

Trial Hearing
WITNESS: UGA-D26-P-0032

(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 Friday, 22 February 2019
9 (The hearing starts in open session at 9.33 a.m.)
10 THE COURT USHER: [9:33:34] All rise.
11 The International Criminal Court is now in session.
12 PRESIDING JUDGE SCHMITT: [9:33:59] Good morning, everyone. A special good
13 morning to Mr Witness.
14 WITNESS: UGA-D26-P-0032 (On former oath)
15 (The witness speaks Acholi)
16 (The witness gives evidence via video link)
17 THE WITNESS: [9:34:07] (Interpretation) Good morning.
18 PRESIDING JUDGE SCHMITT: [9:34:08] Could the court officer please call the case.
19 THE COURT OFFICER: [9:34:11] Good morning, Mr President, your Honours.
20 The situation in the Republic of Uganda, in the case of The Prosecutor versus Dominic
21 Ongwen, case reference ICC-02/04-01/15.
22 And for the record, we are in open session.
23 PRESIDING JUDGE SCHMITT: [9:34:25] Thank you.
24 I ask for the appearances of the parties.
25 For the Prosecution, Ms Gilg.

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- 1 MS GILG: [9:34:31] Good morning, your Honours. Colleen Gilg for
2 the Prosecution, here today with Benjamin Gumpert, Shkelzen Zeneli,
3 Pubudu Sachithanandan, Beti Hohler, Yulia Nuzban, Grace Goh, Jasmina Suljanovic,
4 Laura de Leeuw, Natasha Barigye and Colin Black.
- 5 PRESIDING JUDGE SCHMITT: [9:34:56] Mr Black in the back, so to speak.
6 Mr Narantsetseg for the Legal Representatives for the Victims.
- 7 MR NARANTSETSEG: [9:35:02] Good morning, Mr President, my name is
8 Orchlon Narantsetseg and I am appearing for the Common Legal Representatives.
9 Thank you.
- 10 PRESIDING JUDGE SCHMITT: [9:35:07] Thank you.
11 And Mr Manoba, please.
- 12 MR MANOBA: [9:35:09] Good morning, Mr President, your Honours. I'm
13 appearing today with James Mawira and Joseph Manoba.
- 14 PRESIDING JUDGE SCHMITT: [9:35:16] Thank you.
15 Mr Obhof for the Defence.
- 16 MR OBHOF: [9:35:17] Thank you very much, your Honour.
17 And I assume that was an AC/DC quote about "Back in Black" that you made earlier.
- 18 PRESIDING JUDGE SCHMITT: [9:35:25] We know each other, Mr Obhof.
- 19 MR OBHOF: [9:35:27] Today we have of course myself, Mr Thomas Obhof, we have
20 Gordon Kifudde, Krispus Ayena Odongo, Chief Charles Achaleke Taku. And our
21 client Mr Ongwen is in court.
- 22 PRESIDING JUDGE SCHMITT: [9:35:36] And we also welcome at the video-link
23 location Rule 74 counsel for the witness, Mr Gray Curlewis. Good
24 morning (Overlapping speakers)
- 25 MR CURLEWIS: [9:35:41] (Via video link) Good morning, Mr President.

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- 1 PRESIDING JUDGE SCHMITT: [9:35:45] And then we start with the questioning by
2 the Prosecution.
3 Ms Gilg, you have the floor.
4 MS GILG: [9:35:52] Thank you, your Honour.
5 QUESTIONED BY MS GILG:
6 Q. [9:35:57] Mr Witness, good morning.
7 A. [9:35:59] Good morning.
8 Q. [9:36:00] You and I have been introduced over video link last month. I will be
9 asking you the questions today on behalf of the Prosecution.
10 A. [9:36:13] Okay.
11 Q. [9:36:14] Yesterday you talked about the first time you met with
12 Dominic Ongwen when his commander was in Soroti. You thought he was around
13 16 at that time, right?
14 A. [9:36:33] No, 13 or 14, not 16.
15 Q. [9:36:40] Mr Witness, I want to read you what you said when you were asked
16 this same question during your interview with the Defence in 2016.
17 The reference is Defence tab 3, UGA-D26-0011-0191 at 0194, line 65 to 78.
18 Answer: "The first time I met Dominic Ongwen, and we sat properly for some time,
19 was 1991."
20 Question: "How old did you think he was at that time?"
21 Answer: "Hmm?"
22 Question: "How old was he at that time?"
23 Answer: "Around 16 years at that time in 1991."
24 That's right, isn't it?
25 A. [9:37:33] No. He was 13 or 14.

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1 Q. [9:37:39] That's what you said at that point.

2 A. [9:37:55] Perhaps there was a mistranslation or misinterpretation, but based on
3 my knowledge, when he was 13 or 14, that's when they left him behind with us,
4 because he was unable to walk.

5 Q. [9:38:15] Now, some years later you became Dominic Ongwen's commanding
6 officer, correct?

7 A. [9:38:30] Correct.

8 Q. [9:38:31] And that was approximately (Redacted); is that right?

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

10 Q. [9:38:39] And you worked closely with Dominic Ongwen during this period,
11 correct?

12 A. [9:38:52] That's correct.

13 Q. [9:38:55] And during this period you saw Ongwen was liked by many LRA
14 soldiers, right?

15 A. [9:39:12] Yes, soldiers did like him.

16 Q. [9:39:16] And you saw that he took care of the soldiers in his group, correct?

17 A. [9:39:32] Yes, he took great care of them and that's why they liked him. First of
18 all, his soldiers would not move around anyhow and his soldiers would not commit
19 any crimes. And that's why they used to like him and he did not mistreat his
20 soldiers at all.

21 Q. [9:39:52] And you also saw that he followed orders, right?

22 A. [9:40:04] Yes, he did follow orders. Because if you did not follow orders, then
23 you would be punished, so he was someone who did follow orders and that's why he
24 was rarely punished.

25 Q. [9:40:17] And you saw that he could plan attacks by himself, right?

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1 A. [9:40:35] In the LRA nobody can plan an attack personally. All orders come
2 from Kony, unless you are attacked by government soldiers and then you fight to
3 protect yourselves. But in order for somebody to organise an operation within the
4 LRA, that's not possible. All orders for battle come from Kony.

5 Q. [9:41:04] And Dominic Ongwen was skilled at organising his troops when the
6 government would ambush his troops; isn't that right?

7 A. [9:41:24] That's correct.

8 Q. [9:41:26] Now after Operation Iron Fist started, you were no longer seeing
9 Ongwen regularly, correct?

10 A. [9:41:43] That's correct.

11 Q. [9:41:44] But you continued to hear about him over the radio and other ways,
12 right?

13 A. [9:41:59] Yes, I continued to hear information about him through other channels.

14 Q. [9:42:06] And one thing you continued to hear is that he was a skilled fighter,
15 correct?

16 A. [9:42:20] That's correct. And he would take good care of his soldiers. He
17 really, really knew how to take good care of his soldiers.

18 Q. [9:42:31] And you heard about an incident near Lukole in Agago district; isn't
19 that right?

20 A. [9:42:48] No, I did not hear about that the incident or event at Lukole.

21 Q. [9:42:59] Let me read you what you said when you spoke with the Prosecution
22 in 2016. This is Defence tab 22, UGA-OTP-0275-3411 at 3414 to 3415, lines 89 to 123.
23 I will try to shorten it.

24 You are asked: "Did you hear of any different tactics that he had used when he was
25 a commander, as a brigade commander?"

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1 Answer: "The tactics he was using when they were fighting against the government
2 forces was, I heard about, were there."

3 "Any that stick in your mind?

4 "Yes. I remember the time he was moving towards Soroti. When he still did not
5 have the intention of going to Soroti. A place called Lukole in Agago. Lukole."

6 THE INTERPRETER: [9:44:03] Could Ms Gilg please slow down.

7 PRESIDING JUDGE SCHMITT: [9:44:06] I think you have heard it, Ms Gilg, slow
8 down a little bit.

9 It was not you, Mr Witness, who has to slow down. It was Ms Gilg who has to slow
10 down.

11 MS GILG: [9:44:21]

12 Q. [9:44:21] Mr Witness, Dominic Ongwen planned an ambush on government
13 soldiers at Lukole, didn't he?

14 A. [9:44:30] No, it wasn't an attack against or he did not organise anything against
15 the government soldiers, except that when they were walking towards Soroti,
16 government soldiers and their vehicles were following those of Ongwen. So what
17 Ongwen did, he organised his soldiers, waited for the government soldiers, along the
18 road, he attacked the government soldiers and he disorganised them, stopped them
19 from following him and stopped them from going on to attack them. That's what I
20 know and that's what I said.

21 Q. [9:45:16] And he managed this even though the government soldiers had tanks
22 and other vehicles, right?

23 A. [9:45:30] That's correct, he was able to stop them.

24 Q. [9:45:34] And this Lukole incident took place in 2003 or around there; is that
25 right?

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1 A. [9:45:47] It was around at the beginning of 2003.

2 MS GILG: [9:45:58] Your Honours, I'm going to move on now. To give you an idea
3 of what we are planning, we have approximately four audio excerpts to play to this
4 witness today and we have grouped it together to the extent that we can. The total
5 playing time of the excerpts will be around eight minutes.

6 PRESIDING JUDGE SCHMITT: [9:46:17] That does not sound excessive.

7 MS GILG: [9:46:22] Like before, we prepared rolling transcripts for all the audio
8 excerpts. These can be shown to the public on evidence 2 and substitute for the live
9 interpretation, as we've done before. The rolling transcripts should not be shown to
10 the witness.

11 Q. [9:46:45] Mr Witness, you told us yesterday that you appeared on Dwog Paco
12 several times. I am going to play you some excerpts from a Dwog Paco (Redacted)
13 (Redacted)

14 The ERN of the audio is OTP tab 1, UGA-OTP-0182-0026 and we will play track one,
15 timestamp 13:11 to 15:04. The English transcript of this recording is at OTP tab 2.
16 (Playing of the audio excerpt)

17 MS GILG: [9:49:34]

18 Q. [9:49:36] Mr Witness, that was you speaking, wasn't it?

19 A. [9:49:39] Yes, it was. That was me.

20 Q. [9:49:45] And you were appealing to your former colleagues in the bush not to
21 mistreat or kill civilians, correct?

22 A. [9:50:03] That's correct.

23 Q. [9:50:06] And that's because, while you were in the bush, the LRA did mistreat
24 or kill civilians, correct?

25 A. [9:50:21] Yes, that's correct.

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1 Q. [9:50:24] And at least by the time of Operation Iron Fist Joseph Kony was
2 regularly ordering civilians to be killed, wasn't he?

3 A. [9:50:41] Yes, precisely.

4 Q. [9:50:46] Let's just look at a couple of examples from the logbook records.
5 Your Honours, I am looking at OTP tab 19.

6 Mr Witness, I have here a record of commanders talking on the radio on (Redacted)
7 (Redacted) You are reported as on air. Kony is reported to say that all commanders
8 should start attacks on various positions, burning homes and camps and committing
9 a lot of atrocities.

10 That's the kind of thing you heard Kony say, isn't it?

11 A. [9:51:40] That is correct. That was an order that was issued, that he issued.

12 He issued this order to his soldiers, soldiers who were on the move. They were on
13 the move and going to operations in different places.

14 Q. [9:52:00] Let's look at --

15 A. [9:52:03] But at the time I was already at the sickbay. Those of us who were at
16 the sickbay had to take care of ourselves. We were not allowed to do anything that
17 would enable the government soldiers to start looking for us or trying to investigate
18 to find out who did whatever it is. So it was only people who were able-bodied that
19 were ordered to go and fight.

20 Q. [9:52:41] Okay. Let's look at another example.

21 I'm in OTP tab 18, your Honours.

22 Mr Witness, here I have a record of a radio call on (Redacted), and here you are
23 again on air. This reports that Kony ordered all LRA groups to attack any Arrow
24 Group and kill all of them, including any civilians that they get and even mothers
25 with children should not be spared.

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1 You --

2 A. [9:53:27] I do not recall that particular order. I do not recall that one. Perhaps
3 he issued that order to another group of people. Because there was a group of
4 people who were actually not based in Acholi. These were perhaps people that were
5 in the Teso region and those were the militia group that was helping government
6 soldiers. In Acholi, there was a different group of militia other than the Arrow
7 Group.

8 Q. [9:54:11] Mr Witness, I am going to play an excerpt now from a different
9 Dwog Paco show. This one aired on (Redacted), so a few days before the one we
10 just listened to.
11 Your Honours, the corresponding transcript is at OTP tab 6, the audio is at OTP tab 4,
12 UGA-OTP-0182-0022, track 1, timestamp 3:02 to 4:15.

13 (Playing of the audio excerpt)

14 MS GILG: [9:56:12]

15 Q. [9:56:12] Mr Witness, that was you speaking on the radio, right?

16 A. [9:56:20] Yes, that was me.

17 Q. [9:56:24] And you were saying that people in the LRA knew that the amnesty
18 programme was real, right?

19 A. [9:56:44] The people knew about it. But very few knew about this. It was
20 only the people who had access to radios. Or if your -- you manage to clandestinely
21 listen to a radio programme and you heard one of your colleagues, one of your
22 friends speaking over the radio. But there was an order that nobody was allowed to
23 listen to the radio, so the issue was not well known in the bush among other people,
24 among the junior soldiers, or even some of the high-ranking soldiers. Sometimes
25 they would prohibit anybody from listening to the radio. So it was very difficult for

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1 people to actually know about this programme, but if you are able to listen to the
2 radio somehow and you heard your friend speaking over the radio, then you would
3 know that this does exist, that amnesty did exist.

4 Q. [9:57:48] You say in this recording that LRA commanders in particular knew
5 that the amnesty programme was real, right?

6 A. [9:58:03] Yes, that's correct.

7 Q. [9:58:05] And you also say in the recording that the commanders told everyone
8 under their command about amnesty; isn't that right?

9 A. [9:58:27] No. People were not aware of it, they did not tell soldiers about
10 amnesty. You did not tell your subordinates about amnesty. Because if you told
11 them about amnesty that means you are probably trying to get them to flee or
12 something. Because that's why you are not allowed to talk about amnesty.
13 Sometimes the commanders such as Kony and Otti would speak about amnesty, they
14 would talk about it. But while talking about it they would also say it was, it was lies,
15 it was propaganda by the government, that the government was trying to use this to
16 get people out of the bush and harm them. But you as a commander, you are not
17 allowed to talk to your soldiers about this. If you knew about amnesty you would
18 keep quiet. Because if you went ahead and told your soldiers about it you would be
19 killed because in a way you would be accused of trying to incite the soldiers to
20 escape.

21 Q. [9:59:38] Mr Witness, I have a transcript here of what we just heard on the
22 recording. The first thing you said is this: "That is one thing we the commanders
23 know, that the amnesty that is there is real. We tell everyone under our command."
24 That's what you said, isn't it?

25 A. [10:00:07] No. That's not correct. Perhaps there was some kind of

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1 mistranslation somewhere. No, the rules prohibited it. The rules prohibited us
2 from discussing amnesty to soldiers. The rules prohibited this, because if you talk
3 about amnesty, that means you are trying to encourage the soldiers to leave. And if
4 you speak about amnesty, if Kony becomes aware of this, or even Otti Vincent, then
5 you would be arrested. You will be arrested.

6 You would also be demoted, they would take away all your ranks, they would take
7 away any power you have and then you would be under Otti or Kony's command
8 where you're constantly being watched and followed. So the rules prohibited us
9 from speaking about amnesty --

10 MS GILG: [10:01:04] Let's move on.

11 THE WITNESS: [10:01:04] -- unless they hear it over the radio.

12 PRESIDING JUDGE SCHMITT: [10:01:12] Ms Gilg, we have heard the original and
13 the original was in Acholi and we are talking about one short phrase and I think it
14 could be clarified what this phrase means here in the courtroom. Or not? Is this
15 impossible? Should be possible.

16 MS GILG: [10:01:39] What we could do is replay the first 10 seconds of the recording
17 and have, in this case, the interpretation into -- from Acholi into English and --

18 PRESIDING JUDGE SCHMITT: [10:01:48] Why not? This is what I would suggest
19 because -- and I think it's not -- does not put a burden too high on the interpreters
20 because we are talking about a short phrase, as I have understood it. So perhaps I
21 would ask you to listen to this and to simply tell us what it, what it means. What
22 the witness says. Please repeat it.

23 (Playing of the audio excerpt)

24 THE INTERPRETER: [10:02:38] The interpreter says: That is one thing that all of us
25 commanders know, that there is amnesty, and we inform the people who are under

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1 our commands that there is amnesty and what we talk about is true.

2 MR OBHOF: [10:02:55] Your Honour --

3 PRESIDING JUDGE SCHMITT: [10:02:56] There could be though a different
4 interpretation on it. I don't know.

5 But shortly, Mr Ayena, please.

6 MR AYENA ODONGO: [10:03:03] Yes, I mean, Mr President, your Honours, when
7 the interpreter says "and we informed," that is not the true interpretation. He says
8 they knew what is stated by him. The interpretation of what he actually said was
9 that perhaps those under us also knew. But he did not say we informed them.

10 PRESIDING JUDGE SCHMITT: [10:03:33] Then again to the interpreter, could we,
11 could you clarify that perhaps?

12 THE INTERPRETER: [10:03:38] Your Honour, could we play it once again?

13 PRESIDING JUDGE SCHMITT: [10:03:42] Yes, of course.

14 MR OBHOF: [10:03:43] Your Honour, there is also a written transcript in Acholi in
15 the evidence where they might be able to read it.

16 PRESIDING JUDGE SCHMITT: [10:03:49] But with the written, you can always say
17 there is --

18 MR OBHOF: [10:03:55] (Overlapping speakers)

19 PRESIDING JUDGE SCHMITT: [10:03:56] -- there is a sort of misunderstanding
20 when it's written down, so because of that I thought it might be an idea simply to go
21 to the original. And the witness has confirmed that he has said that and, from there,
22 we could make an inference what has been said, in my opinion. So perhaps - it is
23 only 10 seconds or so - why not play it again.

24 (Playing of the audio excerpt)

25 THE INTERPRETER: [10:04:41] The witness says:

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1 "That is one thing that all commanders know, that amnesty exists. We inform, and
2 even the people that are under our command know that what the government say
3 is true."

4 PRESIDING JUDGE SCHMITT: [10:04:58] Okay. Thank you.

5 Please proceed, Ms Gilg. And there is of course, there is a possibility to interpret this
6 like with all, all wording, and what the witness said, let me put it this way, is not, is
7 also, we have also noted that, his explanation. But perhaps we can ask him first,
8 Ms Gilg, again, when he now listens to this interaction here and this interpretation if
9 he wants to add something or if he has something to say to that. We could try it, at
10 least, and then you can proceed.

11 MS GILG: [10:05:38] I am happy to move on, but if you think it would be useful.

12 PRESIDING JUDGE SCHMITT: [10:05:41] No, no, why not? He has now -- he also
13 followed what happened here and why not ask him again.

14 MS GILG: [10:05:48] Okay.

15 PRESIDING JUDGE SCHMITT: [10:05:48] I could do it, but ...

16 MS GILG: [10:05:50] Sure.

17 Q. [10:05:52] Mr Witness, you have heard now this beginning portion of your
18 words played a few times. Is there anything that you want to add to the comments
19 you have already made about this point?

20 A. [10:06:08] There is nothing more I can add on to that.

21 Q. [10:06:15] I am going to move to a different topic. We just heard you on
22 Dwog Paco appealing to your former colleagues in the bush to stop their attacks on
23 civilians.

24 I want to ask you now about some specific episodes from the period after
25 Operation Iron Fist started. One of the groups of civilians that were targeted for

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1 attacks were the Langi, right?

2 A. [10:06:58] Correct.

3 Q. [10:07:00] The Langi were targeted because Kony thought that they were against
4 the LRA, right?

5 A. [10:07:14] Not really like that. But they had also recruited militias that were
6 supporting the government against the LRA. So that is why Kony felt that the
7 civilians in Lango, not only in Lango, the civilians in Teso, the civilians in Acholi were
8 supporting the government through these militia groups to fight the LRA, to fight
9 against the LRA.

10 So he now has to fight against such groups, against those civilians who have
11 organised to fight against him alongside the government. That is why Kony ordered
12 to attack civilians.

13 MS GILG: [10:08:17] Your Honours, for my next question I am referring to
14 OTP tab 17.

15 Q. [10:08:23] Mr Witness, I have here a record from, I have here a record of
16 communications between commanders. You are reported on air, along with
17 Ocan Bunia, Joseph Kony and others. In this logbook it's recorded that Ocan Bunia
18 reported to Kony that Langi have completely refused to support LRA whereby he
19 wants to cause some havoc against them.

20 PRESIDING JUDGE SCHMITT: [10:09:03] Could you give the witness, please, a time
21 reference.

22 MS GILG: [10:09:07] Yes.

23 Q. [10:09:07] Mr Witness, this record is from (Redacted)

24 And after Bunia said that he wanted to cause some havoc against the Langi, Kony
25 told Bunia just to begin killing Langi. That's the kind of thing you heard Kony

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1 saying about the Langi, isn't it?

2 A. [10:09:42] On that day I did not tune on to my radio so I was not on air.

3 Q. [10:09:52] Mr Witness, I am not asking you if you heard that particular order.

4 I'm asking you if that was the kind of thing you heard Kony say.

5 A. [10:10:11] Yes, I heard.

6 Q. [10:10:13] Now one of the big attacks on the Langi was at Barlonyo IDP camp,
7 right?

8 A. [10:10:24] Correct.

9 Q. [10:10:27] And this attack was retaliation for some Langi having joined the local
10 defence forces, right?

11 A. [10:10:45] That was correct, because the local defence forces were very many in
12 that area alongside the government soldiers, they were mixed and they were in that
13 location.

14 Q. [10:11:02] And you heard about Barlonyo from one of the commanders that was
15 present there, right?

16 A. [10:11:14] Correct.

17 Q. [10:11:17] The LRA killed a lot of civilians at Barlonyo, correct?

18 A. [10:11:31] Yes, I heard that many civilians were killed in Barlonyo.

19 Q. [10:11:40] Mr Witness, I want to ask you now about a different place, Oroko IDP
20 camp. Oroko IDP camp was one of the places attacked by the LRA, wasn't it?

21 A. [10:12:06] I did not know much about the attack at Oroko.

22 Q. [10:12:27] Mr Witness, I am going to play another audio recording now.

23 The Prosecution submits that this is an intercepted recording of senior LRA

24 commanders speaking on the radio call on March 15, 2003. Please listen closely and

25 I'll ask you some questions about it afterwards.

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1 Your Honours, the audio recording is OTP tab 10, UGA-OTP-0241-0303, we will play
2 timestamp 26:30 to 29:08. The corresponding transcript is OTP tab 11, rows 634 to
3 698. The rolling transcript will be on evidence 2.

4 (Playing of the audio excerpt)

5 MS GILG: [10:16:21] Your Honours, I am not going to say the purported date again,
6 but I am informed that I misspoke and you can see what the Prosecution submits the
7 date to be from the intelligence report at OTP tab 12.

8 Q. [10:16:41] Mr Witness, you heard Kony speaking on that recording, right?

9 A. [10:16:48] Correct.

10 Q. [10:16:52] He was telling another commander to shoot the people of Oroko,
11 right?

12 A. [10:17:03] Correct.

13 Q. [10:17:05] And he said, "Man, you should kill more than eight hundred people."
14 Right?

15 A. [10:17:14] Correct.

16 Q. [10:17:16] And he said the people there were useless, right?

17 A. [10:17:26] Correct.

18 Q. [10:17:26] And he said, if left alive, they would be working for Museveni.
19 Right?

20 A. [10:17:39] Correct.

21 Q. [10:17:39] Mr Witness, having heard the recording and discussing it just a little
22 bit, do you remember hearing it while you were in the bush?

23 A. [10:17:58] While I was still in the bush I didn't hear, because the radio that we
24 had was not functional, it was not tuned on.

25 Q. [10:18:18] Mr Witness, let's talk about Odek now.

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1 Yesterday you told us about some radio messages relating to the Odek attack. One
2 of the people who was talking about Odek on the radio call was Dominic Ongwen,
3 wasn't it?

4 A. [10:18:49] There was information to everyone who had radio call, Kony spoke to
5 all those who had radio call on a call sign. Those who were tuned on the radio were
6 listening to what Kony was saying about Odek.

7 Q. [10:19:14] But Dominic Ongwen was not just listening, you heard him speaking,
8 right?

9 A. [10:19:29] I did not hear him speak. The person who spoke was different from
10 Dominic Ongwen, was another commander who responded to what Kony was saying.
11 He was another commander who responded to the orders that Kony was giving. So
12 it was another commander who responded to him.

13 Q. [10:20:04] Mr Witness, you said something different about this in your
14 Prosecution interview, and I want to read that to you now. I am going to read out
15 the English text, but you can follow along with the Acholi in the binder.

16 MS GILG: Could someone at the video-link location please help the witness find
17 tab 20 in the big binder, the Defence binder. The exact reference is Defence tab 20,
18 UGA-OTP-0275-3343 at pages 3369 to 3370, lines 864 to 891.

19 MR CURLEWIS: [10:21:14] (Via video link) What is that line again?

20 MS GILG: [10:21:17] It is page 3369 at the bottom and the line 864.

21 MR CURLEWIS: [10:21:22] (Via video link) Thank you. Found it.

22 MS GILG: [10:21:25]

23 Q. [10:21:25] You have it there before you, Mr Witness?

24 MR CURLEWIS: [10:21:28] (Via video link) Yes.

25 THE WITNESS: [10:21:31] (Interpretation) Yes, I have it.

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1 MS GILG: [10:21:36]

2 Q. [10:21:36] Mr Witness, at this part of your interview you are being asked about
3 different attacks, you have just finished talking about Lira-Palwo and then the
4 interviewer moves to a different topic, Odek.

5 I am going to start reading at line 864.

6 Question: "Okay, Odek. What did you hear about Odek?"

7 Answer: "Odek, I heard they went and fought there."

8 Question: "What did you hear and, again, nothing to do with the FM radio, what
9 did you hear within the LRA?"

10 Answer: "Within the LRA the people who attacked Odek was Sinia. I heard
11 Dominic Ongwen talking to Kony and he was asking Kony that he should go and
12 work in Odek. So Kony accepted that these people from my home area are very
13 difficult people, you go and teach them a lesson."

14 Question: "So Kony was the one ... sorry, I'll just get this right. Dominic requested
15 to go to Odek or Kony said you go to Odek or Kony said, 'you go to Odek'?"

16 Answer: "No, no, no. Dominic is the one who request."

17 Question: "Okay. Why?"

18 Answer: "To go and attack Odek. The reasons, I do not know."

19 Mr Witness, I put it to you that one of the very first things that came to your mind
20 when asked about Odek was that Dominic Ongwen had requested to attack there.
21 You said that because it's the truth, right?

22 MR OBHOF: [10:23:44] Objection, your Honour. That's badgering the witness.

23 The witness has explained this before and this is why yesterday in our private session
24 we noted that the Defence provided the transcript so he could review them and
25 correct their accuracy. Not the Prosecution beforehand.

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1 PRESIDING JUDGE SCHMITT: [10:23:57] But it's simply -- we have here something
2 on the table, so to speak, that might be different from other documents, and of course
3 we have to enquire where the difference comes from. And the witness can simply be
4 asked if he can explain the difference between what we have here and between what
5 he has said other times, for example, yesterday.

6 So we can put it this way, Mr Witness. So we have here, you have this here in front
7 of you, it has been read to you in English. You could follow it in the Acholi language
8 as it is written down here. What do you say to that?

9 THE WITNESS: [10:24:44] (Interpretation) As I said before, Kony was speaking to all
10 the people with call signs. Then one commander different from Dominic asked
11 because the Sinia sickbay was also around that area of Odek. Then the Gilva sickbay
12 was also in Odek and another sickbay for Trinkle was also in Odek. So one of the
13 commanders responded to Kony's message that true, the people of Odek were
14 disturbing the sickbay. So indeed those people need to be worked on, just like Kony
15 has said.

16 And this information came from one of the commanders who had gone to check on
17 how the sickbay was, because also some of his soldiers, some of his group were in
18 that sickbay. So all these exchanges were taking place when he was with the people
19 in the sickbay. That was the response of the other commander to Kony's message on
20 radio call.

21 What I know is that maybe the day we had this interview, the interpretation was not
22 very correct. The Sinia group was in different -- had different groups, they were in
23 two small, small groups. There were those that were in the sickbay and then there
24 were those that were under other commanders in different locations.

25 PRESIDING JUDGE SCHMITT: [10:26:34] That's of course completely different to

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1 what we have here. And I think this has been recorded also. Mm-hmm. So please
2 continue, Ms Gilg.

3 MS GILG: [10:26:51]

4 Q. [10:26:54] Mr Witness, you have the written transcript of what you said to the
5 Prosecution there before you. This was made on the basis of the audio recording of
6 your interview. Are you saying that you don't accept that the written transcript is
7 correct where you say that Ongwen requested to attack Odek?

8 MR OBHOF: [10:27:17] I am going to object, your Honour. Before every
9 Prosecution interview --

10 PRESIDING JUDGE SCHMITT: [10:27:19] No, no. No objection here. This is
11 absolutely justified to ask that. Because we have, we have also to distinguish
12 between interpretation and what has been recorded. When we have something -- of
13 course, if we have verified what has been said in the original Acholi language there
14 might be an issue with the interpretation, but if it is clear what has been said in Acholi,
15 then similarly to what we have done with this intercept, we could verify with an
16 interpreter here what the correct interpretation is. So we have a little bit to
17 distinguish that. And we must give the witness the chance to clarify that, I think.

18 MR OBHOF: [10:28:01] It's actually not on that part, your Honour. My objection
19 was based on the fact that each witness is told that they can recount and have a copy
20 and read over it beforehand. This witness never received a copy of the written or the
21 audiotapes and they were provided by the Defence, which is why the summary
22 shows up different in the first one because we asked him to read it over and make
23 annotations and say --

24 PRESIDING JUDGE SCHMITT: [10:28:25] I would --

25 MR OBHOF: [10:28:25] -- what is right and what is wrong.

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1 PRESIDING JUDGE SCHMITT: [10:28:27] For example, are the audio recordings of
2 this available? Then I simply suggest that we have enough time and we take this
3 time, that the witness is given the opportunity to listen to that. Because then we
4 have the similar -- you understand my point. Interpretation is something different,
5 that there might of course always be issues with interpretation, but what has been
6 said in the original language at the time, if we have this on the table, it is no problem
7 really simply to verify and to clarify what the right interpretation would be in English
8 so that we Judges and most of the people here would understand it.

9 MR CURLEWIS: [10:29:10] (Via video link) Mr President, do you want us to answer
10 the question?

11 PRESIDING JUDGE SCHMITT: [10:29:12] Yes, I think we should give him, before
12 we entertain this, into this procedure, we should give him the opportunity to answer
13 to that.

14 If you want to say something to that, Mr Witness.

15 Especially if you could read now, I think, what is written down here as your -- as
16 what you said in Acholi. And the question would be: Is that correct, what is
17 written down here in Acholi? Does this reflect what you have said?

18 MR CURLEWIS: [10:29:48] (Via video link) Thank you.

19 PRESIDING JUDGE SCHMITT: [10:29:49] Yes.

20 THE WITNESS: [10:30:00] (Interpretation) Okay, from what I have seen, some
21 portions are correct.

22 PRESIDING JUDGE SCHMITT: [10:30:11] Ms Gilg, you can continue. The question
23 would be which portions, or whatsoever.

24 MS GILG: [10:30:17]

25 Q. [10:30:18] Which portions are not correct? You say some portions are correct.

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1 What specifically is not correct?

2 A. [10:30:30] The incorrect portion is where reference is being made to the fact that
3 Dominic requested to go and fight at Odek.

4 MS GILG: [10:30:49] Your Honours --

5 THE WITNESS: [10:30:51] (Interpretation) It was a different commander who did
6 that. A different commander made that comment.

7 MR TAKU: [10:30:59] May it please, your Honours.

8 I rarely rise these days. The answer he has been given should be given in the context
9 of his in-court explanation. I do not think that the Prosecutor or the investigators
10 explored the entire circumstances of what happened with Odek with this witness.
11 Their focus was, their focus in the investigation was Dominic, in fact. Of course that
12 is not what is in the charges, because in the charges they themselves said that
13 commander was involved in Odek. That's what the charges, the confirmed charges
14 say, although they have not mentioned his name or led any evidence about his
15 involvement at all until now.

16 And even though in my opening statement I challenged them, they haven't done that.
17 Here is a witness who now talks about the involvement of that commander and what
18 he did in this case.

19 But whatever the case, we should look at what he has said in the context of his
20 in-court explanation of what was there as opposed to what he said to investigators.
21 That is the reason why he is here in the courtroom.

22 PRESIDING JUDGE SCHMITT: [10:31:56] Yes, of course it is. I agree insofar as in
23 the end we have to assess the totality what has been said here in the courtroom. But
24 when we have different narratives, so to speak, in different statements, it has to be
25 enquired which one is correct. That is perfectly clear. And we are in the process of

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1 doing this.

2 Ms Gilg.

3 MS GILG: [10:32:25] Your Honours, we would propose to play the audio recording
4 of the written transcript and then it can be interpreted by the interpreters in the
5 courtroom.

6 PRESIDING JUDGE SCHMITT: [10:32:36] I know again, so we started this today, so
7 this is again a burden on the, on the interpreters, but I think the answers are relatively
8 short that have been given, at least when I look at that, and we should give it a try.

9 THE INTERPRETER: [10:32:56] Okay, your Honour.

10 MR OBHOF: [10:32:57] Well, your Honour, I would suggest we do this after the first
11 break only because the Defence --

12 PRESIDING JUDGE SCHMITT: [10:33:02] Absolutely. Absolutely.

13 MR OBHOF: [10:33:03] The Defence has never had -- does not have copies of these
14 audio recordings.

15 PRESIDING JUDGE SCHMITT: [10:33:06] Absolutely. That would have been the
16 next thing I would have said, that everybody has to have enough time to prepare.
17 Also for this proceeding.

18 The question would be if you can meaningfully continue with your examination or
19 should we have the break now, then?

20 (Counsel confer)

21 MS GILG: [10:33:48] We can continue. We could also take the break and we sort
22 out the audio recording.

23 PRESIDING JUDGE SCHMITT: [10:33:55] I simply would really leave it up to you
24 now, what you think makes more sense.

25 MS GILG: [10:34:06] Perhaps we could take a break and we come back early. This

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1 is what I would propose.

2 PRESIDING JUDGE SCHMITT: [10:34:12] Yes. So then perhaps we have a break
3 until a quarter past 11, is that okay? That is not too excessive, but we have a little bit
4 more than normally, a quarter for everyone, because we are people who are used to
5 certain times and this is a little bit different than normally. A quarter past 11.

6 THE COURT USHER: [10:34:31] All rise.

7 (Recess taken at 10.34 a.m.)

8 (Upon resuming in open session at 11.17 a.m.)

9 THE COURT USHER: [11:17:38] All rise.

10 PRESIDING JUDGE SCHMITT: [11:18:01] We are glad that we still have a look into
11 the video-link location. I have heard there are -- might be problems, but why not be
12 lucky today.

13 Ms Gilg, can you continue, please.

14 MS GILG: [11:18:17] Yes, your Honour. We will play the audio recording now that
15 corresponds to the transcript portion that I read out.

16 PRESIDING JUDGE SCHMITT: [11:18:25] Exactly the short -- this one page or what
17 it is.

18 MS GILG: [11:18:28] Exactly.

19 Sorry, just one note, we will play it first and we don't ask for interpretation, and that
20 may settle the matter. We can put something to the witness at that point. If
21 necessary, we can ask the interpreters to assist with a line by line translation
22 afterwards.

23 PRESIDING JUDGE SCHMITT: [11:18:49] I think that's fair if -- yes, I think that
24 that's okay. That could perhaps potentially, we don't know, shorten the whole thing.
25 Or, Mr Obhof.

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1 MR OBHOF: [11:18:58] Just briefly before we play the audio.

2 The Defence itself is not contesting what may or may not have been said on this date.

3 The Defence contests that, similar to Rule 68(2)(b) before statements are signed,

4 people get a chance to review them and to make any corrections or something that

5 they may have made in error, as which what the Defence did with this witness to

6 review his statements, which is why the two times that we have talked to him about

7 this and why the summary reflects as such.

8 PRESIDING JUDGE SCHMITT: [11:19:27] Okay. Thank you. Then we continue,

9 simply.

10 (Playing of the audio excerpt)

11 PRESIDING JUDGE SCHMITT: [11:21:23] Did I hear that also in English? Yes,

12 okay. So it was not only me.

13 Please, Ms Gilg.

14 MS GILG: [11:21:31]

15 Q. [11:21:33] Mr Witness, we just heard you telling the Prosecution investigators

16 that Dominic was the one who requested to attack Odek. That's right, isn't it?

17 A. [11:21:50] Yes, in the recording that was just played, that's exactly what I heard.

18 But it was the Sinia sickbay and a different sickbay, but it was Sinia sickbay that was

19 there.

20 PRESIDING JUDGE SCHMITT: [11:22:11] I think we can continue, Ms Gilg, from

21 that. That's enough.

22 MS GILG: [11:22:16]

23 Q. [11:22:23] So why did you tell the Prosecution investigators it was Dominic?

24 A. [11:22:31] I told them that it does not necessarily mean that that's what I said,

25 but I said everybody was listening to what Kony was saying and there were other

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1 commanders who were supporting what Kony was saying. Because if your
2 commander speaks you have to agree with what he is saying and confirm that you
3 are going to take the relevant action that he wants you to do. And that was the
4 content of the discussion over the radio call.

5 PRESIDING JUDGE SCHMITT: [11:23:16] I think you can move on, Ms Gilg.

6 MS GILG: [11:23:23]

7 Q. [11:23:23] Mr Witness, I'm going to play you another audio recording now.

8 The Prosecution submits that this is an intercepted recording of senior LRA
9 commanders speaking on the radio call in May 2004. To give you a sense of time,
10 this is a few weeks after the Odek attack. It's also around six or seven months before
11 you left the bush.

12 Your Honours, the ERN for this recording is at OTP tab 7, with UGA-OTP-0235-0043.

13 The corresponding transcript is at OTP tab 8. We will play track 2, timestamp 4:03 to
14 6:30 seconds. We won't show the transcript to the witness, but we do have a rolling
15 transcript display and this can be displayed to the public as well as everyone in the
16 courtroom.

17 (Playing of the audio excerpt)

18 PRESIDING JUDGE SCHMITT: [11:26:31] I have the impression that the quality was
19 sometimes not as good as with the other recordings, so I think we would also have to
20 ask the witness if he understood everything what has been said.

21 MS GILG: [11:26:45]

22 Q. [11:26:46] Mr Witness, were you able to understand what was being said in the
23 recording?

24 A. [11:26:53] Yes, I did understand everything that was said in the recording.

25 PRESIDING JUDGE SCHMITT: [11:27:01] So I was wrong, simply. So it's

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1 remarkable always, I have to say.

2 MS GILG: [11:27:07] Your Honours, I will need to move into private session for my
3 next few questions. I estimate around four or five minutes.

4 PRESIDING JUDGE SCHMITT: [11:27:17] Then we go to private session. This is,
5 for the audience here in the gallery, this is to protect the identity of the witness.
6 Private session.

7 (Private session at 11.27 a.m.)

8 THE COURT OFFICER: [11:27:28] We're in private session, Mr President.

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

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12 Page redacted – Private session.

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6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Open session at 11.34 a.m.)

17 THE COURT OFFICER: [11:34:05] We are back in open session, Mr President.

18 MS GILG: [11:34:15]

19 Q. [11:34:18] Mr Witness, I want to ask you just a couple of questions about Pajule
20 now. Yesterday, you told us that you heard Otti on the radio reporting to Kony
21 about the Pajule attack and that they had lots to talk about. During this report, you
22 heard Otti telling Kony that many civilians had been abducted at Pajule, right?

23 A. [11:34:54] That's correct.

24 Q. [11:34:56] And Otti said that some civilians had been killed?

25 A. [11:35:07] That's correct.

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1 Q. [11:35:10] And also that houses had been burned?

2 A. [11:35:17] He stated that.

3 Q. [11:35:22] And in response Kony was laughing about what happened during the
4 attack, right?

5 A. [11:35:35] That's correct.

6 Q. [11:35:41] I want to ask you now about Lukodi. You heard about the May 2004
7 attack on Lukodi, didn't you?

8 A. [11:35:59] Yes, I did.

9 MS GILG: [11:36:04] Your Honours, please could we go into private session for just
10 a few questions so I can establish his source of knowledge.

11 PRESIDING JUDGE SCHMITT: [11:36:17] Private session.

12 (Private session at 11.36 a.m.)

13 THE COURT OFFICER: [11:36:21] We are in private session, Mr President.

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 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 (Open session at 11.38 a.m.)
- 14 THE COURT OFFICER: [11:38:37] We are back in open session, Mr President.
- 15 MS GILG: [11:38:47]
- 16 Q. [11:38:50] Mr Witness, according to what you heard, the Lukodi attack was
- 17 a combined attack by Sinia and Gilva brigades, right?
- 18 A. [11:39:07] That's correct.
- 19 Q. [11:39:14] And Olak Otulu was one of the two leaders of the Lukodi attack,
- 20 right?
- 21 A. [11:39:25] That's correct.
- 22 Q. [11:39:33] He was a major in Gilva brigade at the time, correct?
- 23 A. [11:39:40] That's correct.
- 24 Q. [11:39:45] The other leader of the attack was Dominic Ongwen, correct?
- 25 A. [11:39:52] The commander from Sinia brigade under the leadership of

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1 Dominic Ongwen.

2 Q. [11:40:11] And prior to the attack Kony summoned Otulu and Ongwen on the
3 radio call to order the attack on Lukodi, right?

4 A. [11:40:27] He issued an order to Olak Otulu and he issued another order
5 informing Dominic Ongwen that one of his commanders who is with Olak Otulu
6 should now go. The commander who has joined Olak Otulu should go and attack
7 Lukodi. He informed him.

8 Q. [11:41:07] Mr Witness, Kony in fact told both Otulu and Ongwen to select
9 able-bodied men to go to the attack, didn't he?

10 A. [11:41:23] The -- he told them to select soldiers from Gilva, from Olak Otulu, but
11 from Silva brigade, the commander that had separated from Dominic Ongwen had
12 now gone and joined Olak Otulu and it was no longer necessary to select another
13 group of soldiers. He went in with the soldiers that he had with him.

14 Q. [11:42:00] Mr Witness, you said something at least somewhat the different when
15 you spoke with the Defence just a few years ago in 2016. I want to read that to you
16 now. It's Defence tab 7, UGA-D26-0011-0443, at 0469, lines 1031 to 0143.

17 Mr Witness, you are talking here about about Lukodi and you say this: "Olak ... and
18 Dominic, these were the brigades that is. So they were given instruction that should
19 select able men to go and attack Lukodi."

20 Question: "So in other words, Dominic Ongwen was to select -- are you saying that
21 Dominic was to select able men from his group, Sinia?"

22 Answer: "Yes."

23 Question: And then Olak Otulu was to select able men from his group?

24 Answer: "Exactly."

25 That's correct, isn't it, Mr Witness?

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1 A. [11:43:17] That's correct, as I stated earlier.

2 Q. [11:43:28] And prior to the Lukodi attack, there was a pre-attack briefing that
3 took place in Palaro, right?

4 A. [11:43:46] I'm not very sure about the events at Palaro.

5 Q. [11:43:56] Well, let's set aside for the moment the location. You heard that
6 there was a pre-attack briefing before the Lukodi attack, right?

7 A. [11:44:09] No, I did not hear that.

8 Q. [11:44:17] Mr Witness, I want to read you something from your Prosecution
9 interview, the reference is Defence tab 21, UGA-OTP-0275-3380 at 3396. It's line 518.
10 Actually, I'm going to start at line 515.

11 You are asked, Mr Witness: "You talked about the briefing, do you know where that
12 happened?"

13 And you answer: "The briefing took place in Palaro."

14 I'm going to read on a couple of lines.

15 "It was Otulu and the IO who briefed me that this is where the standby came from.

16 They prepared the standby from there." That's correct, isn't it, Mr Witness?

17 A. [11:45:16] Yes, that's correct because I was thinking about perhaps talking to
18 civilians.

19 Q. [11:45:32] Yes. And let's talk about what Dominic Ongwen and Otulu did
20 specifically at the pre-attack briefing. Let's talk about Ongwen, specifically.

21 Dominic Ongwen selected fighters from his Sinia forces to go to the Lukodi attack,
22 correct?

23 A. [11:46:00] Soldiers, the soldiers that went, there were two joined groups, that's
24 correct.

25 Q. [11:46:15] And Dominic Ongwen selected the fighters that should go from his

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1 forces, correct?

2 A. [11:46:25] Those soldiers who went to fight had already separated from Dominic.
3 They went and now entered into Gilva's group and they were added on to the fighters
4 who were supposed to go and attack Lukodi. But Ongwen was just informed that,
5 "Your soldiers under the leadership of Okello Kalalang are going to attack Lukodi."

6 Q. [11:47:02] Well, you say that Dominic Ongwen was informed of this, but in fact
7 he was present when it was happening, isn't that right?

8 A. [11:47:12] At the time that the information was being given over the radio call he
9 was present.

10 Q. [11:47:33] And he was also present when they were preparing the standby prior
11 to the attack, correct?

12 A. [11:47:45] The standby was prepared by Olak Otulu and Okello Kalalang.

13 Q. [11:48:01] Mr Witness, I want to read you what you said on this point in your
14 Prosecution interview in 2015. It's Defence tab 21, UGA-OTP-0273-3380, at 3395 to
15 3396, this is lines 498 to 512.

16 MR OBHOF: [11:48:33] Well, your Honour, just briefly, it's not an objection, just
17 making the same notation we did for Odek, and that in relationship to the
18 Prosecution transcripts, they were provided to him and he made comments, hence the
19 summary might be different.

20 PRESIDING JUDGE SCHMITT: [11:48:49] We have taken note of it.

21 MS GILG: [11:48:51]

22 Q. This is what you said, Mr Witness:

23 "So each of them went to prepare his group, after listening to the order, they went and
24 prepared their groups, and then it was not just that one group went to the barracks
25 and another group went to the civilians, they were combined groups. And

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1 addressing the standby before going for the attack, both officers addressed them
2 before going there."

3 Question: "And who were these officers?"

4 Answer: "Dominic and Olak Otulu."

5 Mr Witness, that's correct, isn't it?

6 A. [11:49:44] Correct.

7 Q. [11:49:50] And Ongwen was nearby Lukodi during the fighting itself, wasn't he?

8 A. [11:50:03] I did not know the exact location where he was, because I was in
9 Palabek. And usually we communicate over the radio call. But when I learnt from
10 his IO called Okello Smart, he told me they were looking for some of their people who
11 had separated from them but did not have a radio call.

12 So by the time they received the orders to go to Lukodi, they were on the move to
13 look for their other group members who had separated so that they could bring back
14 all of them and join them together.

15 They were in an area, they were going towards the area called Chome at the
16 riverbank of Chome, that is where they were heading to to look for some of their
17 people who had separated from them.

18 Q. [11:51:13] Mr Witness, my question was not about the exact location of
19 Mr Ongwen. I'm not asking you to confirm that. I don't expect you to know that.
20 What I want to know is, what I want to confirm is that, according to your information,
21 Dominic Ongwen was nearby Lukodi during the attack because he was one of the
22 two leaders, correct?

23 A. [11:51:45] Correct.

24 Q. [11:51:52] Let's talk now about what happened at the attack. Civilians were
25 killed in Lukodi, weren't they?

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- 1 A. [11:52:11] That kind of thing happened.
- 2 Q. [11:52:18] And it happened -- and, in fact, Kony wanted civilians to be killed in
- 3 Lukodi, didn't he?
- 4 A. [11:52:28] Yes, that was correct.
- 5 Q. [11:52:37] And one reason for this was retaliation for Lukodi civilians having
- 6 joined the local defence forces, right?
- 7 A. [11:52:50] Correct.
- 8 Q. [11:52:58] And another reason was to drive civilians out of the camp, right?
- 9 A. [11:53:07] Correct.
- 10 Q. [11:53:13] He wanted to disperse them, correct?
- 11 A. [11:53:20] Correct.
- 12 Q. [11:53:23] And Kony in particular wanted children to be killed, right?
- 13 A. [11:53:31] I did not understand so much about the killing of children, but what
- 14 he hated most was the adults, the people who were old enough. But for children,
- 15 mostly, they were abducted, and he would take them to the bush. But if you are in
- 16 the age range that he cannot take you when you are already like a family person,
- 17 Kony will just kill you.
- 18 Q. [11:54:16] Let's look at what you said in your Prosecution interview, this is
- 19 Defence tab 21 again, 0273-3380, at lines 385 to 395. Mr Witness, you were asked:
- 20 "Just in relation to Lukodi, there were a number of -- sorry, there were some children
- 21 killed", a number of "children killed. Did you hear why they were killed?"
- 22 Answer: "That was -- it was an order from Kony that they should go and commit
- 23 atrocities that people have not" killed "before, so that nobody goes back to Lukodi."
- 24 Mr Witness, children were to be killed so that nobody goes back to Lukodi, right?
- 25 A. [11:55:10] That was what Kony said, that was according to what he mentioned.

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1 MS GILG: [11:55:28] Your Honours, for my next questions I need to go into a brief
2 private session, only a few minutes.

3 PRESIDING JUDGE SCHMITT: [11:55:34] Yes, private session.

4 (Private session at 11.55 a.m.)

5 THE COURT OFFICER: [11:55:37] We are in private session, Mr President.

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

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12 (Redacted)

13 (Redacted)

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14 (Open session at 12.02 p.m.)

15 THE COURT OFFICER: [12:02:10] We are back in open session, Mr President.

16 MS GILG: [12:02:16]

17 Q. [12:02:18] Mr Witness, you have told us yesterday that according to you, there
18 was no forced distribution of girls or women as wives in the LRA. You would agree
19 with me, wouldn't you, that all or virtually all of the women in the LRA had been
20 abducted, at least as of the Operation Iron Fist period?

21 A. [12:02:59] Yes, that's correct, all of them were abducted.

22 Q. [12:03:05] None of them joined the LRA voluntarily, right?

23 A. [12:03:11] Correct. Correct, none of them joined voluntarily.

24 MS GILG: [12:03:20] Your Honours, I'm going to get into some specifics now, so I'm
25 going to have to ask to go back to private session. It, again, will only be a few

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1 minutes.

2 PRESIDING JUDGE SCHMITT: [12:03:30] Of course we always appreciate it if we
3 can group it together, but I know this is not so easy in that instance. Back to private
4 session.

5 (Private session at 12.03 p.m.)

6 THE COURT OFFICER: [12:03:45] We are in private session, Mr President.

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

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16 (Redacted)

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5 (Open session at 12.08 p.m.)

6 THE COURT OFFICER: [12:08:36] We are back in open session, Mr President.

7 MS GILG: [12:08:45]

8 Q. [12:08:47] So, Mr Witness, you had at least six wives in the bush, right?

9 A. [12:09:00] Correct.

10 Q. [12:09:03] Now, you said yesterday that after women were abducted there was
11 a three-month waiting period before they could become wives. No one was allowed
12 to have sex with an abducted woman or girl before the waiting period ended, right?

13 A. [12:09:26] Correct.

14 Q. [12:09:30] That was against the rules in the LRA, right?

15 A. [12:09:36] Correct.

16 Q. [12:09:38] And subject to punishment?

17 A. [12:09:45] Correct.

18 Q. [12:09:49] And the waiting period policy, this three-month period, that was
19 well known in the LRA, wasn't it?

20 A. [12:09:59] That is it.

21 Q. [12:10:05] And all the commanders knew about it, right?

22 A. [12:10:11] Correct.

23 MS GILG: [12:10:16] Your Honours, I'm now going to reference the material in OTP
24 tabs 20 to 21. I won't be showing it to the witness. I just flag that for the Court and
25 parties.

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1 Q. [12:10:30] Mr Witness, if I'm understanding the rule correctly, to have sex with
2 a girl one month after her abduction was an infraction, right?

3 A. [12:10:48] Correct.

4 Q. [12:10:50] Anyone who did that could expect to be punished, right?

5 A. [12:10:55] That is true.

6 Q. [12:11:03] And to have sex with a girl the very day of her abduction would be
7 a severe infraction; isn't that right?

8 A. [12:11:13] Correct.

9 Q. [12:11:18] Anyone who did that was risking getting in big trouble, right?

10 A. [12:11:26] Correct.

11 Q. [12:11:32] Mr Witness, according to you, after the three-month period abducted
12 girls would be divided into the different brigades, right?

13 A. [12:11:46] Correct.

14 Q. [12:11:51] And after they were given to these different brigades, it was then the
15 brigade commanders who divided them, right?

16 A. [12:12:03] The brigade commander will have the authority to distribute them
17 when they have already had a relationship or courtship going on between them. But,
18 before that, the brigade commander will first keep them and take care of them within
19 his homestead in that three-month period.

20 PRESIDING JUDGE SCHMITT: [12:12:38] And what would happen after the
21 three-month period?

22 THE WITNESS: [12:12:46] (Interpretation) After the three-month period the
23 authority is now given to them that they can get into courtship, they can choose the
24 man that they have -- they liked. And in that courtship, once they have made up
25 a decision, the information is sent to the brigade commander and then the brigade

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1 commander will send the information to Joseph Kony and it is now Joseph Kony to
2 agree and authorise and say, "Okay. It is okay. You can give this wife to this
3 person because they have seen that they can be able to take care of them."

4 PRESIDING JUDGE SCHMITT: [12:13:29] Ms Gilg.

5 MS GILG: [12:13:32]

6 Q. [12:13:32] Mr Witness, you heard about the abduction of the Lwala school girls,
7 right?

8 A. [12:13:43] Concerning Lwala, yes, I heard about it when it was being talked
9 about.

10 Q. [12:13:59] You remember hearing about it over the radio call, correct?

11 A. [12:14:06] Correct.

12 Q. [12:14:14] Isn't it true that some of the Lwala girls were distributed as wives to
13 Ocan Bunia?

14 A. [12:14:34] I did not know whether they were given to Ocan Bunia, because at
15 that time we were in different locations.

16 Q. [12:14:47] And some Lwala girls were given as wives to Odhiambo; isn't that
17 right?

18 A. [12:15:00] That is correct.

19 Q. [12:15:03] And others were distributed as wives to Abudema, right?

20 A. [12:15:15] No, Abudema was not given wives. He didn't have wives, from
21 what I understood.

22 Q. [12:15:28] Mr Witness, I'm looking at a record of a radio communication on
23 22 July 2003, around a month after the abduction of the Lwala girls.

24 Your Honours, this is OTP tab 14.

25 Mr Witness, isn't it true that Tabuley sent a radio message on this date relaying LRA

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1 headquarter's directives about how to divide the Lwala girls?

2 A. [12:16:04] At the time the radio that I had was faulty, so I did not hear this
3 information. But I heard the information afterwards, when I met some of the other
4 people who informed me that the girls were distributed to men.

5 Q. [12:16:31] Isn't it true that the girls allocated to Abudema as wives were with
6 you at one point?

7 A. [12:16:45] No, there was no wife that was distributed to Abudema who was in
8 my household.

9 Q. [12:17:08] And you, according to you, you were never keeping some of the
10 Lwala girls for Abudema until he returned from Teso. Is that what you're saying?

11 A. [12:17:22] When Abudema was going to Teso I was in the sickbay. I did not
12 have -- or, I was not able to take any -- to take care of any of the girls other than
13 Kony's wives.

14 Q. [12:17:56] Mr Witness, according to the record I have here, at least some of the
15 Lwala girls were being divided among the commanders as wives about a month after
16 their abduction?

17 PRESIDING JUDGE SCHMITT: [12:18:15] I think we go back to -- we go to a private
18 session.

19 (Private session at 12.18 p.m.) *(Reclassified entirely in public)

20 THE COURT OFFICER: [12:18:22] We are in private session, Mr President.

21 PRESIDING JUDGE SCHMITT: [12:18:35] I simply would like to put this on the
22 table that there could be a self-incrimination issue with regard to answering this
23 question, or couldn't it be?

24 MS GILG: [12:18:51] I'm done with asking anything specifically related to his
25 potential involvement.

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1 PRESIDING JUDGE SCHMITT: [12:18:56] Because if he was anyhow involved, there
2 might arise this issue and out of also protection of the witness, I think I wanted to
3 simply put this on the table. So if, for example, the answer would be "Yes, of course
4 I was involved somehow," we would have this issue, yes.

5 MR TAKU: [12:19:18] Your Honours, one minute. Besides the elaborate statements
6 from the victims themselves, the girls, which are Rule 68 -- they are all in the
7 transcripts, and you will read what they say about that. And I want to draw your
8 attention to this, that the victims themselves recorded statements for the Prosecutor
9 which are already in evidence and it will clarify that.

10 PRESIDING JUDGE SCHMITT: [12:19:38] But you understand my point here, that
11 we have a witness sitting and there might arise issues of self-incrimination and we
12 have given him assurances. And one of the assurances, as I have understood it, is
13 once such a question arises, it should be entertained and answered and discussed in
14 private session. Yes.

15 Ms Gilg.

16 MS GILG: [12:20:02] And are we still in private session?

17 PRESIDING JUDGE SCHMITT: [12:20:07] I hope so.

18 MS GILG: [12:20:08] Okay. I just have a few more questions and I don't think it
19 needs to be in private session. It won't --

20 PRESIDING JUDGE SCHMITT: [12:20:14] Then we go back to open session.

21 (Open session at 12.20 p.m.)

22 THE COURT OFFICER: [12:20:20] We are back in open session, Mr President.

23 MS GILG: [12:20:27]

24 Q. [12:20:29] Mr Witness, we have looked at a report of the Lwala school girls being
25 divided up as wives about a month after their abduction, you have spoken before

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1 about a courtship period that would happen, three months or somewhere after three
2 months. As far as the Lwala girls, you are not suggesting that this was consensual,
3 are you? A month after their abduction?

4 A. [12:21:07] Based on my personal thoughts, that order would have come from
5 Kony and Kony would have issued the order that the girls should be distributed to
6 men, so whoever is given a girl cannot refuse to accept that girl.

7 Q. [12:21:37] And from the perspective of the school girls, there's no courtship
8 going on, right? They don't have a choice about the matter?

9 A. [12:21:49] That's correct.

10 MS GILG: [12:21:59] We are finished, your Honour.

11 PRESIDING JUDGE SCHMITT: [12:22:04] Thank you, Ms Gilg.

12 The question to the representatives of the victims, Mr Narantsetseg first.

13 MR NARANTSETSEG: [12:22:13] No question, your Honour. Thank you.

14 PRESIDING JUDGE SCHMITT: [12:22:15] Mr Manoba.

15 MR MANOBA: [12:22:16] We do not wish to question this witness.

16 PRESIDING JUDGE SCHMITT: [12:22:18] Thank you. And of course like always,
17 the Defence has the possibility to have the last say, so to speak.

18 MR OBHOF: [12:22:26] Your Honour, would it be okay if we took the lunch break
19 and then collect ourselves? I can't imagine any more than 20 minutes, 20 or
20 30 minutes, but I think right now would be, if you know what I mean, a good time for
21 a break.

22 PRESIDING JUDGE SCHMITT: [12:22:39] Yes, I accept that. Then we meet again
23 at 2 o'clock after the lunch break and then we wrap it up.

24 I have understood, Mr Obhof. Thank you.

25 THE COURT USHER: [12:22:51] All rise.

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1 (Recess taken at 12.23 p.m.)

2 (Upon resuming in open session at 2.02 p.m.)

3 THE COURT USHER: [14:02:19] All rise.

4 PRESIDING JUDGE SCHMITT: [14:02:42] Mr Obhof, you have the floor.

5 MR OBHOF: [14:02:45] Thank you very much, your Honour.

6 And as the Scorpions have said, I have the Winds of Change. We have discussed
7 some of the issues and we are only going to be about two or maybe five minutes for
8 the redirect.

9 PRESIDING JUDGE SCHMITT: [14:02:55] That's fine with us.

10 MR OBHOF: [14:03:00] But it will all have to be in private session, your Honour.

11 I can explain quite briefly. And if you think we can go back, we will come back into
12 public, but I can explain briefly.

13 PRESIDING JUDGE SCHMITT: [14:03:10] So I think you would explain it in private
14 session, I think. I trust you like always.

15 So this is not ideal for the public, but it has to be done every once in a while to protect
16 the identity of the witness. But Mr Obhof has assured us that we can go back to
17 open session quite quickly. But then also not for a long time, as I understand it. So
18 we go to private session.

19 (Private session at 2.03 p.m.)

20 THE COURT OFFICER: [14:03:46] We are in private session, Mr President.

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

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9 (Open session at 2.04 p.m.)

10 THE COURT OFFICER: [14:04:48] We are back in open session, Mr President.

11 MR OBHOF: [14:04:54]

12 Q. [14:04:55] Mr Witness, when I met you after -- I don't know if there is a problem
13 hearing me.

14 A. [14:05:11] I can hear you.

15 Q. Okay. Sorry.

16 PRESIDING JUDGE SCHMITT: [14:05:10] I don't want -- I think, Mr Gray Curlewis,
17 of course your client is more important, but we would appreciate it also if you
18 understood everything. But obviously you have problems, but Mr Witness
19 understands everything and I don't assume that Rule 74 issues will arise at this
20 moment.

21 Mr Obhof, please continue simply.

22 MR OBHOF:

23 Q. [14:05:41] Now, Mr Witness, these differences that were discussed today
24 between what you told the Defence and what you told the Prosecution, do you
25 remember how many times we discussed about these differences?

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1 A. [14:06:04] We discussed them.

2 Q. [14:06:09] Was it just once or did we discuss them more than once?

3 A. [14:06:20] We discussed them more than once.

4 Q. [14:06:26] Do you remember why -- what I told you about why we were
5 continuously discussing these?

6 A. [14:06:44] I do recall, but I have somewhat forgotten.

7 Q. [14:06:48] If you would like, you can tell us what you can remember. Or, if you
8 can't remember, it's okay. Just let us know what you remember. If you only
9 remember a part, it's okay.

10 A. [14:07:04] What I do recall is that with respect to the information or the issues
11 that I was to discuss with them were issues that they understood and they were able
12 to interpret properly and not guesswork. I should not guess. I should tell them
13 what I saw, what I witnessed personally and what I heard personally.

14 Q. [14:07:45] Then after our first meeting, do you remember how many times you
15 met with the Office of the Prosecutor, after our first meeting?

16 A. [14:08:04] After our first meeting I did not meet anybody else from the Office of
17 the Prosecutor.

18 MR OBHOF: [14:08:15] Your Honour, Defence, the Defence is completed.

19 I wish you good travels back, Mr Witness.

20 PRESIDING JUDGE SCHMITT: [14:08:22] Thank you very much.

21 This concludes the testimony of you, Mr Witness. On behalf of the Chamber I would
22 like to address you, I would like to thank you for having made yourself available as
23 a witness in these proceedings and that you came to the video-link location for three
24 days, I think, if I recall it correctly. We wish you, from the Bench here, a safe trip
25 back home.

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1 And we also thank Counsel Gray Curlewis for assisting him and we wish you a nice
2 weekend also.

3 MR CURLEWIS: (Via video link) Thank you.

4 (The witness is excused)

5 PRESIDING JUDGE SCHMITT: [14:08:57] This applies to everyone here in the
6 courtroom too and we reconvene with the testimony of D-27, I think it is, at 9.30 on
7 Monday.

8 MR OBHOF: [14:09:07] I'm sorry, because we won't have the time to do it, with
9 D-108 it might end up being a video link. We just found this out during the lunch
10 break which would be --

11 PRESIDING JUDGE SCHMITT: [14:09:16] So which is then the next witness?

12 MR OBHOF: [14:09:18] No, no, no. He will be in about a week and a half.
13 Monday after. I will send an email.

14 PRESIDING JUDGE SCHMITT: [14:09:25] But D-27 was wrong?

15 MR OBHOF: [14:09:27] No, D-27 is here.

16 PRESIDING JUDGE SCHMITT: [14:09:29] So it is correct. D-27, Monday, 9.30.

17 THE COURT USHER: [14:09:37] All rise.

18 (The hearing ends in open session at 2.09 p.m.)

19 RECLASSIFICATION REPORT

20 Pursuant to the Trial Chamber' IX's instructions, ICC-02/04-01/15-497, dated 13 July
21 2016, the public reclassified and lesser redacted version of this transcript is filed in the
22 case.