

1 International Criminal Court
2 Trial Chamber IX
3 Situation: Republic of Uganda
4 In the case of The Prosecutor v. Dominic Ongwen - ICC-02/04-01/15
5 Presiding Judge Bertram Schmitt, Judge Péter Kovács and Judge Raul Cano
6 Pangalangan
7 Trial Hearing - Courtroom 3
8 Friday, 16 August 2019
9 (The hearing starts in open session at 10.16 a.m.)
10 THE COURT USHER: [10:16:40] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE SCHMITT: [10:16:58] Good morning, everyone. Finally, the
14 technical problems have been solved and we hope that the situation is stable and that
15 we continue from then on.
16 We - just for the planning of the day - we plan to have our break in the morning at
17 a quarter past 11, then restart at a quarter to 12, go to 1 o'clock and shorten the lunch
18 break half an hour to regain a little bit of time, at least.
19 Court the court officer please call the case.
20 THE COURT OFFICER: [10:17:36] Good morning, Mr President, your Honours.
21 The situation in the Republic of Uganda, in the case of The Prosecutor versus Dominic
22 Ongwen, case reference ICC-02/04-01/15.
23 And for the record, we are in open session.
24 PRESIDING JUDGE SCHMITT: [10:17:48] Thank you.
25 I call for the appearances of the parties.

1 Mr Do Duc for the Prosecution.

2 MR DO DUC: [10:17:54] Good morning, your Honours. My name is Hai Do Duc,
3 and Ben Gumpert, Pubudu Sachithanandan, Yulia Nuzban, Milena Bruns,
4 Jasmina Suljanovic and Grace Goh are with me here today.

5 PRESIDING JUDGE SCHMITT: [10:18:10] Thank you.

6 And for the representatives of the victims, Mr Manoba.

7 MR MANOBA: Good morning, Mr President, your Honours. Joseph Manoba and
8 James Mawira.

9 PRESIDING JUDGE SCHMITT: [10:18:17] Mr Narantsetseg.

10 MR NARANTSETSEG: [10:18:18] Good morning, Mr President, your Honours.

11 Orchlon Narantsetseg with Ms Caroline Walter. Thank you.

12 PRESIDING JUDGE SCHMITT: [10:18:22] And for the Defence, Mr Obhof.

13 MR OBHOF: [10:18:24] Good morning, your Honours. Today we have Chief
14 Charles Achaleke Taku; Beth Lyons; myself, Thomas Obhof and Dominic Ongwen is
15 in Court today.

16 PRESIDING JUDGE SCHMITT: [10:18:31] Thank you.

17 The Defence is now calling D-19 as its next witness and, as you can see, the witness is
18 not yet in the courtroom. The reason is that we have to discuss quickly an issue of
19 Rule 74 assurances like we did in the past. No Rule 74 counsel has been appointed
20 and no request in that regard has been made.

21 We have to go to private session for that, yes, of course, I was a little bit too quick here.

22 But for the audience, not long.

23 (Private session at 10.19 a.m.)

24 (Redacted)

25 (Redacted)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Open session at 10.20 a.m.)

19 THE COURT OFFICER: [10:20:56] We are in open session, Mr President.

20 PRESIDING JUDGE SCHMITT: [10:20:58] Thank you very much.

21 The Chamber will now pronounce itself on the necessity of Rule 74 assurances for the
22 upcoming witness.

23 The prior recorded statement of the witness contains passages which relate to
24 potential crimes committed by the LRA. However, these passages are of a general
25 nature; the witness does not incriminate himself specifically.

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 But taking into account the entirety of the prior recorded statement of the witness, the
2 Chamber finds that there is some possibility of self-incrimination. However, this
3 probability is of such low threshold that the Chamber does not find it necessary to
4 grant assurances pursuant to Rule 74 of the Rules in order to effectively protect the
5 witness.

6 Accordingly, it determines that Rule 74 assurances are not necessary.

7 As has been done previously, the Chamber may, however, resort to the use of private
8 session if it deems it necessary. This is especially the case for attacks in which
9 the -- in which personally the witness -- which the witness personally participated in,
10 had some involvement potentially or witnessed them. And I'm sure that the Defence
11 will also be vigilant in this regard like always and everybody else in the courtroom
12 too. This concludes the oral decision of the Chamber and we can now bring the
13 witness into the courtroom.

14 (The witness enters the courtroom)

15 PRESIDING JUDGE SCHMITT: [10:23:43] Good morning, Mr Okilan. Do you hear
16 me?

17 WITNESS: UGA-D26-P-0019

18 (The witness speaks Ateso)

19 THE WITNESS: [10:23:48] Yes. Good morning.

20 PRESIDING JUDGE SCHMITT: [10:23:49] That was a quick answer and a very
21 strong one.

22 On behalf of the Chamber, I would like to welcome you in the courtroom. There
23 should be a card in front of you with a solemn undertaking, at least I hope so.

24 Would you please be so kind to read it out aloud.

25 No card there? Then I do it for him. No, this can -- Mr Witness, I'm informed that

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 the card is in courtroom 1, which does not help you and me in courtroom 3. So what
2 we are doing is that I read out the oath that everyone who testifies here as a witness in
3 this, before this Court has to undertake. I will read it to you and ask you then if you
4 understand and agree.

5 So please listen carefully: I solemnly declare that I will speak the truth, the whole
6 truth --

7 THE WITNESS: (No Interpretation)

8 PRESIDING JUDGE SCHMITT: [10:24:50] You're a little bit too quick, Mr Witness.

9 Let me please start again; the interpreters have to follow.

10 I solemnly declare that I will speak the truth, the whole truth and nothing --

11 THE WITNESS: (No interpretation)

12 PRESIDING JUDGE SCHMITT: [10:25:06] So there seems to have been an answer
13 and we have -- what did the witness say?

14 THE INTERPRETER: [10:25:13] Message from the interpreters: Could the
15 presiding Judge please slow down.

16 PRESIDING JUDGE SCHMITT: [10:25:18] Mr Witness, we have -- I can already
17 signal that it is very important that we speak slowly today, because there is -- with
18 Ateso interpretation, we are going through two languages and this takes a little bit
19 more time than normally.

20 And also, you would have to wait until I have finished with what I said and
21 everybody has to wait until the person, for example, questioning you something, you
22 have to wait until the person has finished and only start answering when this is the
23 case.

24 So we start this again. And I'm now being informed that the card has been brought
25 from courtroom 1, obviously to this courtroom, and I kindly ask you to read out the

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 solemn undertaking aloud.

2 THE INTERPRETER: Message from the English booth, your Honour: May I make
3 a brief comment before we commence?

4 PRESIDING JUDGE SCHMITT: [10:26:28] Please wait again.

5 Yes, please?

6 THE INTERPRETER: [10:26:30] We're working in --

7 THE WITNESS: (No interpretation)

8 THE INTERPRETER: We're working in consecutive mode today, which means that
9 there has to be a distinct lag; we have to have short sentences and then we have to
10 wait for the interpretation. So it's a completely different mode. Thank you.

11 THE WITNESS: [10:26:50] (No interpretation)

12 PRESIDING JUDGE SCHMITT: [10:27:07] So could you please repeat it again. This
13 is not your fault and not your problem; it's the problem of this consecutive
14 interpretation.

15 THE WITNESS: [10:27:24] (Interpretation) I solemnly swear that I will speak the
16 truth and only the truth.

17 PRESIDING JUDGE SCHMITT: [10:27:47] Thank you, Mr Witness.

18 We have got it now. And as you see, we all have to adapt to it, it includes my person,
19 of course.

20 Mr Witness, the Prosecution has given you an assurance. This assurance means that
21 your testimony will not be used against you in any subsequent proceedings by this
22 Court, whatever you say. Of course, this assurance only applies if you stick to the
23 truth; that is self-evident.

24 If any question will be asked that could lead to your self-incrimination we will go into
25 private session. Private session means that no one outside this courtroom can hear

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 you. In addition, your answer will be kept confidential. When you talk about
2 events, Mr Witness, you witnessed, please give an account of what happened, but not
3 focus on your own acts during your interactions with the LRA.
4 We have already talked about the problems and the little bit of delays of consecutive
5 interpretation, but it seems that we might get into a certain working mode that is
6 really practicable. And the main problem we'll have are the persons who are
7 questioning, which is -- the first person is Mr Obhof. But -- and for you, it's a little
8 bit problematic because you don't have eyes at your back. I can now look to the left.
9 So I give then Mr Obhof the floor.

10 MS LYONS: [10:31:13] Excuse me, your Honour, I interrupted Mr Obhof because
11 Chief Taku doesn't have the English translation, the 2 -- 237. I do for some reason,
12 but it's -- we are having problems here.

13 He has it now. Okay, thank you.

14 PRESIDING JUDGE SCHMITT: [10:31:28] Okay. There might have been some
15 problems in the beginning with the English translation, but they seem to have been
16 solved now. As we see, this is a day which brings us a lot of technical and practical
17 challenges, but like always, we will cope with them.

18 Mr Obhof, please.

19 MR OBHOF: [10:32:01] Thank you, your Honour. And from going into the field
20 every once in a while, I am actually used to this kind of interpretation.

21 QUESTIONED BY MR OBHOF:

22 Q. [10:32:18] Good morning, Joseph.

23 A. [10:32:28] Hello.

24 Q. [10:32:38] Could you please state your name to the Court.

25 A. [10:32:46] My name is Okilan Joseph Patrick.

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 Q. [10:32:59] When and where were you born?

2 A. [10:33:05] I was born in 19 -- I was born on the 3 -- on 5 March 1945 in Mukura
3 and in the district of Ngora in Teso.

4 Q. [10:33:52] What do you today for a living?

5 A. [10:33:58] I'm a trader.

6 Q. [10:34:18] What is your highest level of education?

7 A. [10:34:24] I studied until senior 4.

8 Q. [10:34:39] After senior 4, what did you do for a living?

9 A. [10:34:50] I was -- I got employment with the civil service in the ministry of
10 agriculture and then I went to the ministry of trade, and thereafter I went into a
11 business. Then, within that time, I also joined the UPA rebel group.

12 Q. [10:36:08] Mr Witness, when did you join the UPA?

13 A. [10:36:21] I joined -- I joined the UPA around mid-1987, just right in the middle.

14 Q. [10:36:51] For that previous year, from when the NRA overthrew the previous
15 government until when you joined the UPA, how did this new government treat the
16 people of Teso?

17 A. [10:37:16] The situation was not good at all because the new government came
18 in and started to arrest people, people were arrested and beaten. And some of those
19 that were arrested were soldiers that were in the previous government. So that was
20 one of the reasons why people now came together to begin to fight against that
21 government.

22 Q. [10:38:35] From what you understand, why did the NRA overthrow the
23 government in 1986?

24 A. [10:38:51] Let's say it should be the government to actually answer that question
25 because the government that they overthrew was calm and peaceful.

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 Q. [10:39:39] Around the formation of the UPA, who was its leader?

2 A. [10:39:54] A gentleman called Moses Eregu.

3 Q. [10:40:09] During the 1980s, did the UPA seek out the assistance of any other
4 group withinside of Uganda?

5 A. [10:40:26] Uganda, being a landlocked country in the middle of several other
6 countries, even Teso is right in the middle in Uganda, so that gave us a lot of
7 difficulty in seeking support for our -- our army and therefore we were conditioned to
8 go to Sudan to seek support for our army.

9 Q. [10:41:45] During the 1980s, did Moses Eregu attempt to do anything with the
10 government of Uganda?

11 THE INTERPRETER: [10:43:17] Your Honour, the message from the interpreter:
12 Could the witness please be requested to go a little bit slower?

13 PRESIDING JUDGE SCHMITT: [10:43:26] Yes. Mr Witness, you have perhaps
14 heard it. I think the problem is not -- you are speaking at a really moderate slow
15 pace, but perhaps you stop every couple of sentences, two or three or four at the
16 maximum, and then if you are in a narrative, we wait, the interpretation, and then
17 you simply pick up. Because it's -- I really admire the interpreters, how they cope
18 with this difficult situation. So perhaps we can do it this way, that you stop after two
19 or three phrases and then they interpret and then you start again.

20 MR OBHOF: [10:44:31] I will repeat my previous question and we can go slower.

21 Q. [10:44:35] So during the 1980s, did Moses Eregu attempt to do anything with the
22 government of Uganda?

23 A. [10:44:46] Yes, he tried, after he realised that there was nothing else that could
24 be done. That happened because there were some assistants that came from Sudan
25 through Kenya, but then it was --

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 THE INTERPRETER: [10:45:53] Sorry, your Honour, I'll take that again: There was
2 difficulty from -- in bringing in help from Sudan, so it was taken through Kenya,
3 where again there were problems to get them -- to get the support to Uganda.

4 THE WITNESS: [10:46:20] (Interpretation) There was a problem especially in the
5 area of the money, and that is what led to Eregu's death.

6 Later on, later on, we took -- later on, we agreed that we should meet with the LRA
7 and work with them. Before that, Eregu had already contacted the LRA with the
8 view to work with them. At the -- upon the death of Eregu, it was then --

9 THE INTERPRETER: [10:47:51] Your Honour, message from the interpreter: The
10 sentences are too long.

11 THE WITNESS: (No interpretation)

12 PRESIDING JUDGE SCHMITT: [10:47:57] Okay, Mr Witness, I get again a message
13 from the interpreters. It would be good if we could speak in short sentences and
14 only, as I said, two or three. And you can also have, with one eye, you can look to
15 the booth and you see when the light is on there, on the right booth, they are still
16 translating what you have said. And once the light goes out, you can start again to
17 speak.

18 And perhaps also you can -- I know you are normally here as a witness to provide
19 testimony, now you have to adjust to all these things, perhaps you can also have
20 a look, when I make a gesture like that, that you can perhaps stop for the moment and
21 then the interpreters can resume.

22 THE WITNESS: [10:48:51] Okay.

23 PRESIDING JUDGE SCHMITT: [10:48:52] This applies of course for everyone here
24 in the courtroom, and I have to admit that I also have quite some problem to adjust to
25 the situation. Mr Obhof, the least, obviously.

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 So where have we been by the way now?

2 MR OBHOF: [10:49:11] We are right around the death of Moses Eregu.

3 PRESIDING JUDGE SCHMITT: [10:49:16] Yes. So please continue, Mr Witness.

4 THE WITNESS: [10:49:57] (Interpretation) Upon the death of Eregu, those of us who

5 remained in Uganda now decided to come together. So when we came together, we

6 got information that Sudan is ready to help us; so we were introduced to the LRA.

7 So LRA requested for six commanders who will definitely receive the support that

8 we -- UPA had got from Sudan.

9 MR OBHOF: [10:51:10]

10 Q. [10:51:10] A few quick follow-ups from what you were explaining. Do you

11 remember around which year Eregu was killed?

12 A. [10:51:33] I don't quite remember. I don't quite remember, but it could have

13 been somewhere around 1988, '89, there.

14 Q. [10:52:25] What happened structurally with the UPA after Eregu died?

15 A. [10:52:34] UPA divided up. There was no leadership. People separated into

16 small groups.

17 Q. [10:53:12] You mentioned earlier that for the people who remained in Uganda.

18 Did other parts of these small groups go to any different countries from the UPA?

19 A. [10:53:27] Yes, they were divided into small groups. Some went to Kenya.

20 Those who were taken by Eregu were taken to LRA out of Teso. Some of us

21 remained in Teso. That means we were in the middle.

22 Q. [10:54:32] When the UPA was contacted by Sudan - and I believe earlier you

23 stated they wanted you to come in 1996 - around how long was this time frame from

24 when they first contacted you or contacted the UPA to 1996?

25 A. [10:54:57] We had an external wing in Nairobi that had already started talking

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 to ... That is how -- that is how the military hardware that was sent to us through
2 Kenya came while we were still in Uganda.

3 (Inaudible) in Kenya, then we settled for a while. Around '96, that is when it was
4 that it was -- it should come through LRA.

5 So since around 1983 to about 1996, that was the time when our relationship with
6 LRA took place.

7 Q. [10:57:25] Let me ask a very quick follow up because we heard 1983 to 1986 -- on
8 the interpretation, is that the correct date range, from 1983 to '96?

9 A. [10:57:48] It -- if you recall what I said, if you -- if you recall what I said earlier,
10 that we had an external wing, and so it should be around 1983 that this whole thing
11 started, until about 1996 when now we, who were in Uganda, were also able to go.

12 PRESIDING JUDGE SCHMITT: [10:58:49] I think for everyone, Mr Witness, the best
13 is simply to stop after one sentence; I think that is the best. I recognise now because
14 the interpreters and also all the others, do not know when you want to continue and I
15 think it's simply better if you stop after one sentence.

16 I know this is -- it's already difficult enough to come as a witness to this Court and
17 then to adapt like this makes things even more difficult, but I think we recognise as
18 a Chamber that you are really willing to do that and you are an intelligent person,
19 you understand what we mean by that and you understand also the difficulties; so
20 thank you very much.

21 Mr Obhof, please continue.

22 MR OBHOF: [10:59:44]

23 Q. [10:59:47] Now you mentioned that people were supposed to go to Sudan in
24 1996. Which people went to Sudan?

25 A. [11:00:27] I'm one of them. Robert Okodel, Nathan Opolot, Miana -- Miana

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 Robert, who changed his name to Miana Umaro, then Elungat Justine. Those are the
2 five people but should have been six. But Jimmy Nyangabatur came later. Makes
3 us six.

4 Q. [11:01:36] Who led, who was the leader of these five persons who initially went
5 to Sudan?

6 A. [11:01:50] The leader was Nathan Opolot.

7 Q. [11:02:04] Has Nathan Opolot ever gone by any other names?

8 A. [11:02:12] Those are the names I know.

9 Q. [11:02:24] Now briefly, for the Court, could you explain how you travelled from
10 your location up to Sudan?

11 A. [11:02:40] Started myself -- started myself between 1991 --

12 PRESIDING JUDGE SCHMITT: [11:03:25] I think, Mr Obhof, more important is
13 what happened there. How they got there is not I think something we should put
14 too much effort in.

15 MR OBHOF: [11:03:36] That's why I mentioned briefly. If I could be more direct.

16 Q. [11:03:42] In 1996, did the five of you take planes from Nairobi to Khartoum and
17 to Juba to meet with the LRA?

18 A. [11:04:08] When I met -- when we met in Nairobi, when we met in Nairobi,
19 when we met in Nairobi, the Sudan government gave us a plane to go to Juba. From
20 Juba we went to meet Kony where he was stationed. The place is called Aruu.

21 Q. [11:04:54] Now besides Kony, when you first arrived did you meet with any
22 other persons from the LRA?

23 A. [11:05:03] We met Raska Lukwiya. There was also Tolbert Nyeko. There was
24 Odego, Odego was from West Nile Bank Front. Then he also joined LRA. I also
25 met Sam Kolo. Those were the commanders that we met in the first meeting we had.

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 Q. [11:06:19] What transpired during these first few sets of meetings?

2 A. [11:06:31] Told them our purpose for support, them to take the armoury that we
3 had been given. We had told them we want to be on our own, not to be with them.
4 Later on, later on they did not allow us to be on our own. They wanted us to be with
5 them to fight the government while we are under their command. That happened.
6 We -- we found difficulty, found difficulty to leave the LRA because we thought we
7 would take about two weeks with them. They -- they refused us to leave. They
8 told us to be their command. "When you get those guns, it will stay here." We
9 used the guns.

10 PRESIDING JUDGE SCHMITT: [11:08:29] May I ask a question? Mr Witness,
11 where would the guns and the weapons come from?

12 THE WITNESS: [11:08:44] (Interpretation) The Sudan government would give us
13 and it was helping LRA to -- to get for them their weapons.

14 PRESIDING JUDGE SCHMITT: [11:08:59] Do you recall what kind of weapons?

15 THE WITNESS: [11:09:08] (Interpretation) It was a range of -- from small guns to the
16 big ones; include, small gun, SMG, then the big ones like LMG, SPG-9, one that can
17 hit a tanker. There's one we called B-10. That is the one -- that's the one called
18 recoilless gun. Also got SAM7. SAM7 could hit an aircraft.

19 We also had grenade launchers, small grenade launchers; others including small ones
20 that blows and those that you -- those that you put in the ground. There were
21 anti-tankers, those that blow off the big tank.

22 PRESIDING JUDGE SCHMITT: [11:11:13] Thank you.

23 Mr Obhof.

24 We could also have perhaps now a break, after this answer. Perhaps one follow-up, if
25 you want. I see that you are on the jump to ask this one question, please.

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 MR OBHOF: [11:11:33] Thank you, your Honour.

2 Q. [11:11:35] Now, you mentioned you thought you were only going to be at this
3 meeting for two weeks. What had the LRA planned to do if you would have left this
4 meeting?

5 A. [11:12:00] The LRA that were coming -- that support would come that would
6 take the armoury to Teso with us. When -- when that become -- when that became ...
7 So we were made to stay. When that happened, we decided that we wanted to leave
8 because the LRA had failed to escort us with our support. We told them.

9 Commander called Odego ... to be careful. If we mentioned that we wanted to go,
10 we were going to be ambushed. "They will give you a vehicle to take you to Juba,
11 but on the way, they will ambush you. So relax for your life."

12 PRESIDING JUDGE SCHMITT: [11:14:08] I think that is what you wanted to
13 inquire.

14 So we will have now a coffee break until a quarter to 12.

15 And before we go into this coffee break already, really, a big thank you to Mr Witness.
16 That he's trying very well to adapt through this not easy situation. Thank you very
17 much.

18 THE COURT USHER: [11:14:35] All rise.

19 (Recess taken at 11.14 p.m.)

20 (Upon resuming in open session at 11.46 a.m.)

21 THE COURT USHER: [11:46:22] All rise.

22 Please be seated.

23 PRESIDING JUDGE SCHMITT: [11:46:52] Mr Obhof, you still have the floor.

24 MR OBHOF: [11:46:57] Thank you, your Honour.

25 Q. [11:47:02] Good morning, Joseph.

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 A. [11:47:08] Hello.

2 Q. [11:47:18] At the time you were taken to Aruu, who commanded the operations
3 of the LRA?

4 A. [11:47:34] It was Joseph Kony.

5 Q. [11:47:43] Who advised Joseph Kony on military strategies and policies?

6 A. [11:48:10] He was advised by the spirits. I think he had his God who would
7 advise him on what to do.

8 Q. [11:48:44] If Kony gave an operational order, could a person in the LRA refuse
9 to follow said order?

10 A. [11:49:13] For Kony there was no one who would disobey his orders, and if you
11 disobeyed him, you would be put to death if you refused to do what he has asked you
12 to do.

13 In addition, the people that were with the LRA were like prisoners. They had no
14 rights. The only person who had rights was Kony.

15 Q. [11:50:22] When you were taken to Aruu, how many brigades were there in the
16 LRA?

17 A. [11:50:47] There were three brigades and then the bigger one, which was Kony's.
18 There were four brigades and the brigades were as follows: There was one called
19 Sinia, then there was another one called Stockree, then there was another one called
20 Gilva, and then Control Altar, which was the biggest of them, controlled by Kony.
21 Raska Lukwiya was the leader of Stockree, then Sinia was led by Sam Kolo, then
22 Tolbert was the secretary-general of Control Altar, which was headed by Kony
23 himself, and then Gilva was headed by Odego.

24 Q. [11:53:02] How much freedom did the brigade commanders have when
25 determining their operational duties?

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 A. [11:53:50] Let's say, if you are the leader of either a brigadier or a battalion, or
2 any section, you have no freedom or right at all to make any decisions. All you had
3 to -- came from Kony, had to go to the brigade, to the battalion, to the section and
4 then to any group. Otherwise, no one had any rights to issue any command if that
5 command is not from Kony.

6 If you took orders and rights to yourself, then that means that you are looking for
7 death. It doesn't matter -- it doesn't matter where you are, whether at war or at base,
8 if you don't follow Kony's commands, that means death is assured for you.

9 Q. [11:56:21] After being forced into the LRA, what position were you given?

10 A. [11:56:50] I was made -- I was made a lieutenant. I started as a second
11 lieutenant, then later on I was made to be a lieutenant. As a second -- as a second
12 lieutenant, I was the adjutant, and then later on, as towards the end of my stay with
13 Kony, I was made to be a commander. And then later on, we escaped.

14 Q. [11:58:11] On that line of escape, what was the punishment for persons who
15 attempted to escape the LRA?

16 A. [11:58:41] For those who would escape, if you were old enough and you are
17 caught, the punishment would be death in front of everyone else, and the mode of
18 death would either be by beating you up or shooting you with a gun.

19 If it's a child who was trying to escape and is caught, that child would be -- all the
20 other children would be called together and then they would be told to step on this
21 child until the child died, as a lesson.

22 That is how Kony would actually scare people, those who would end up being with
23 LRA. So for those who are old enough and can escape, would usually escape.

24 For the children who would be caught, they would -- since they don't have
25 knowledge of the place where they are and because they did not grow up in such

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 a place, what would be done, they would be taught bush ways or how to survive in
2 the bush to divert their minds so that they do not think of escaping.

3 So such children cannot think of escaping because they would fear to be killed like the
4 other children who were unfortunate to have been caught while escaping. So that
5 definitely erases the idea of escaping from their minds.

6 PRESIDING JUDGE SCHMITT: [12:02:51] Mr Obhof, shortly.

7 Mr Witness, did you see personally such punishments?

8 THE WITNESS: [12:03:14](Interpretation) In the battalion where I was, there was
9 a child that escaped. But this child unfortunately was caught. So all the others
10 were rounded up and brought together at one place and the children were called to
11 step on this child, not to beat, but to step on this child until it died.

12 MR OBHOF: [12:04:33]

13 Q. [12:04:34] Who instituted these policies and punishments in the LRA?

14 A. [12:04:56] Like I said earlier, there is nothing that would happen or get done
15 without the word of Kony or the command of Kony. He was the final arbiter.

16 Anybody who makes a mistake and is reported to Kony, it is he who decides -- it is
17 him who decides whether that person is killed or forgiven.

18 It's exactly like being told to kill somebody. And if you refuse to kill the person, it is
19 you who gets killed.

20 That happened to me myself here. I was commanded to kill someone. But then,
21 since I am not used to killing people, I did not. But my commander actually
22 instructed me and told me, "If you don't kill him, you are the one who is going to die."

23 PRESIDING JUDGE SCHMITT: [12:07:31] I think we -- it's a good idea to go shortly
24 to private session for this.

25 So we go to private session.

Trial Hearing
WITNESS: UGA-D26-P-0019

(Private Session)

ICC-02/04-01/15

1 (Private session at 12.07 p.m.) * (Reclassified entirely in public)

2 THE COURT OFFICER: [12:07:52] We are in private session, Mr President.

3 PRESIDING JUDGE SCHMITT: [12:07:54] Thank you.

4 Please continue.

5 THE WITNESS: [12:08:00](Interpretation) At that point, while I was still pondering

6 on what to do, my friend, fortunately he is still alive up to today, came and actually

7 hit this man with a rod until he died. That's how I was saved from death.

8 PRESIDING JUDGE SCHMITT: [12:08:53] Thank you. I think here we all

9 understand why we went shortly to private session. And fortunately the story

10 turned out in a way that does not make it dangerous in that regard.

11 So we go back to open session.

12 Thank you, Mr Witness.

13 (Open session at 12.09 p.m.)

14 THE COURT OFFICER: [12:09:19] We are back in open session, Mr President.

15 PRESIDING JUDGE SCHMITT: [12:09:33] Shortly for you, Mr Obhof, I know of

16 course your summary and also we have read the statement, just as a suggestion,

17 things where we had already a lot of witnesses, a lot of evidence on, for example, role

18 of women and so on, you could at least ponder if you find it so important to discuss it

19 here again.

20 MR OBHOF: [12:09:58] Well I have kept them rather short, and remembering what

21 we had before (Overlapping speakers)

22 PRESIDING JUDGE SCHMITT: [12:10:04] I trust you that you really kept them

23 rather short, but you understand what I mean.

24 MR OBHOF: [12:10:09] Yes.

25 PRESIDING JUDGE SCHMITT: [12:10:09] We have a lot of evidence on certain

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 matters here and we have this witness who can give unique evidence on other matters
2 perhaps than those we have already discussed quite extensively.

3 Please continue.

4 MR OBHOF: [12:10:23] In part it is because he was a full-grown, an adult past his
5 youth too with different perspectives.

6 PRESIDING JUDGE SCHMITT: [12:10:29] I simply wanted to suggest that we keep
7 this part short.

8 Please continue.

9 MR OBHOF: [12:10:48]

10 Q. [12:10:48] Mr Witness, what would be -- or how was adultery dealt with in the
11 LRA?

12 A. [12:11:20] When, when you are recruited into the LRA, what first happens is, if
13 you have any medallions on you, they are all removed and burnt off. Then secondly,
14 they will smear you with coconut butter in order to purify you.

15 What actually happens is that then we are given rules and those rules were to be
16 followed by everybody. Women and gluttony were not part of the rules, they were
17 prohibited. And if we went to war, if the bullet hit you on any of your sexual organs,
18 it means that you committed adultery. If the bullet went through your month, it
19 means that you were a glutton.

20 Q. [12:13:52] Moving on, you talked a little bit about people being purified. Who
21 performed these purification rituals upon the newly abducted persons?

22 A. [12:14:24] There are two stages. In the first stage, when you have just been
23 caught and you are an adult, the first thing that they do is to hit you on the back with
24 the flat end of a panga as a sign that you are now introduced to the hard life of a rebel.
25 And this is done by the commanders as a command from Kony.

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 PRESIDING JUDGE SCHMITT: [12:15:34] I think we can -- you can move to the next
2 point. We have had a lot of evidence on these rituals that are being performed and
3 who is responsible for that and who might be doing that.

4 MR OBHOF:

5 Q. [12:15:58] The last follow-up on the rituals then would be why was this done?
6 Why were these rituals to purify them performed?

7 A. [12:16:34] That was done to remove all the rights and anything else that you
8 came with and to introduce you now to the rights that come from Kony.

9 Q. [12:16:56] Mr Witness, what were the purposes of prayer services in the LRA by
10 Joseph Kony?

11 A. [12:17:26] It was twofold. The first purpose was for Kony to praise his God
12 who gives him all the strength and all the right to do whatever he wants to do. And
13 the second purpose was really to teach those who have just come in and all the other
14 people so that they stop thinking about where they came from or how they were
15 abducted.

16 That kind of looked like a way of politics or probably indoctrination, as it were in
17 Ateso.

18 That was also the time where messages from the spirits were received on what to do
19 and how to do it.

20 PRESIDING JUDGE SCHMITT: [12:19:24] Mr Witness, did you believe in these
21 spirits?

22 THE WITNESS: [12:19:45](Interpretation) Sometimes, just like any human being,
23 you can actually be of disbelief. But again, when you see what happens and it
24 happens according to how Kony would predict, again at that point you believe.

25 Before that he had, he had predicted that, for him, he will never ever be arrested, he

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 will just disappear in thin air. And up to now, unless I am mistaken, Kony has never
2 ever been arrested.

3 So sometimes as a human being, you can actually believe that probably this man's
4 spirits worked. Now, for me, as somebody who has knowledge, a bit of knowledge,
5 I don't believe in those spirits. But since things happened the way Kony had
6 predicted, well, that is how it is.

7 PRESIDING JUDGE SCHMITT: [12:22:04] A very differentiated answer, Mr Obhof.

8 MR OBHOF: [12:22:16]

9 Q. [12:22:17] Joseph, how did Kony feel about witch doctors?

10 PRESIDING JUDGE SCHMITT: [12:22:26] Mr Obhof, is this really necessary about ...

11 MR OBHOF: [12:22:32] Your Honour, it is just one of the questions of the many that
12 I wanted to keep out of the five or six I scratched out during his last --

13 PRESIDING JUDGE SCHMITT: [12:22:40] Yes, but I think we should really --

14 MR OBHOF: [12:22:42] I do remind everybody we did try to attempt to have this
15 witness as a 68(2)(b) and ...

16 PRESIDING JUDGE SCHMITT: [12:22:52] Yes, okay, but I would really also ask you
17 then over the break that you go through it and ask yourself where do you want to
18 tackle issues that we have extensively discussed already and where you really think
19 it's important.

20 I will not now stop you, but simply now keep it short.

21 MR OBHOF: [12:23:13] Yes, this is the only question about --

22 PRESIDING JUDGE SCHMITT: [12:23:15] Especially on the witch doctors.

23 MR OBHOF: [12:23:17] This is the only question --

24 PRESIDING JUDGE SCHMITT: [12:23:19] So to speak.

25 MR OBHOF: [12:23:20] This is the sole question about witch doctors, your Honour.

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 PRESIDING JUDGE SCHMITT: [12:23:25] So you may answer the question,

2 Mr Witness. You have obviously followed.

3 THE WITNESS: [12:24:06](Interpretation) In short, like I said, Kony would smear the
4 coconut butter on somebody who has just come, just in case he had also visited
5 another witch doctor. So his would remove the other spells so that it is only and
6 only him who is followed and understood.

7 Then, in addition, during war even the government itself engaged in witchcraft. I
8 remember one time they brought goats, but those goats were killed. Then they
9 brought dogs, the dogs were also killed. Then they brought a physical human witch
10 doctor who was also killed.

11 MR OBHOF: [12:25:39]

12 Q. [12:25:39] Mr Witness, after being with the UPA before being forced into the
13 LRA, what are some of the major differences between the UPA under Eregu and the
14 LRA under Kony, in terms of military-style operations?

15 A. [12:26:14] The difference between UPA and LRA during war is that UPA fought
16 a conventional war, where the soldiers would lie down and shoot. But with the LRA
17 that was not allowed, so one either had to squat or sit down and then engage in the
18 war.

19 In addition, in UPA, apart from our commanders, we did not have any other
20 commands from anywhere. But in LRA the commands came from the spirits to
21 Kony, and then from Kony to the rest. So in UPA we did not have any commands
22 from spirits.

23 Q. [12:27:57] What was the difference in the manner in which weapons would be
24 used, whether they be an AK-47 or an SMG, when comparing the UPA and the LRA?

25 A. [12:28:31] Just like I said earlier, just like I said earlier, when we were, for

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 example, using the SMG, under UPA we would lie down and shoot. But under LRA
2 we would either squat or sit and no other position would be assumed.

3 As for the bigger guns, or the bigger armoury, we would just carry, or sometimes
4 some people would be caught on the way to carry them. The only time that we
5 would put them down is when we were going to use them when we have met the
6 enemy.

7 MR OBHOF: [12:30:10] Without refreshing his memory, I might put a -- and this is
8 from paragraph 10 of the witness's statement.

9 Q. [12:30:21] Were there times in the LRA when Kony refused for the fighters to
10 use their weapons in battle?

11 A. [12:31:19] There were days when we were not allowed to use the guns, so when
12 we would go to meet the soldiers all that we would do is make noise. And then, if
13 they shot, that is the only time that we would shoot.

14 Q. [12:31:44] During your time in the UPA, had you received similar orders from
15 your superiors?

16 A. [12:32:11] To the best of my knowledge, that did not happen in UPA.

17 Q. [12:32:25] To you best of your knowledge, did the LRA march to Kampala to
18 attempt to overthrow the government similar to as Alice Lakwena tried in 1987?

19 A. [12:33:09] The LRA for a very long time had not gone very far. But after I left
20 the LRA, the furthest that they went was Teso. By that time I had already left LRA.
21 In addition, in the northern part of Uganda he had gone as far as West Nile, but then
22 he was basically looking for food.

23 Q. [12:34:14] Aside from the spirits, aside from prayers, or even the way in which
24 he forced children to watch as others were killed, were there any other type of -- any
25 other ways in which Kony attempted to indoctrinate young children into the LRA?

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 A. [12:35:25] Yes. Actually what happened was that films were shown to the
2 children, and especially the film of Rambo, there was another called Terminator, and
3 then others that depicted war.

4 Q. [12:36:00] Earlier today we spoke a little bit about the military hardware which
5 the government of Sudan provided to the LRA. Was there anything else given to the
6 LRA besides military weapons by the government of Sudan?

7 A. [12:36:51] Apart from the military hardware, Sudan also supported LRA with
8 food and medicine. But these were not enough, so that made the LRA decide to go
9 into looting. So they looted food and medicine. And the lack of food and medicine
10 actually led to some deaths, because there was famine, there was also disease.

11 Q. [12:38:27] In terms of training, who would train new persons, the new abductees
12 in the LRA?

13 A. [12:38:54] This was done twofold: For the new abductees, what would happen
14 is that the commanders and especially the soldiers, the sergeants, would teach them
15 how to assemble and disassemble a gun. But then when it comes to shooting, that
16 they would learn on job.

17 And for the -- and for the heavy armoury, it was the Arabs who taught us. So we
18 would be taken to Juba, and that's where we would mainly meet the Arabs and they
19 would teach us how to use the bigger guns.

20 Q. [12:40:16] For how long did a positive relationship between the LRA and the
21 government of Sudan last?

22 A. [12:40:56] That relationship took a long time. By the time I left the relationship
23 was still there, but there were signs that it was going to disintegrate.

24 That was the time when Sudan was put under pressure to help release -- to help have
25 the Aboke girls released. So the government of Sudan also put pressure on LRA to

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 release the girls. And that is what kind of like looked like it was going to affect the
2 relationship.

3 The other reason why that relationship was shaky was because Sudan had asked LRA
4 to assist the UPA, escort them with the assistance, the military assistance that had
5 been given by Sudan to LRA. And then LRA refused and decided to retain
6 everything, so Sudan was not happy about that.

7 Q. [12:43:08] During your time in the LRA, did you come to know about a person
8 named Otti Lagony?

9 A. [12:43:37] I know Otti Lagony very well because he was the commander of Kony.
10 However, because -- however, because Otti Lagony disobeyed Kony, he and another
11 one called Okello Can Odongo were killed because they disobeyed Kony on the
12 system of war.

13 Okello Can Odonga was my brigade commander. I was his battalion commander at
14 that time. I led a battalion called Mendu, which was in Kwipola battalion in the
15 Stockree brigade.

16 So like I said earlier, that nothing would be done if it did not come from Kony, if the
17 order didn't come from Kony. These gentlemen wanted to go and engage in war,
18 conventional war. So when the information reached Kony, there was nothing else
19 that could happen to them but for them to be killed.

20 Q. [12:46:21] I want to clear one thing up because of the way it shows in the
21 transcript.

22 Who was higher, Otti Lagony or Joseph Kony?

23 And this comes because of lines 7 and 8.

24 PRESIDING JUDGE SCHMITT: [12:46:44] But I think we have understood it
25 correctly.

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 MR OBHOF: [12:46:45] Okay.

2 PRESIDING JUDGE SCHMITT: [12:46:45] Yes. Nobody assumes that the witness,
3 or ... yeah.

4 Please continue.

5 MR OBHOF: [12:46:52] Okay.

6 Q. [12:47:04] Were you present when Joseph Kony ordered the execution of
7 Otti Lagony and Okello Can Odonga?

8 A. [12:47:34] I was there. What happened was members were picked from
9 different battalions, different sections to form one battalion. Then Otti and Okello
10 were brought tied. Then they were taken away and killed. This happened in
11 a place called Jebellin.

12 At that time I was a brigadier admin of Stockree and, indeed, I saw them with my
13 own two eyes. They were tied up very tightly and I knew they were going to be
14 killed.

15 Q. [12:49:27] Do you know who was in charge of the group which eventually
16 would execute Otti Lagony and Okello Can Odonga?

17 A. [12:49:52] Otti and Okello were taken by Abudema, who was a commander in
18 Stockree where I was a member, and Abudema later became the leader of Stockree.

19 Q. [12:50:37] And from your perspective, what significance did the execution of
20 Otti Lagony and Okello Can Odonga have on the people in the LRA?

21 A. [12:51:18] It is significant in two ways: One, the commanders, the LRA
22 commanders were scared. And secondly, it removed hope among the LRA
23 commanders and the soldiers in the war, in that now they realised it was about
24 Kony's spirits and not the war that they wanted to fight.

25 MR OBHOF: [12:52:27] Your Honour, if you'd like to take the break right now, I can

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 almost guarantee I will be done within the first hour of the afternoon session. I have
2 four pages left and I'm going to remove at least half of one of those pages.

3 PRESIDING JUDGE SCHMITT: [12:52:43] Then I would like to enquire with
4 the Prosecution.

5 Do you have already an idea how long your questioning might take?

6 MR DO DUC: [12:52:49] Your Honour, at the moment I could say that it -- no more
7 than 30 minutes.

8 PRESIDING JUDGE SCHMITT: [12:52:55] Then I think we keep the one-hour lunch
9 break and hope that we are done in the afternoon completely.

10 Thank you for the moment and we meet again at 2 o'clock.

11 THE COURT USHER: [12:53:07] All rise.

12 (Recess taken at 12.53 p.m.)

13 (Upon resuming in open session at 2.00 p.m.)

14 THE COURT USHER: [14:00:51] All rise.

15 Please be seated.

16 PRESIDING JUDGE SCHMITT: [14:01:16] Mr Obhof, you still have the floor.

17 MR OBHOF: [14:01:49]

18 Q. [14:01:50] Good afternoon.

19 Now, Mr Witness, when you were a battalion commander, did you have a radio call?

20 A. [14:02:17] I did not have a radio call. That radio call was only available to those
21 who were going for war.

22 Q. [14:02:45] Do you know how the LRA spoke on the radio calls?

23 A. [14:03:08] I remember very well. The use of the radio calls was mainly done
24 with codes. For instance, someone could say, "I have found a gomes (phon). here",
25 and that would either mean that I have found a woman or a woman has run away

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 from here.

2 If you followed the coded language of the radio calls, you probably would get

3 diverted because you would not know exactly what they are saying.

4 The UPDF used to intercept our radio calls, but when they would listen to our radio

5 calls, they would not understand what we are talking about and even the

6 communication was in Acholi.

7 Q. [14:05:43] Two more follow-ups. From what you remember, how often were
8 these codes changed?

9 A. [14:06:17] The changes of those codes was often made on a weekly basis and
10 they all came from the Control Altar. But when we were engaged in a war, the
11 changes would be made even three days.

12 Q. [14:06:42] Now with these codes, what would happen if a commander was
13 captured or escaped?

14 A. [14:07:23] What would happen if a commander was captured, all the codes of
15 that day would be changed and other changes would also occur. Also, in addition,
16 the place where they would be would be changed and then the plan would also be
17 changed.

18 Q. [14:08:09] I'm just going to ask you a few, not a lot but a few questions on wives
19 in the LRA. Now, how did a man and a woman become husband and wife in the
20 LRA?

21 A. [14:09:34] What would happen with the wives, the men and women had no
22 choice of who they wanted. They were just distributed. A woman had no choice or
23 no authority to refuse, neither did the man. So once a woman was given out, the
24 man had to take her as a wife.

25 As for the widows, if the husband of a woman died, for one year she is not to have

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 any man. However, after one year, then she has the freedom to choose from those
2 that are interested and those that are interested first have to ask the brigade
3 commander and tell him that they are interested in this woman. Then the woman
4 chooses from those that are interested in her.

5 PRESIDING JUDGE SCHMITT: [14:11:31] I think Mr Obhof, that's enough.

6 MR OBHOF: [14:11:34] I wanted to ask the policy reason behind it and then can
7 move on. I also (Overlapping speakers)

8 PRESIDING JUDGE SCHMITT: [14:11:40] But this -- but then we move to --

9 MR OBHOF: [14:11:41] Yes.

10 PRESIDING JUDGE SCHMITT: [14:11:42] -- the next issue.

11 MR OBHOF: [14:11:43] Yes.

12 Q. [14:11:47] What was the policy reason or to what you know for Joseph Kony
13 distributing wives to men?

14 A. [14:12:28] The reason for that was to reduce fighting among men for the women.
15 And like I said earlier, this was a command and a command coming from one man.
16 So it is not that somebody would make that choice.

17 Q. [14:13:02] During your time in the LRA or should I say attached to the LRA, did
18 you get to meet Dominic Ongwen?

19 A. [14:13:56] I know Mr Ongwen. When I joined the LRA in 1996 I met Ongwen,
20 but he was only just a young boy. And he was in Gilva, so I know him quite well.
21 From, from Gilva he was taken to Control Altar to be direct -- directly under Kony.
22 Under Control Altar they used to be sent to Uganda to fight, but he used to get a lot of
23 injuries, so many times he would be in the sickbay. There was a place called the
24 sickbay. And that sickbay was under a gentleman called Kwoyelo who is now being
25 charged in Uganda.

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 So Mr Ongwen has grown up in the hands of the LRA because he was taken as a
2 small boy. So he was one of the children who was taught while in captivity and they
3 were using the films that I was talking about earlier.

4 PRESIDING JUDGE SCHMITT: [14:16:33] Mr Witness, when did you see
5 Mr Ongwen the last time?

6 THE WITNESS: [14:17:21] (Interpretation) I saw, I saw Ongwen at the beginning of
7 the year 2000. But in 1999, that's the time we escaped, 1999 around December 31st is
8 when we escaped from a place called Rubanga Tek. That's where we left them.

9 MR OBHOF: [14:17:49]

10 Q. [14:17:49] Earlier you mentioned Dominic being injured. How many times
11 while you were in the LRA do you remember Mr Ongwen being in sickbay?

12 A. [14:19:44] The first time we were all in Uganda, our battalion, the people from
13 our battalion got a lot of injuries and they were taken to the sickbay, where we found
14 Ongwen.

15 The second time I got a problem with my leg and, together with my friend
16 Okot -- Okodel, we were taken to the sickbay and we found Dominic Ongwen there.
17 Because my problem was not serious I did not stay for long, but Okodel stayed for
18 two weeks and again left Ongwen in the sickbay.

19 By the third time I was in Sudan I only just heard, I didn't see him in the sickbay.

20 Q. [14:20:47] When a commander reported to sickbay because of an injury, what
21 was that commander left with?

22 A. [14:22:02] What happens is that, when a commander ends up in the sickbay
23 Kwoyelo, who was in charge of the sickbay had a radio call, so there was no need for
24 the commander also to have one. So he would be asked to release his radio call for
25 somebody else to use, but then he would stay with his escorts and the guns.

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 So at the sickbay all communication had to go through Kwoyelo, because he was the
2 one with the radio and he was the one with all the passwords.

3 Q. [14:23:15] Could you describe the personality or the character of Dominic
4 Ongwen while you were in the LRA?

5 A. [14:23:55] Ongwen was a happy man, talkative. Ongwen was a happy man,
6 talkative, never got angry and he was always joking. He was also a very easy man to
7 deal with and he was very playful, always wanting to play around.

8 Q. [14:24:59] After the -- after you escaped the LRA, what did you hear happen to
9 the senior commanders immediately thereafter, to some of the senior commanders?

10 A. [14:26:08] Fortunately, when we escaped from the LRA we went back to Uganda,
11 to government who gave us the amnesty, and eventually we began to work with
12 government, and then we went with them to Sudan, places where the LRA had been
13 camped. And then also what happened was that it gave opportunity to many others
14 to also escape. Unfortunately, some of them died and some of them, fortunately,
15 were able to escape to safety.

16 For the commanders, a number of commanders actually died. I know for sure
17 Odhiambo died. Raska Lukwiya also died. Abudema also died. Another
18 commander that was in charge of the signal point also died. And then some were
19 injured. For example, when I was in Gulu, Mzee Banya was captured and was
20 brought to Gulu. But there were many other commanders who died and I cannot
21 remember all of them now.

22 Q. [14:28:35] With all of these commanders' deaths and some captures and some
23 escapes, what did that cause within the ranks of the LRA?

24 MR GUMPERT: [14:28:49] Your Honours, not really an objection, but I would ask
25 the witness to be really clear, to differentiate between his own experience while he

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 was a member and what he heard after he left. Some of the individuals named give
2 rise to the need for that differentiation.

3 PRESIDING JUDGE SCHMITT: [14:29:09] Yes, that's correct, but from a civil
4 law -- I don't know if this has something to do with civil law or common law, but the
5 witness has already said he left in December 1999. And I think also we are able to
6 put things together and could infer from when the witness talks about things that
7 happened inside of the LRA afterwards.

8 So of course, it would be for the sake of clarity, it would be okay, but nevertheless,
9 I think it's relatively clear that the witness can give first, his firsthand experience until
10 he left. And afterwards -- and as we know, hearsay is not completely irrelevant. I
11 have several times underscored that it can be -- it depends on the circumstances, on a
12 case-by-case basis, that it can be very relevant too. But I think we can put it together.

13 MR TAKU: [14:30:03] May I --

14 MR GUMPERT: [14:30:06] I certainly -- sorry. I certainly didn't mean to suggest
15 that the Bench won't be able to draw those inferences, only that for the clarity of the
16 record, as your Honour says, I think it would be really helpful.

17 PRESIDING JUDGE SCHMITT: [14:30:12] Okay.

18 MR OBHOF: [14:30:16] But, your Honour, the question was after he had left --

19 PRESIDING JUDGE SCHMITT: [14:30:17] Yes.

20 MR OBHOF: [14:30:18] -- and everything he is talking about is something that
21 happened (Overlapping speakers)

22 PRESIDING JUDGE SCHMITT: [14:30:24] Yes, I also --

23 MR OBHOF: [14:30:24] (Overlapping speakers) after he left --

24 PRESIDING JUDGE SCHMITT: [14:30:24] I would even word it this way: We
25 receive this information by the witness under this assumption.

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 MR TAKU: [14:30:30] May it please the Court.

2 He also said that he went and worked with the government. From the side of the
3 government where he was now operating was a position to know certain things.
4 What happened, he went to Sudan indeed, and therefore it's not just hearsay, as such,
5 but for the fact that he gained the perspective of several things from different sides.
6 I mean, this time he came, he went to work with the government, actually was
7 deployed back in Sudan in order to pursue the LRA. And that is evidence that he
8 gave and that is a sound foundation for him to be able to know some of the things
9 that occurred.

10 Indeed, according to him, it is when they went, they showed where they were, and
11 that's where some of the people were captured and some of the operations occurred,
12 this time from the perspective on the side of the UPF. It doesn't look as if when he
13 went, he just went and that was the end. He continued to take part in the operations
14 but from the other side.

15 PRESIDING JUDGE SCHMITT: [14:31:29] But frankly speaking, I normally follow
16 very attentively what is being said in the courtroom, but we have not yet reached
17 I think the point where the witness has spoken about any involvement with the UPDF,
18 or have we?

19 MR OBHOF: [14:31:43] He stated government. He didn't state UPDF.

20 PRESIDING JUDGE SCHMITT: [14:31:47] In that regard, why not a little bit of a
21 clarification, ask for a clarification, so then we can, Mr Taku, put it into perspective.

22 MR OBHOF: [14:31:58]

23 Q. [14:31:58] Now, Mr Witness, when you say you worked with government, who
24 did you work with after you escaped? And if you can, give us a relative time frame,
25 please.

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 A. [14:32:54] While in Gulu, after we had escaped, we met with the UPDF who
2 asked us to escort them to Sudan to the LRA bases in Sudan. So we went with them
3 and we spent about three months with the UPDF.

4 PRESIDING JUDGE SCHMITT: [14:33:22] And, Mr Witness, this was then in 2000,
5 in the year 2000?

6 THE WITNESS: [14:34:10] (Interpretation) When we escaped, we went to Khartoum
7 and we took a year in Khartoum. That was 2001. And then in 2002, that is now
8 when we came to Uganda to Gulu and that was the time now when we were taken
9 back to Sudan to the bases of LRA.

10 PRESIDING JUDGE SCHMITT: [14:34:35] And this collaboration, so to speak, with
11 the government or the UPDF, did it continue after 2002?

12 THE WITNESS: [14:35:03] (Interpretation) No. We were released and so we went
13 back to our homes.

14 PRESIDING JUDGE SCHMITT: [14:35:08] I think now it is clear enough so that we
15 can move on, Mr Obhof.

16 MR OBHOF: [14:35:17]

17 Q. [14:35:20] Mr Witness, with these deaths, these captures and some of the escapes
18 of these commanders in the LRA, what did that cause from what you would
19 later -- what you would hear within the ranks of the LRA?

20 A. [14:36:30] Just like, just like what would happen in a home, when the head of
21 family dies, the children would usually take over. So even in the LRA, when the
22 commanders died, those that had been mentored, especially under Control Altar,
23 were now made to replace all those that had died. So the young boys took over.

24 Q. [14:37:08] After working with the UPDF and then returning home down to Teso,
25 what, if anything, did you hear about Mr Ongwen?

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 PRESIDING JUDGE SCHMITT: [14:37:25] But please, not only -- I have mentioned
2 this twice now that we obviously have a very intelligent witness; he will not tell us
3 rumours, but we should really call for something with a little bit of substance here.
4 You can hear something from the newspapers or from the media, you see what I
5 mean. So it was very -- your question was very broad, so to speak. So --

6 MR OBHOF: [14:37:47] I can be more specific.

7 PRESIDING JUDGE SCHMITT: [14:37:49] Yes, perhaps a little bit more specific.

8 Although I think the witness will understand that he is not asked to give us rumours
9 here.

10 MR OBHOF: [14:38:00] Yes.

11 Q. [14:38:00] After the death of Charles Tabuley, recently after the death of Charles
12 Tabuley, did you hear anything about Mr Ongwen from some recent escapees?

13 A. [14:39:21] Upon the death of Charles Tabuley, who was actually in control tower
14 and later had been brought to head Gilva, so upon his death, Dominic Ongwen was
15 appointed to be the commander of Gilva. But that is information that I got from a
16 young man called Giba (phon).

17 PRESIDING JUDGE SCHMITT: [14:39:51] As you see, Mr Obhof, I think we can
18 move on.

19 MR OBHOF: [14:40:02] I only have a few more questions.

20 Q. [14:40:06] Why would Kony try to keep people close to him, people in the LRA,
21 why would Kony try to keep people close to him?

22 A. [14:41:06] The brigade of Control Altar was the brigade directly controlled by
23 Kony and it was a brigade that would train all the commanders. Now only those
24 that went through Control Altar, the training in Control Altar, would be trusted to
25 become commanders.

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

- 1 Q. [14:41:49] Mr Witness, you stated that you escaped on or about
2 31 December 1999. Who or what helped you, facilitated your escape from the LRA?
- 3 A. [14:42:53] I would like the Court to understand this very well. That first and
4 foremost, we were collaborating with the government of Sudan and so we went to
5 Sudan under the government of Sudan. By the time we were with the LRA, we were
6 there under the government of Sudan.
- 7 So what happened was that we sent a message back to the government of Sudan and
8 said we want to leave. So then they said: Okay, we are going to send you a vehicle,
9 but on condition that you leave with the Aboke girls.
- 10 So what happened was that we went to cut the trees near the road, then we told them
11 that: What you do, send us a vehicle with some boys so that they pretend as if they
12 are coming to load the wood onto the truck.
- 13 The plan was that after we have cut all that firewood and loaded in the lorry, we
14 would also get onto that lorry, together with the children that we had gone with for
15 that activity.
- 16 This is what I want the Court to understand properly. We left LRA with 60 children
17 that we wanted to help.
- 18 But two things still remain: First and foremost was the kind of indoctrination that
19 these children went through to make them believe that everything else rotated
20 around LRA.
- 21 The second thing is that there was a rumour that LRA used to sell the children to the
22 Arabs. So even at the time we were escaping and we wanted to take them, they
23 were fearful, knowing that we were going to sell them to the Arabs. So when they
24 told them that we are taking you back home, they were scared.
- 25 So when the lorry delayed, we now decided to walk. So what we did, we disarmed

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 all the children so all the older people were the ones with the guns and I myself led
2 the group to walk.

3 Unfortunately, by the time we eventually connected with a lorry, 30 of us had already
4 escaped off again, so the remaining 30 of us went in the lorry with the Arabs to Juba.

5 If you follow from what I said earlier, the kind of indoctrination that these children
6 went through still made these children to run back to the LRA.

7 PRESIDING JUDGE SCHMITT: [14:49:21] Thank you.

8 Mr Obhof.

9 MR OBHOF: [14:49:27] Thank you very much, your Honour. I'm through
10 questioning the witness for now.

11 PRESIDING JUDGE SCHMITT: [14:49:32] Thank you, Mr Obhof.

12 Mr Do Duc.

13 MR DO DUC: [14:49:37] Thank you, your Honour. Can you give me one minute
14 for me to set up my equipment.

15 PRESIDING JUDGE SCHMITT: [14:49:44] I suggest that we have a short break of
16 five minutes, also would

17 MR DO DUC: [14:49:54] Thank you.

18 PRESIDING JUDGE SCHMITT: -- come back.

19 THE COURT USHER: [14:49:56] All rise.

20 (Recess taken at 2.49 p.m.)

21 (Upon resuming in open session at 2.55 p.m.)

22 THE COURT USHER: [14:55:57] All rise.

23 Please be seated.

24 PRESIDING JUDGE SCHMITT: [14:56:19] For the Prosecution, Mr Do Duc, you
25 have the floor.

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 QUESTIONED BY MR DO DUC:

2 Q. [14:56:27] Good afternoon, Mr Witness.

3 We met two days ago and I hope you have been doing well. I am now asking you
4 some questions on behalf of the Prosecution.

5 In your statement when you talk about what was not allowed by the LRA during
6 battles, in your statement you said, and I refer to the end of your statement

7 UGA-D26-0010-0352 at page 0357, paragraph 10, and you said:

8 "The fighters started doubting Kony, he did not allow us to use the weapons."

9 And my question is that when you said the fighters start doubting Kony, you meant
10 that apart from your own group there were also other fighters in the LRA that didn't
11 believe in Kony's spiritual powers; is it correct?

12 A. [14:58:34] No, it's not that he refused people to use ammunition or use guns, but
13 that people lost hope in what Kony was saying because all that he was saying was
14 that they had to follow what the spirits said.

15 PRESIDING JUDGE SCHMITT: [14:59:01] Perhaps may I shortly, Mr Do Duc.

16 And you, Mr Witness, in your opinion you had a more - let me word it this way,
17 I think you will understand it - a more sober approach to military tactics. Am I right
18 here?

19 THE WITNESS: [14:59:49] (Interpretation) True. I am used to conventional war,
20 the one that we all know about. Unfortunately, for the LRA it was as per the
21 commands from the spirit.

22 MR DO DUC: [15:00:10]

23 Q. [15:00:11] Now we are talking about the escape, and during your time in the
24 LRA you knew the LRA fighters who successfully escaped; is it correct?

25 A. [15:00:37] That is true. That is true. For example, during the time we were

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 looking for food in the villages of Sudan about 30 people escaped with guns, and
2 when we went back to the LRA we were punished. So since I am not an Acholi, I am
3 Itesot, what happened was that we were caned, each of us was caned, was given 30
4 canes.

5 PRESIDING JUDGE SCHMITT: [15:02:07] Mr Witness, can you explain a little bit.
6 It was not completely clear to me why you were punished. You said that 30 other
7 people, as I understood it, escaped with guns and why were you punished for that?
8 But it might be that I have misunderstood.

9 THE WITNESS: [15:03:06] (Interpretation) We were punished because we allowed,
10 we were punished because we allowed the other 30 to escape with the guns. So
11 instead of us getting killed, each of us was given 30 canes, and we were six
12 commanders who led that group.

13 MR DO DUC: [15:03:37]

14 Q. [15:03:40] When you escaped on 31 December 1999, and you said in your
15 statement that your escape opened the doors for mass escape. Now I would like to
16 ask you how did your escape open doors for mass escape later on?

17 A. [15:04:56] It is true many people escaped, but the people that escaped were from
18 other tribes, not the Acholis. And it helped them to think and say, if people from
19 other tribes can escape, who are we not to escape? So they also got courage to
20 escape.

21 The second reason why people escaped was because the time that we -- those of us
22 who had escaped and went to Gulu, when we went back to Sudan with the UPDF, we
23 went on an operation called Operation Iron Fist. That scattered the LRA because
24 these people had very serious planes that would bomb the LRA hideouts.

25 Q. [15:06:31] Could you please give the Court some examples, if you know, of the

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 mass escape after Iron Fist?

2 A. [15:07:42] Many commanders were killed and were replaced with the youthful
3 ones, so while we were with the UPDF many of those that were either captured or
4 escaped were taken to the barracks, the UPDF barracks, and others surrendered. So
5 for the children, they were taken to NGOs that look after children and the sick were
6 taken to hospital for treatment.

7 There are two NGOs. There were two NGOs, one was called GUSCO, the other one
8 was World Vision. GUSCO mainly took the children and World Vision took the
9 adults. And it was from World Vision that some of them gave them testimonies.

10 PRESIDING JUDGE SCHMITT: [15:08:58] Thank you, Mr Witness.

11 Mr Do Duc, you see yourself I think that you can move to another point.

12 MR DO DUC: [15:09:14]

13 Q. [15:09:18] Thank you, Mr Witness.

14 Now I want to talk to you about the benefits of a commander in the LRA. And,
15 Mr Witness, a commander in the LRA has more power than lower ranking soldiers,
16 correct?

17 A. [15:10:31] Just like any group that would have a leader, the leader would have
18 authority, full authority. But with the LRA authority came from Kony. There was
19 nothing that any leader would do unless information has come from Kony.
20 However, they had authority to control or maybe to settle small disputes among the
21 people they are leading, but nothing beyond that.

22 Q. [15:11:09] And a commander in the LRA also has more access to food and
23 material items, yes?

24 A. [15:12:06] As long as something is not from Kony there was nothing that was
25 admissible. But commanders also had two escorts and a radio, a radio call. Those

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 were the only things that would be benefits to them as commanders.

2 PRESIDING JUDGE SCHMITT: [15:12:30] I'm tempted to say, Mr Do Duc, that you
3 can move to other issues.

4 MR DO DUC: [15:12:38] I am about to, but I would like to ask one last question.

5 PRESIDING JUDGE SCHMITT: [15:12:44] Yes, please.

6 MR DO DUC: [15:12:46] And I refer to his own statement at page 0364 and
7 paragraph 33.

8 Q. [15:12:54] In your statement, Mr Witness, you said that Mr Ongwen had worked
9 for a long time with Kony and he knew them. He wanted to enjoy those benefits of
10 being a commander.

11 Now, my question is that what did you mean when you said Mr Ongwen wanted to
12 enjoy those benefits of being a commander in the LRA?

13 A. [15:14:28] Ongwen, as he was a youthful young man, could have looked at this
14 as a very big benefit. For instance, if he was in government and he was of a high
15 rank, he probably would have been very proud about it.

16 It was not -- the kind of pride that he had was not the kind that would make him
17 subdue or make other people his slaves, but he just really had this enjoyment of
18 asking other people to do things for him here and there, maybe send to pick
19 something or to buy something, or something like that. It was not the kind that
20 would make him enslave any child.

21 Q. [15:15:50] Thank you, Mr Witness.

22 And, Mr President, with your clarification on the knowledge of the witness after he
23 escaped from the LRA, we have no further questions.

24 PRESIDING JUDGE SCHMITT: [15:16:02] Thank you very much.

25 I ask Mr Manoba and Mr Narantsetseg if they have questions as representatives of the

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 victims.

2 MR MANOBA: [15:16:11] Mr President, I would like to ask one question.

3 PRESIDING JUDGE SCHMITT: [15:16:16] Please do so.

4 QUESTIONED BY MR MANOBA:

5 Q. [15:16:22] Mr Okilan, do you speak Acholi?

6 A. [15:16:30] I can speak Acholi, but not fluently.

7 MR MANOBA: [15:16:34] Thank you, Mr President.

8 PRESIDING JUDGE SCHMITT: [15:16:36] Mr Narantsetseg.

9 MR NARANTSETSEG: [15:16:37] No question, your Honour. Thank you.

10 PRESIDING JUDGE SCHMITT: [15:16:41] Mr Obhof, further questions? You know,

11 I always ask. We have a rule there that not only -- not obliges me --

12 MR OBHOF: Rule (Overlapping speakers)

13 PRESIDING JUDGE SCHMITT: -- but I simply out of politeness and following the

14 Rules like we do in court, so. But you don't have to. You can simply say you don't

15 have further questions.

16 MR OBHOF: [15:17:04] We have no further questions, your Honour.

17 PRESIDING JUDGE SCHMITT: [15:17:07] Thank you very much, Mr Obhof.

18 Mr Okilan, this concludes your testimony. On behalf of the Chamber, I would like to

19 thank you for coming to this court to help us establish the truth.

20 Furthermore, I would like to thank you for your cooperation today in these technical

21 matters, especially for adapting so quickly to the special circumstances with the

22 translation today. We wish you a safe trip back home.

23 THE WITNESS: [15:18:02] (Interpretation) Thank you so much, your Honour.

24 Your Honour, I would like to take the opportunity to thank the Court for giving me

25 an opportunity to clarify a few things and to come here. I would like also to request

Trial Hearing
WITNESS: UGA-D26-P-0019

(Open Session)

ICC-02/04-01/15

1 that if there is anything that I might have said that is not correct, please forgive me.

2 If there is anything that could have gone wrong as of my testimony, please forgive

3 me.

4 PRESIDING JUDGE SCHMITT: [15:19:16] I think I speak for the Chamber, we don't

5 have any reason to suspect anything in that regard.

6 (The witness is excused)

7 PRESIDING JUDGE SCHMITT: [15:19:23] Before we leave, a special thank you to

8 the interpreters today. We are as a Chamber always happy with the translation and

9 the interpretation, but today with these difficulties and this consecutive interpretation,

10 we can speak, I think, of an admirable achievement by the interpreters. Thank you

11 very, very much.

12 This concludes the hearing for today. We have the next witness, D-122, on Tuesday,

13 9.30. Monday was not possible because the video link could only be established for

14 Tuesday.

15 I wish everyone a nice weekend.

16 THE COURT USHER: [15:20:07] All rise.

17 (The hearing ends in open session at 3.20 p.m.)

18 RECLASSIFICATION REPORT

19 Pursuant to the Trial Chamber' IX's instructions, ICC-02/04-01/15-497, dated 13 July

20 2016, the public reclassified and lesser redacted version of this transcript is filed in the

21 case.