the way I have understood it
16 is that, you know, the fact that he came out alive, the bush was very comfortable, was
17 very favourable?

18 PRESIDING JUDGE SCHMITT: [10:20:05] I think this is indeed a point, if it were to
19 be understood like that, it would have to be clarified.

20 MR AYENA ODONGO: [10:20:13] Yes, yes.

21 PRESIDING JUDGE SCHMITT: [10:20:14] So I want just to -- we have a question on
22 the table that the witness can answer.

23 MR AYENA ODONGO: [10:20:19] Yes, yes.

24 PRESIDING JUDGE SCHMITT: [10:20:22] So the question seems to be that
25 Mr Ayena refers to this remark you made yesterday, I don't know if the quotation

1 was one-on-one, but nevertheless, would you like to elaborate on this point a little bit
2 more.

3 THE WITNESS: [10:20:37] I made that remark from the point of view that earlier on
4 I had stated that the combination of Mr Ongwen having early secure attachment, plus
5 continued socialisation in the bush contributed to his resilience that everybody talks
6 about, including the reports that we read, I think throughout they are saying
7 Mr Ongwen is resilient, resilient, resilient. And I also, my own objective stand is that
8 really I think Mr Ongwen is a resilient person.

9 And so what explains this? So I said the combination of the two, early secure
10 attachment, which gave him a very good background to his brain structuring and so
11 we would expect that if the bush was that, that terrible, then that early would be
12 compromised, that early secure attachment and the development of the brain would
13 be compromised.

14 So when you, when you brought in -- when you were shaking that, yeah, my stand on
15 early secure attachment, you shook it and then I said, "Okay, if that is the case that
16 early secure attachment is not, is not some -- is not a factor here, from my assessment
17 of Ongwen's functioning throughout, and even after that, there is no way that
18 someone can come out like that if they did not have a good early foundation, or in
19 future, which is much more difficult, by the way, when someone has grown up and
20 they are in this very harsh environment, to be able to reconnect, to rewire their brain
21 for that resilience, so my explanation was on that basis that, you know, if really he
22 didn't have early secure attachment, then the bush must have been a very wonderful
23 good place that rewired his brain for this resilience.

24 Do I make sense? Yeah.

25 Q. [10:23:35] To the extent, Dr Abbo, that that is your position, you make a lot of

1 sense, because that has been your position. But I am going to ask you a few
2 follow-up questions and I want to believe that your conclusion is based -- is drawn
3 from the -- I mean you almost as good as said it -- to the extent that he successfully
4 adapted to the harsh conditions, like in this case, the monkey boy adapted to the
5 harsh bush conditions. Am I right?

6 A. [10:24:28] Yes.

7 Q. [10:24:28] Now, Doctor --

8 A. [10:24:31] He adapted like a monkey.

9 Q. Yes.

10 A. We shouldn't forget that.

11 Q. Yes, he adapted like a monkey.

12 A. [10:24:38] Like a monkey. Yes. Not like a human being.

13 Q. [10:24:41] Well --

14 A. [10:24:43] There's a difference.

15 PRESIDING JUDGE SCHMITT: [10:24:46] We are not, we are not talking about this
16 example. We are talking about other circumstances.

17 MR AYENA ODONGO: [10:24:51] Yes.

18 PRESIDING JUDGE SCHMITT: [10:24:53] And of course it is clear that -- and we
19 come back to what you or what one of your premises were, that we are shaped by the
20 environment, not only cultural, but also in general by our environment.

21 MR AYENA ODONGO: [10:25:08] Yes.

22 Q. [10:25:08] Now, having admitted that Joseph, the monkey boy had adapted
23 monkey behaviour and had to gradually adapt to the human behavioural patterns
24 and way of life when he finally came out, would you say the bush was favourable for
25 the mental development of Joseph as a human child?

1 A. [10:25:52] Would I say that the bush was favourable?

2 Q. [10:25:58] For the mental development, favourable for the mental development
3 of Joseph, the monkey boy, as a human child.

4 A. [10:26:16] You need human interaction, not animal interaction.

5 PRESIDING JUDGE SCHMITT: [10:26:24] Yes. And now next question would
6 perhaps relate to your client.

7 MR AYENA ODONGO: [10:26:34]

8 Q. [10:26:35] Now, Dr Abbo, was that child, while in the bush like the other
9 monkeys in his company out of necessity not likely to steal corn from people's corn
10 gardens?

11 PRESIDING JUDGE SCHMITT: [10:26:57] Mr Ayena, couldn't we leave this example
12 and really go more specifically. I know where you are heading at. Why not be
13 more direct? We have now heard enough about this example and I think really we
14 should now more concentrate on why we are sitting here. And there is no problem
15 with it, you have prepared, in my opinion, you have prepared enough for that.

16 MR AYENA ODONGO: [10:27:25] Okay. Okay.

17 PRESIDING JUDGE SCHMITT: [10:27:26] So you can simply be more direct.

18 MR AYENA ODONGO: [10:27:40]

19 Q. [10:27:40] In the case of Dominic Ongwen, Doctor, could it be argued that in the
20 event that there was no food, for instance, out of necessity, like those under control or
21 order -- under whose control or order he was, was likely to be forced to look for food
22 and even maybe steal, which has been in the context of this -- of the charges called
23 pillaging?

24 A. [10:28:34] I think stealing, when you talk about stealing, there are different
25 reasons why people steal. I have seen people with pathological stealing, but I have

1 also seen people steal because they need -- they must meet their basic needs. So in
2 this case really, unless I assess Mr Ongwen and evaluate the motivation behind the
3 stealing, I cannot say that this particular stealing was because of this or because of
4 that unless I do an assessment and then I will make a judgment on that.

5 Q. [10:29:26] At the beginning, Doctor, I warned myself of the dangers of running
6 into your trap of refraining from making generalisation, but nevertheless, are there
7 standard situations, average situations, and in this case we are talking about necessity,
8 we are talking about necessity, if supposing there was no food, because in the bush
9 you are on the run all the time and you are -- you don't have any garden, you have no
10 food stock of your own, so we are talking about a situation of necessity; so can you
11 address us on that.

12 A. [10:30:20] I have also seen people who are very needy, but they are in need, it is
13 very necessary they have food, but they don't go steal. So steal, I like -- I can't make,
14 say a yes or no answer on this because it's still very relative. But I think in one of the
15 transcripts, there was a witness who talked about Mr Ongwen asking the others if
16 they've had enough food and if in case there was not enough, if they had not eaten
17 enough, then he would order for more food to be cooked and, really, even in an
18 ordinary situation, it's -- I think that was, it seemed to me that it was an environment
19 of some excess, that there could have been some excess somewhere. But that was
20 from a witness. I don't know whether it's true or not, I am just picking it up from
21 there. Yeah.

22 PRESIDING JUDGE SCHMITT: [10:31:37] Mr Ayena, a gentle reminder that we will
23 have finished after the first session today.

24 MR AYENA ODONGO: [10:31:49] Pardon?

25 PRESIDING JUDGE SCHMITT: [10:31:49] A gentle reminder --

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1 MR AYENA ODONGO: [10:31:50] Yes.

2 PRESIDING JUDGE SCHMITT: [10:31:51] -- I would say that you have promised,
3 and we have agreed upon yesterday, that we finish the expert testimony after the first
4 session. Just a gentle reminder, it is not a --

5 MR AYENA ODONGO: [10:32:01] Yes, I want to really go very fast. I can see that
6 we were 15 minutes late, nevertheless.

7 PRESIDING JUDGE SCHMITT: [10:32:13] Okay, so I -- this would mean that you
8 can overstep 15 minutes, but you need not to overstep.

9 MR AYENA ODONGO: [10:32:24] I need not.

10 PRESIDING JUDGE SCHMITT: [10:32:27] You need not. This is not a necessity.

11 MR AYENA ODONGO: [10:32:28] I will work towards avoiding --

12 PRESIDING JUDGE SCHMITT: [10:32:32] Yes.

13 MR AYENA ODONGO: [10:32:33 -- even covering the 15 minutes.

14 PRESIDING JUDGE SCHMITT: [10:32:34] Exactly so, and the reminder I added,
15 it's a gentle reminder. So please continue.

16 MR AYENA ODONGO: [10:32:42] May I also make a gentle request, your Honour,
17 that in the event, in the unlikely event that I shall not have finished, in the interests of
18 fair trial, you allow me to finish these questions.

19 PRESIDING JUDGE SCHMITT: [10:33:00] Perhaps let's strive a little bit. As I said,
20 and I think, I think you will be able to finish that.

21 MR AYENA ODONGO: [10:33:06] I am much obliged.

22 PRESIDING JUDGE SCHMITT: [10:33:08] I am confident. Yes, please continue.

23 MR AYENA ODONGO: [10:33:12] Much obliged.

24 Q. [10:33:14] Dr Abbo, on Tuesday in answer to the question put to you by
25 the Prosecution as to under what circumstances you would consider this dissociative

1 flashback PTSD to be a trigger for violence, and you said at page 44 of real-time
2 transcript, lines 12 to 23 and ... And I want to read it to you for ease of reference: In
3 the severe forms, especially when it involves psychotic symptoms, where an
4 individual who has depression is so depressed and they feel so hopeless and so
5 worthless, together with guilt, really to the degree of, you know, of proportion, guilt
6 about maybe problems of the world, guilt in about what they have done previously.
7 You know, really there is not proportional, yes, and so then they go ahead and say,
8 "This world is not -- I can't live in the world anymore, but I also have people I love.
9 I cannot leave them to suffer in this world."

10 PRESIDING JUDGE SCHMITT: [10:35:23] Question, please, Mr Ayena, no, no
11 reading lesson.

12 MR AYENA ODONGO: [10:35:28] Yes.

13 Q. [10:35:31] I want us to look at problem of the world and then guilt about what
14 they have done previously. First of all, you seem to suggest that they would turn
15 against their loved ones because they do not want to leave them behind to suffer in
16 this world. My question is: Supposing they are gripped by that feeling of problem
17 of the world, problem of hopelessness, hopelessness -- I mean, they were gripped by
18 that feeling out of a state of exigency. For instance, when they are faced by state of
19 war, they are faced with, you know, firing -- they're on the firing line and their loved
20 ones are not there to first turn against, what would happen?

21 A. [10:36:53] Well, if they're in the front line and they're already firing, and that
22 that firing would have come perhaps because they -- that is what they are there to do,
23 the explanation for that firing wouldn't be that these people they're firing at, they are
24 saving them from the suffering of the world; that wouldn't be what would be in their
25 mind. It -- it would be perhaps maybe some -- a concurrent -- a concurrent thing.

1 They would have gone to the front line and, and that is what they must do. And if
2 they are to save -- if they are to go and save their loved ones from this world, then
3 they would have to go back and, and kill their loved ones and then they kill
4 themselves.

5 PRESIDING JUDGE SCHMITT: [10:38:11] I think we should move to another point.
6 The problems of the world is okay, but I think it should, we should really see
7 concretely where you are heading at. I think -- and it is also not -- you said out of a
8 fair trial you should be allowed to have more time, but a fair trial only means really
9 when it is closely connected to the proceedings and to what we are talking here about.
10 We are talking about mental disease, potential mental disease or defect of the accused
11 and it should really not distance -- the questioning should not distance itself too much
12 from this issue.

13 MR AYENA ODONGO: [10:38:57] I'm guided, your Honour.

14 Q. [10:39:01] In the case of Dominic Ongwen, in your investigation, were you ever
15 told that the years 2002 to 2004 were probably the most traumatic years in his life in
16 the bush?

17 A. [10:39:20] Well, I will have to talk to him to get that information from him. To
18 get his experience, and out of finding out his experience, that's when I can make an
19 impression that, yes, the year 2002 and 2005 was the most traumatic. But otherwise,
20 I cannot just again take it at face value because someone has said; I'll have to get it
21 from him.

22 Q. [10:39:48] Now, Doctor, did you or were you told as a background information
23 of the person you are dealing with or if you were, if -- were you to be told that he had
24 a severe injury that caused extensive permanent damage to his leg and disability to
25 him during a battle in September 2002 and that while in the sickbay, he was

1 discovered to have been hatching an escape plan, and that whilst still in that state, he
2 was removed prematurely from the sickbay and put under the direct control of
3 Vincent Otti who forced him actually to move on a long expedition of more than
4 200 miles to Teso, would that have helped to shape your conclusion differently about
5 his reactions?

6 A. [10:41:20] Pardon me, which particular conclusion are you talking about?

7 Q. [10:41:26] We are talking about --

8 A. [10:41:28] Because I have like little, little conclusions at every section.

9 Q. [10:41:32] I am talking about conclusion about whether at the time of the alleged
10 conduct, criminal conduct he was, you know --

11 A. [10:41:48] No, it wouldn't change because these scenarios that you've narrated,
12 again, someone really must go in there and assess. Having a severe injury, for
13 example, in the leg does not take away your understanding. Automatic, it's not
14 automatic that it takes away -- because you have severe injury, it has taken away your
15 understanding or it is -- it has caused mental illness. So again, this scenario,
16 someone needs to get in there and do a thorough as -- if that is possible, of the mental
17 state at that time. And then someone will have to -- it's not -- it's not automatic that
18 because you have this that you've listed down, therefore someone has mental illness
19 and therefore the crime they have committed -- actually, it is in three steps, yeah.

20 Q. [10:42:56] Now, in your testimony -- sorry, five minutes.

21 PRESIDING JUDGE SCHMITT: [10:43:02] Yes.

22 MR AYENA ODONGO: [10:43:03]

23 Q. [10:43:04] In your testimony, and this is to be found at real-time transcript
24 page 73, lines 15 to 18, you were asked by my learned friend on the other side,
25 Colleen Gilg:

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1 "Was there anything in the material you received to suggest that Mr Ongwen was
2 more vulnerable or profoundly affected than other child soldiers in the LRA?" And
3 your answer was a curt "No."
4 Now I want to put a few questions to you and see whether it would have affected -- I
5 mean, you would have thought otherwise. Did you make a finding, Doctor, as to
6 whether there were other children within the age bracket of Dominic Ongwen who,
7 by 2004, had exhibited exceptional ability, which you very succinctly described in
8 military exploits, and rose in rank up to the rank of brigadier? Do I put all the
9 questions, then you answer, or you want --

10 A. [10:44:56] The question is did I find other children in the same age group bracket
11 who had also been promoted very fast?

12 Q. [10:45:06] Yes, yes.

13 A. [10:45:09] From the transcripts that I had and the additional search that I did, I
14 did not find that there was another person who had that kind of rapid promotion and
15 that and media coverage and it was basically Mr Ongwen.

16 Q. [10:45:38] Thank you very much.

17 PRESIDING JUDGE SCHMITT: [10:45:39] And we have to leave this point now
18 because we had this already that the transcript, Ms Bridgman had already addressed
19 it. So it's the last transcript from yesterday, I think, pages 59 and 60. So we would
20 have to move to another point now.

21 MR AYENA ODONGO: But --

22 PRESIDING JUDGE SCHMITT: No. Mrs Bridgman has already asked another
23 premise of the injury, sickbay and imprisonment and the witness, the expert has
24 given already an answer on that. Now she has given it twice so we have to move to
25 another point.

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1 MR AYENA ODONGO: [10:46:14] I am asking a different question, your Honour.

2 Complete different question.

3 PRESIDING JUDGE SCHMITT: [10:46:18] Then please ask a completely different,

4 but we leave this point now.

5 MR AYENA ODONGO: [10:46:23]

6 Q. [10:46:23] Would you agree with me that by rising that high or as rapidly as you

7 described he came directly in the spotlight and within the radar of Joseph Kony?

8 A. [10:46:38] I wouldn't know that, if that happened. I mean I -- I can't, I can't

9 agree nor disagree because I --

10 Q. What I'm saying --

11 A. [10:46:51] -- wouldn't know, yeah.

12 PRESIDING JUDGE SCHMITT: [10:46:51] Not too quick because the interpreters

13 have difficulties.

14 MR AYENA ODONGO: Sorry.

15 PRESIDING JUDGE SCHMITT: But this is for both. And for me too.

16 THE WITNESS: [10:47:02] I -- the same as I mentioned earlier, that I can neither

17 agree nor disagree that he came directly under Mr Kony's watchful eye. It is -- there

18 is a possibility that that could have happened, but there is also a possibility that when

19 he reached a certain point perhaps Mr Kony could have left him some space because

20 now he can work on his own, so there is that possibility that they could -- he could

21 have been left space to operate by himself after maybe being trusted that he could do

22 the job.

23 MR AYENA ODONGO: [10:48:05]

24 Q. [10:48:06] What I am talking about, Doctor, is that -- I mean, between an officer

25 of that rank, a child, a child officer of that rank and then a child soldier within the

1 rank and file, who was likely to be noticed by Joseph Kony?

2 A. [10:48:35] A child soldier of a high rank?

3 Q. [10:48:38] No.

4 PRESIDING JUDGE SCHMITT: [10:48:39] No. I think child officer is a little bit
5 misleading, so at the time I think Mr Ongwen was not a child any more, but what you
6 mean is a former child soldier that had --

7 MR AYENA ODONGO: Former child soldier, yes.

8 PRESIDING JUDGE SCHMITT: -- risen to a certain --

9 MR AYENA ODONGO: [10:48:52]

10 Q. Who has now risen to the rank of a brigadier and his peers who remained in the
11 rank and file of the LRA, who was likely to be noticed by Joseph Kony?

12 PRESIDING JUDGE SCHMITT: [10:49:12] Mrs Gilg.

13 MS GILG: [10:49:12] I'm just wondering, your Honour, when we're going to come
14 back to the issues of psychiatry, because I really think now we're dealing with
15 questions of fact and this is not --

16 PRESIDING JUDGE SCHMITT: [10:49:23] I agree, Mr Ayena. Really, I agree here.
17 This is sustained. We are distancing ourselves from the expertise of the expert.
18 Yeah.

19 And, by the way, and I am also informed by the team that Mrs Bridgman in a certain
20 way also addressed this yesterday because she suggested that Mr Kony promoted
21 Mr Ongwen out of necessity, so this was also at least discussed in a certain form, so
22 you would have to move to another point.

23 MR AYENA ODONGO: [10:50:14] I am guided, Mr President.

24 Q. [10:50:16] Now let's address the issue of duress which you talked about in your
25 testimony.

1 Doctor, in a cult-like organisation, for instance, as LRA is generally understood to be,
2 where everything was around Kony who was presented as the spirit medium, he was
3 supposed to be capable of peering into the mind of his subjects and, you know, the
4 subjects were told that he was omnipresent, he was always there. Even if he is not
5 physically with you, at least he knew what you were doing.

6 A. [10:51:28] He was like a god.

7 Q. [10:51:30] For instance -- yes, unfortunately.

8 Would anybody brought up in that belief disobey his orders even if he was not
9 physically present?

10 A. [10:51:50] Again for me this is not a yes or no answer. And to obey or to
11 disobey, I think there are many factors that come in there. It's, again it's not -- it's not
12 something that happens like automatic, it's not an automatic thing. Yeah, so for me
13 it's not a yes or no answer.

14 Q. [10:52:34] Let it be the case, Doctor, that in the case of Dominic Ongwen, first of
15 all, we have really gone through his upbringing in the LRA, his indoctrination, and
16 then he is now in the front line and, you know, because of some of these things we
17 have talked about there are other people who are surveilling him, those who were
18 sent to the battlefield were surveilling him, but he is also aware that before he was
19 sent to battle they performed certain rituals on him, the spiritual rituals, you know,
20 sprinkling water and that kind of thing, meaning that you are actually going with the
21 spirits, would that child -- I mean, would that person act freely without reflecting on
22 the fact that he is actually being watched by the spirits?

23 PRESIDING JUDGE SCHMITT: [10:53:55] But we don't -- I won't object to the
24 question, so to speak, but we let the witness not answer the legal question of duress.
25 This is a legal question, duress. The witness is here to talk about criminal

1 responsibility if it is related to potential mental disease or defect, but not about legal
2 concepts. But she might provide factual background that might facilitate the
3 assessment of the Chamber. I just wanted to make that clear.

4 MR AYENA ODONGO: [10:54:33] In that case I think the factual background has
5 already been provided. Yes.

6 Q. [10:54:45] Let's talk briefly -- and on a happy note I am likely to stop much
7 earlier than I thought, Mr President.

8 Let's talk about transcultural psychiatry. Would I be right, Doctor, to say that the
9 study of transcultural psychiatry is a branch of study that considers how culture
10 shapes psychiatric disposition across the different cultures in the world?

11 A. [10:55:23] You would be right, yes.

12 Q. [10:55:26] Now let's begin from a moral premise. Could something that may be
13 considered morally wrong within a particular cultural context be morally right in
14 another moral context?

15 A. [10:55:46] Depends on what we are talking about. So we have to be specific.

16 Q. [10:55:56] For instance, if my cultural background tells me that it is morally
17 wrong, for instance, to steal, is it possible that in other cultures, you know, society
18 may accept stealing? Because, I mean --

19 PRESIDING JUDGE SCHMITT: [10:56:34] Again, frankly speaking, I think there are
20 better examples than this one with the stealing, I would say.

21 MR AYENA ODONGO: [10:56:41] She asked for it.

22 PRESIDING JUDGE SCHMITT: [10:56:42] Yeah, yes. And sometimes I am in the
23 mood to step in, but you are indulgent with me, as I know.

24 But, Ms Abbo, do you have any considerations to put forward?

25 THE WITNESS: [10:56:54] My own example that I think might be much more

1 internationally understood is the example of the Ugandan culture belief that it is
2 morally wrong for a man to be in a relationship with a man or a woman to be in
3 a relationship with a woman. But as we know, there are some cultures that, well,
4 this is an acceptable thing, people even go ahead and wed.

5 MR AYENA ODONGO: [10:57:43]

6 Q. Thank you very much.

7 A. [10:57:45] So that is an example that, yes, that I can give that is -- yeah, but
8 stealing? Okay. It becomes a bit tricky with stealing.

9 Q. [10:58:00] Well, since we needed an example and you have come with a more
10 robust example, let's go with your example, Doctor. I accept your example.

11 And now yesterday you said that in your study you discovered that witchcraft and
12 perhaps cultism is practised side by side with Christianity and perhaps that's why
13 you find Joseph Kibwetere and Joseph Kony.

14 Now, in your transcultural study and research, did you study the interplay between
15 culture, belief in spiritualism and psychiatric disposition?

16 A. [10:58:50] And psychiatric?

17 Q. [10:58:52] Yeah.

18 A. [10:58:54] Mental --

19 PRESIDING JUDGE SCHMITT: [10:58:55] Disposition, I think.

20 MR AYENA ODONGO:

21 Q. [10:58:59] Disposition.

22 A. [10:59:01] Disposition, okay.

23 Perhaps not in my study, but in my -- throughout my understanding of, or my
24 experiences which include not particularly in the studies that I have done, but also
25 clinical experience, reading through many literatures and getting in touch with other

1 cultures, culture indeed has influence in the way we express ourselves, in the way we,
2 we express our mental health, and mental illness. But there has been a lot of, a lot of
3 discussions around to what extent, yeah, to what extent does this influence, to what
4 extent does culture influence the way we express our symptoms, for example.
5 So there are two schools of thought, one school of thought is about the universal
6 nature of mental illness and mental health. And the other school of thought is the
7 relative -- that it is relative, it depends on whichever culture you are in. And then
8 there is the middle ground of the school of thought of both the universality and the
9 relativism of, expression of mental health and mental illness.
10 Eventually I will tell you where I stand, but the universal approach is that mental
11 health, we are talking about mental illness, is universal, but it is just the way people
12 present their symptoms. An example is when someone has delusions and they have
13 a diagnosis of schizophrenia, the delusion would be, let's say, paranoid delusions, the
14 Ugandan who is paranoid might -- the Ugandan in the village who has never had an
15 opportunity to have a phone or have a computer or -- the delusion would be
16 something like about "I am being bewitched, so-and-so has put something in
17 my food", you know. But even then we would need to go deeper into that kind of
18 delusion to just make sure.
19 However, the person who might be in the US, the delusion might be I am being
20 followed by some magnetic -- you know. But the content remains the same; the
21 content is that they are paranoid. But the form in which they present is different, is
22 culturally formed depending on that individual's experience. That is the
23 understanding of the universalism of mental illness.
24 But the relative people say that, okay, this illness presents differently, depending on
25 the culture as depending on the -- and they also have their own -- they are saying

1 schizophrenia in Uganda should not be schizophrenia in UK or in the US, it should be
2 their own, you know, something, something. And the problem with that is that you
3 cannot, you cannot communicate cross-culturally because the person in UK looking at
4 this as schizophrenia might not understand that this is also schizophrenia. So that
5 this is the problem with this -- with relative approach.

6 Now the mix in between here is that there are those disorders that wherever you go
7 schizophrenia is schizophrenia, in Uganda, in the UK, in the US schizophrenia
8 is -- particularly the severer forms of the mental illness. However, there are those
9 other illnesses that are not severe, that are sometimes expressions of distress like
10 dissociation, like conversion disorder, like those ones can be culturally like
11 circumscribed, you know. You talk about spirit possession, someone is looking at it
12 as spirit possession, but me, I will come in and say, okay, you, you look at it as spirit
13 possession; for me I think it is dissociation. But we are talking about the same thing.
14 So that I fall in the middle myself. Yeah.

15 PRESIDING JUDGE SCHMITT: [11:04:18] That was very interesting.

16 MR AYENA ODONGO: [11:04:23]

17 Q. [11:04:24] I mean following on that briefly, let us take a comparison as an
18 example between a German child and an African child, if they were put under the
19 same spiritual processes of indoctrination, are both of them likely to be influenced to
20 the same degree?

21 A. [11:04:49] At what point would you put in the German child, at what point in
22 life? From birth?

23 Q. [11:04:59] No. I mean at the age of abduction that Ongwen found himself in, if
24 a German child was abducted and put in the LRA and went through the same, you
25 know --

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1 A. [11:05:10] Where would the German child have grown up in, in Uganda or --

2 Q. No.

3 A. -- in Germany?

4 Q. In Germany.

5 THE COURT OFFICER: [11:05:18] Overlapping speakers, please. Thank you.

6 MR AYENA ODONGO: Sorry, sorry.

7 PRESIDING JUDGE SCHMITT: [11:05:22] We have two children, 10 years age, they
8 are abducted, one grew up in Germany, the other in Uganda, is there a difference?

9 THE WITNESS: [11:05:32] There is a difference.

10 PRESIDING JUDGE SCHMITT: [11:05:33] Which one?

11 THE WITNESS: [11:05:34] The one who grew up in Uganda is -- has the Ugandan
12 understanding culture, a mixture of religion and spirituality and the cultural
13 spirituality and perhaps even the food they eat, perhaps even the way they relate, you
14 know. Different from the German -- I don't know whether the Germans believe in
15 spirits, maybe some do, but that is -- I can describe clearly what, what the Ugandan
16 child might, because this is where I come from. I -- perhaps maybe if someone can
17 also describe for us what the German child might, might -- will grow up in, maybe
18 then we can make the comparison. But I think that generally there might be that
19 difference because of that cultural context.

20 PRESIDING JUDGE SCHMITT: [11:06:44] So we take it that there is a difference and
21 we do not entertain this further, I would say, not dwell into this example, further, I
22 would suggest.

23 MR AYENA ODONGO: [11:06:54] I think that's about it.
24 I save 10 minutes.

25 PRESIDING JUDGE SCHMITT: [11:07:00] Thank you very much, Mr Ayena.

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- 1 And this concludes your testimony, Ms Abbo. On behalf of the Chamber I would
- 2 like to thank you for coming to The Hague, for testifying here for three consecutive
- 3 days and for answering all these questions of the parties and also of the
- 4 Presiding Judge. We wish you a safe trip back. Thank you very much again.
- 5 (The witness is excused)
- 6 PRESIDING JUDGE SCHMITT: And this concludes the hearing for today and also
- 7 this evidence block, so to speak.
- 8 We resume after the recess on I think Wednesday, 11 April, 9.30 with P-447.
- 9 THE COURT USHER: [11:07:40] All rise.
- 10 (The hearing ends in open session at 11.07 a.m.)