

Trial Hearing
WITNESS: UGA-D26-P-0013

(Open Session)

ICC-02/04-01/15

- 1 International Criminal Court
- 2 Trial Chamber IX
- 3 Situation: Republic of Uganda
- 4 In the case of The Prosecutor v. Dominic Ongwen - ICC-02/04-01/15
- 5 Presiding Judge Bertram Schmitt, Judge Péter Kovács and Judge Raul Cano
- 6 Pangalangan
- 7 Trial Hearing - Courtroom 3
- 8 Friday, 27 September 2019
- 9 (The hearing starts in open session at 9.31 a.m.)
- 10 THE COURT USHER: [9:31:16] All rise.
- 11 The International Criminal Court is now in session.
- 12 Please be seated.
- 13 PRESIDING JUDGE SCHMITT: [9:31:35] Good morning, everyone.
- 14 Good morning, Madam Witness.
- 15 Could the court officer please call the case.
- 16 THE COURT OFFICER: [9:31:49] Good morning, Mr President, your Honours.
- 17 The situation in the Republic of Uganda, in the case of The Prosecutor versus Dominic
- 18 Ongwen, case reference ICC-02/04-01/15.
- 19 For the record, we are in open session.
- 20 PRESIDING JUDGE SCHMITT: [9:32:04] Thank you.
- 21 The appearances of the parties, the Prosecution please.
- 22 MR GUMPERT: [9:32:07] Good morning, your Honours.
- 23 Ben Gumpert for the Prosecution, with me today Beti Hohler, Grace Goh, Colin Black,
- 24 Kamran Choudhry, Hai Do Duc and Yulia Nuzban.
- 25 PRESIDING JUDGE SCHMITT: [9:32:19] Thank you.

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1 And for the representatives of the victims, Ms Massidda first.

2 MS MASSIDDA: [9:32:24] Good morning, your Honours.

3 For the common legal representative team, Orchlon Narantsetseg, Caroline Walter,
4 and myself Paolina Massidda.

5 PRESIDING JUDGE SCHMITT: [9:32:30] And Ms Sehmi.

6 MS SEHMI: [9:32:32] Good morning, Mr President, your Honours.

7 On behalf of the Legal Representatives for Victims, Anushka Sehmi, James Mawira
8 and Maria Radziejowska.

9 PRESIDING JUDGE SCHMITT: [9:32:40] Thank you.

10 And Mr Obhof for the Defence.

11 MR OBHOF: [9:32:43] Good morning, your Honours.

12 Today with me we have Chief Charles Achaleke Taku, Beth Lyons, Gordon Kifudde,
13 myself Thomas Obhof, our intern Monia -- and I really, sorry, I cannot pronounce her
14 name. Please say it. Ingabire. And Dominic Ongwen is in trial.

15 PRESIDING JUDGE SCHMITT: [9:33:04] Thank you, Mr Obhof.

16 And we continue with the examination of the witness who is at the video-link
17 location, and I give Mr Gumpert for the Prosecution the floor.

18 WITNESS: UGA-D26-P-0013 (On former oath)

19 (The witness speaks Acholi)

20 (The witness gives evidence via video link)

21 QUESTIONED BY MR GUMPERT:

22 Q. [9:33:30] Madam Witness, you and Dominic Ongwen were together for most of
23 the time after Iron Fist until your escape; is that right?

24 A. [9:33:44] There were times when we were separated because I was in the bay,
25 but most times we were together. But there were times when we were separated.

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1 Q. [9:33:56] Yes, I understand that there were times, but the majority of that
2 two-and-a-half-year period you were with him?

3 A. [9:34:17] Yes, we were.

4 Q. [9:34:18] And you and Dominic Ongwen loved each other and trusted each
5 other. That's right, isn't it?

6 A. [9:34:30] That's correct.

7 Q. [9:34:32] For example, when he was planning to escape with Nyeko Yadin
8 Tolbert, he included you in his plans.

9 A. [9:34:50] Yes, that's correct.

10 Q. [9:34:55] And your position in his household was rather a special one because
11 you and he had courted each other; is that right?

12 A. [9:35:18] Yes. But he treated all of us equally.

13 Q. [9:35:30] Of all the people in his household, would it be fair to say that you
14 probably knew him the best?

15 MR OBHOF: [9:35:39] Objection, your Honour, calls for speculation.

16 PRESIDING JUDGE SCHMITT: [9:35:44] No, I don't think so. It's -- you know, the
17 witness has yesterday elaborated on her relationship with the accused, and this is also
18 reflected in her written statement to the Defence. And indeed she has now
19 confirmed that she was for the longest time together with the accused, so she might
20 have an opinion on that. We would not see this as a speculation. We would see it
21 as an opinion.

22 So please answer the question, Madam Witness.

23 THE WITNESS: [9:36:26](Interpretation) Could you please repeat the question.

24 PRESIDING JUDGE SCHMITT: [9:36:30] Yes, indeed, Madam Witness, after such a
25 discussion, it is not even clear what has been asked.

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1 So please, Mr Gumpert, repeat the question.

2 MR GUMPERT: [9:36:42]

3 Q. [9:36:42] Of all the people in Dominic Ongwen's household, would you say that
4 you probably knew him the best?

5 A. [9:36:58] He treated us all equally. I did not know him any different from the
6 others. He treated us all equally.

7 Q. [9:37:11] But there was a -- I absolutely accept what you say, that he treated you
8 fairly, but there was a difference, wasn't there, because you were the only one who
9 had courted Dominic Ongwen, who had been courted by Dominic Ongwen. You'd
10 fallen in love with him, if I understand your evidence.

11 A. [9:37:47] Yes, we did court. The two of us courted.

12 Q. [9:37:53] When you -- sorry, too fast. When you fell in love with him, what
13 were the characteristics of Dominic Ongwen which attracted you to him?

14 A. [9:38:17] Well, I was attracted to him because he was a nice person, he was a
15 sociable, the way he treated his women, and those were some of the reasons that
16 I was attracted to him. And that's the reason why I decided to go and stay with him
17 because of the way he treated his wives.

18 Q. [9:38:43] You've dwelt on two issues of fairness, the way he treated your son
19 from your previous marriage and the way he treated you and his other wives. Was
20 that a strong characteristic of Dominic Ongwen, that he was a just person?

21 A. [9:39:13] Yes, he was a just person.

22 Q. [9:39:17] And he commanded quite a large of number of fighters. When he had
23 to deal with unlawful acts by his fighters, was he a just person when he had to deal
24 with those kind of issues?

25 MS LYONS: [9:39:38] Objection to the characterisation of unlawful. You're asking

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1 the witness to -- partly in this question to either agree or disagree. She's not in a
2 position to make a determination about lawfulness, as has been raised in the case of
3 other witnesses in this Court.

4 PRESIDING JUDGE SCHMITT: [9:39:55] Mr Gumpert, what do you say to that?

5 MR GUMPERT: [9:39:57] I'll ask some preparatory questions and make my
6 submissions in the light of those, if I may? It may not be necessary.

7 PRESIDING JUDGE SCHMITT: [9:40:10] Yes, exactly.

8 MR GUMPERT: [9:40:12]

9 Q. [9:40:12] You've told us yesterday that there were rules in the LRA, yes?

10 A. [9:40:23] Yes.

11 Q. [9:40:24] And when Dominic Ongwen's soldiers did things which were against
12 the rules, he would have to judge the matter, yes?

13 A. [9:40:42] No. Those kind of rules did not exist. According to the rules, you
14 should not mistreat your wife or anybody that is under your control.

15 Q. [9:40:58] Well, let's take an example, then, of somebody mistreating their wife.
16 I imagine that over a two-and-a-half-year period with hundreds of men under his
17 command, there must have been cases where people did mistreat their wives, yes?

18 A. [9:41:29] I did not witness that. The only -- I did not see anything that was
19 brought to him to resolve, because if there are any issues, then these are taken to
20 the -- to be resolved at the division.

21 Yesterday I mentioned somebody named Jimmy, if anybody commits any infraction
22 or if there is any insubordination the person is taken to the operations room, to Kony.

23 MR GUMPERT: [9:42:04] I'm going to leave that.

24 PRESIDING JUDGE SCHMITT: [9:42:05] And of course, Mr Gumpert, it's a
25 difference -- this was I think the background of what Ms Lyons meant when she

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1 intervened, lawfulness can be seen in a very strict manner with regard to the external
2 world in a matter that we would define, perhaps, as the law, or internally with rules.
3 So this -- you have now made it clear what you were heading at, but please proceed.

4 MR GUMPERT: [9:42:34] I'm grateful. And your Honour is right, of course.

5 Q. [9:42:40] What were the -- I suppose every relationship has its hiccups. What
6 were the worst things about Dominic Ongwen?

7 A. [9:42:53] Well, within his household I did not witness anything bad, I did not
8 see people arguing, I did not see people fighting. I did not see any of the co-wives
9 arguing.

10 With respect to the soldiers, the soldiers also stayed with us well. They would wake
11 up in the morning, come and say good morning to us and leave. I did not see any,
12 anything happen. Maybe things did happen elsewhere, but I must talk about the
13 things that I witnessed and things that I know, and I did not see anything to that
14 effect.

15 Q. [9:43:47] Madam Witness, I hear you, but I think you may have misunderstood
16 me. I'm asking about your personal relationship. Was he grumpy in the mornings?
17 Did he get cross when his coffee was too cold? What were the worst things about
18 him?

19 A. [9:44:19] I did not see him do anything bad because whenever we brought food,
20 we would all eat together. There is not once that he said this food is not nice, the tea
21 you've brought is not nice. No, I did not witness anything like that and I did not
22 hear anything like that either.

23 Q. [9:44:41] Very well. But you knew, didn't you, Madam Witness, that during
24 this period he was committing serious atrocities?

25 A. [9:45:05] I did not know the crimes.

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1 Q. [9:45:11] Madam Witness, in June of 2012 you gave an interview to a journalist
2 called Samuel Okiror, didn't you?

3 A. [9:45:38] I do not recall that.

4 MR GUMPERT: [9:45:41] Your Honours, this is at tab 25 in the Prosecution bundle
5 of materials. Can the first page of that be put on the screen, it's a
6 UGA-OTP-0233-1427. I'd like the witness to be able to see the photograph on the
7 first page, please. It's a public document. I think it can be displayed for the public.

8 PRESIDING JUDGE SCHMITT: [9:46:48] I think it's on evidence channel 1.

9 MR GUMPERT: [9:46:55]

10 Q. [9:46:55] Madam Witness, can you see the photograph on the left-hand side of
11 the page which is on the screen in front of you?

12 A. [9:47:09] Yes, I can see it.

13 Q. [9:47:10] That's you, isn't it?

14 A. [9:47:18] Yes. I've had several photos taken and this is one of them.

15 Q. [9:47:30] When you gave this interview, it was still over two years before
16 Dominic Ongwen was arrested and brought to the Court, wasn't it?

17 MS LYONS: [9:47:45] Objection: Just for accuracy, there was an arrest but Dominic
18 Ongwen surrendered.

19 PRESIDING JUDGE SCHMITT: [9:47:52] Okay, when he was whatsoever, detained
20 or whatsoever.

21 MR GUMPERT: [9:47:59] Indeed. I'll use a neutral word.

22 Q. [9:48:03] When he came to The Hague, wasn't it, Madam Witness, it was over
23 two years before that?

24 A. [9:48:15] Yes. Well, I also have a question.

25 PRESIDING JUDGE SCHMITT: [9:48:25] Yes. Please shortly. But normally,

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1 Madam Witness, the questions are asked by counsel here, so you would have to
2 answer the questions by them. Only if you think you need a break or something,
3 you don't feel well also, I would allow it. Normally, it's simply the roles are as such
4 that the questions are asked by counsel, yesterday by Mr Obhof, today by
5 Mr Gumpert, sometimes by the Presiding Judge, and the witnesses answer. Yes.
6 Please continue, Mr Gumpert.

7 MR GUMPERT: [9:49:08]

8 Q. [9:49:10] Now, Mr Okiror worked for IRIN. That's a news agency founded by
9 the United Nations. He explained who he was and who he worked for, didn't he?

10 A. [9:49:35] Yes, he did.

11 Q. [9:49:38] And you trusted him to carry out a fair interview with you, didn't you?

12 A. [9:49:59] Well, I -- I'm not certain about that.

13 Q. [9:50:12] I'm going to read to you some of the things that you told Samuel
14 Okiror.

15 Your Honours, the passage I'm going to read is on the second page, that's 1428, at the
16 bottom. It's the last two paragraphs of the interview. And I'll read it slowly now so
17 that it can be translated into Acholi for the witness.

18 You said this, Madam Witness:

19 "If there was a means government could link me to speak with Dominic, I would
20 request him to abandon, renounce rebellion and apply for amnesty in order for him to
21 come back home to reconcile with the community he wronged. He should come out
22 of the bush. Let the International Criminal Court spare Dominic and forgive him for
23 his crimes so that he can come home and take care of his children."

24 And then you said this:

25 "I know he committed very serious and terrible atrocities. People were killed,

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1 maimed, abducted and raped by the rebels. I fear people will revenge on me and my
2 children. I am leaving everything to God."

3 That's the end of the quotation.

4 Madam Witness, which were the atrocities that you know Dominic Ongwen
5 committed?

6 A. [9:52:48] Whatever I said, I said what the LRA did with reference to Kony, Kony
7 killing people, Kony mutilating people, Kony abducting people.

8 Even us, we've come home but we are still being stigmatised. I'm afraid. I'm
9 always fearful. People have refused their children. Some people have accepted
10 their children. We are always fearful. We are fearful about how we are going to
11 raise our kids. Let Ongwen come home and help raise his kids because we are
12 fearful about how we are going to raise our kids.

13 We heard that Ongwen's name was among the people who were also to receive
14 amnesty and our plea was for him to come back so that the ICC can forgive him and
15 he can be granted amnesty.

16 He was taken to the bush when he was a young person. There are older people,
17 there were higher ranking commanders who were there who committed these crimes.
18 So we went to the JRP office and were pleading with them, asking them to call our
19 husbands. They advised us, they said we also should call back our husbands and
20 that is what I did. I was pleading with Ongwen to come back.

21 I cannot say it was only Ongwen who killed all those people. I cannot say he's the
22 one who committed all those atrocities. He was also one of the people that was
23 abducted. It must be clear that he was also abducted.

24 Q. [9:54:35] Madam Witness, much of that may be so, but it's not really an answer
25 to my question. I'm going to ask you to have another go at answering it. When you

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1 said "I know he committed very serious and terrible atrocities", which ones did you
2 have in mind?

3 A. [9:55:04] I did not say Ongwen specifically, I said the LRA committed very
4 many, the LRA committed a number of atrocities. But I believe -- I don't speak
5 English, so I suppose it is the person who interpreted my speech that probably got it
6 wrong. The person should have actually told them correct things. I said the LRA.
7 I did not mention one person's name. I did not mention Ongwen's name. I said the
8 LRA.

9 MR GUMPERT: [9:55:41] I'm going to leave that there.

10 PRESIDING JUDGE SCHMITT: [9:55:42] May I shortly, Mr Gumpert.

11 MR GUMPERT: Of course, your Honour, yes.

12 PRESIDING JUDGE SCHMITT: [09:55:44] Madam Witness, there was a first part of
13 what Mr Gumpert read to you. This was it started with, "If there was a means
14 government could link me to speak to Dominic, I would request him to abandon and
15 renounce rebellion and apply for amnesty". Is that correct?

16 THE WITNESS: [9:56:07](Interpretation) That bit is precise. It's correct.

17 PRESIDING JUDGE SCHMITT: [9:56:12] And also "He should come out of the bush"
18 and -- yes, so this is precise?

19 THE WITNESS: [9:56:21](Interpretation) That is correct because we were also being
20 advised to plead to our husbands and come home. We were asking him to come
21 home because he himself was abducted when he was a child.

22 PRESIDING JUDGE SCHMITT: [9:56:38] Please move on.

23 MR GUMPERT: [9:56:40]

24 Q. [9:56:42] Madam Witness, you've just referred to the meeting organised at the
25 premises of JRP. That's an NGO in Gulu, isn't it?

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1 A. [9:57:01] Yes, it is.

2 Q. [9:57:03] I just want to explore the circumstances of that meeting in a bit more
3 detail.

4 A. [9:57:19] The meeting comprised three groups of women, and these were all
5 women who came back from the bush. We -- there was a number of people, for
6 example, people who came back and did not have anything, any means, would go
7 and explain their problems, talk about their problems. And one of the reasons why
8 they wanted to gather us together was to enable to go and talk about our problems
9 and discuss whatever it is that was going on. But later on they also brought men in
10 and they also gave us some money to start our businesses. There were three groups
11 and out of the three groups there were many people in each group.

12 Q. [9:58:12] I want to focus in on a meeting that took place at the JRP premises on
13 2 June 2015. Do you remember that meeting?

14 A. [9:58:35] I do not recall the exact dates, but I do not recall that, yes, I did attend
15 meetings. I don't know whether it was the 2nd or the 3rd. I don't know the dates,
16 but yes, I did attend meetings.

17 Q. [9:58:49] I'm going to be able to refresh your memory. But there was a meeting
18 where there were a group of women, including you, whom Dominic Ongwen
19 considered to be his wives. Do you remember that meeting? Nancy, Apiyo, Aber,
20 Jennifer, Min Abia, they were all there.

21 A. [9:59:23] Yes.

22 Q. [9:59:24] There was also a lady called Vicky, wasn't there?

23 A. [9:59:42] Yes.

24 Q. [9:59:44] And she's someone that you have worked with at an organisation
25 called Women's Advocacy Network, or WAN for short, yes?

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1 A. [10:00:01] Yes.

2 Q. [10:00:02] Now, during this meeting Dominic Ongwen called you by telephone
3 from The Hague, didn't he?

4 A. [10:00:21] He has never called me, but he has called Aber Agnes.

5 Q. [10:00:29] He spoke to the people that I have named in turn, as the telephone,
6 whoever it was who owned the telephone, was handed around to them, didn't he?

7 A. [10:00:54] Yes, he did.

8 Q. [10:00:58] But mostly he spoke to you; isn't that right?

9 A. [10:01:13] It was not like that. Because I spoke briefly, then I went back into the
10 meeting.

11 Q. [10:01:26] You were the person there who Dominic trusted the most. You
12 knew that, didn't you?

13 A. [10:01:42] I know that he trusted everyone because he treated us equally.

14 Q. [10:01:53] Now, a sound recording of that conversation was made by the
15 Registry, that's the Court's administration. And I want you to listen of some of the
16 things that you said. I want to start at the beginning of the conversation, the very
17 first things that were said.

18 Now, your Honours, this is the sound recording tab 37, that's filing 28 -- sorry, 268,
19 annex 5. I see Mrs Bossette is on her feet. Should I pause?

20 THE COURT OFFICER: [10:02:38] Indeed, Mr Gumpert. Is it document public?
21 Can it be played in open session?

22 MR GUMPERT: [10:02:42] No, it is not currently public. It's a confidential -- it's
23 recently been made a confidential document. For myself, I can't see any reason why
24 it shouldn't be, but I have no very strong feelings on the matter.

25 PRESIDING JUDGE SCHMITT: [10:02:56] I personally think, at first sight, it could

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1 be public, but any other opinions from the side of the Defence on that?

2 MR OBHOF: [10:03:06] The Defence doesn't mind if the content is discussed, but the
3 sheer nature of a private phone call, of a personal phone call, in my opinion, the audio
4 itself should be played in a private setting and then they can discuss it, everything can
5 be discussed in public.

6 PRESIDING JUDGE SCHMITT: [10:03:23] Very reasonable, Mr Obhof. So we play
7 it in private session and then we can discuss it in open session. Very good. Thank
8 you.

9 Private session.

10 MR OBHOF: [10:03:35] Could we also have the time frame, because the time frames
11 were not placed, which ones would be played, in the list yesterday, please.

12 PRESIDING JUDGE SCHMITT: [10:03:44] Okay.

13 MR GUMPERT: [10:03:44] Yes. This is from the start of that recording until 25
14 seconds and 400ths of a second.

15 PRESIDING JUDGE SCHMITT: [10:04:00] But we wait first before we play it until
16 we are in private session.

17 (Private session at 10.04 a.m.) * (Reclassified entirely in open session)

18 THE COURT OFFICER: [10:04:22] We are in private session now.

19 MR GUMPERT: [10:04:25] So let's line up the details first. Perhaps most usefully
20 for most of us, the English transcript, tab 38. The portion that we will be hearing is
21 transcribed in English at lines 9 to 19. And as I think I said a moment ago, that's
22 from the start of the recording until just over 25 seconds.

23 Can I confirm that we the Prosecution have the floor? We're ready to play exactly
24 that clip.

25 PRESIDING JUDGE SCHMITT: [10:05:10] Yes, please.

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- 1 THE COURT OFFICER: [10:05:37] You have the floor.
- 2 MR GUMPERT: [10:05:44] Lines 9 to 19, once again, is what we're about to hear in
- 3 Acholi. That's on UGA-OTP-0286-2623 at the next page, which is 2624. We're a bit
- 4 concerned that we don't have the floor.
- 5 PRESIDING JUDGE SCHMITT: [10:06:10] If meaning having the floor means that
- 6 the Presiding Judge gives the floor, you have the floor. If meaning the floor means
- 7 you technically have the floor and you can play it, then perhaps you might not.
- 8 MR GUMPERT: [10:06:23] This is not amenable to judicial theat. We're talking
- 9 about the techie stuff here.
- 10 PRESIDING JUDGE SCHMITT: [10:06:37] Yes, I know of course, but ...
- 11 THE COURT OFFICER: [10:06:38] You technically have the floor as well.
- 12 MR GUMPERT: [10:06:50] I'm sorry --
- 13 (Counsel confer)
- 14 MR GUMPERT: [10:06:50] It would appear that the one place where it isn't
- 15 functioning -- everybody else on the team can see it and could do it, but the one
- 16 person who's actually got the controls, they aren't working for her. I'm very sorry
- 17 about this.
- 18 PRESIDING JUDGE SCHMITT: [10:07:06] This can happen, yes. Not a problem.
- 19 THE COURT OFFICER: [10:07:10] It seems to be okay, as we can see the small arrow
- 20 on the floor -- on the screen, sorry. Just need to click on it.
- 21 MR GUMPERT: [10:07:35] Right. I understand it's problem solved. It might be
- 22 fair to the witness just to remind her of what she's going to be listening to now.
- 23 PRESIDING JUDGE SCHMITT: [10:07:46] I fear that we have lost her in the
- 24 meantime in the process.
- 25 Madam Witness, now the technical problems have been solved and this short portion

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1 of the conversation of that time is played.

2 (Playing of the audio excerpt)

3 MR GUMPERT: [10:08:44] Then I think we can go back into public session so I can
4 ask the questions about that.

5 PRESIDING JUDGE SCHMITT: [10:08:51] Back to public session.

6 (Open session at 10.08 a.m.)

7 THE COURT OFFICER: [10:09:08] We are back in open session.

8 MR GUMPERT: [10:09:13]

9 Q. [10:09:15] Madam Witness, we can hear two ladies' voices there, can't we? First
10 it's Aber and then Dominic Ongwen asks her to give the phone to Min Bak. That's
11 you, isn't it?

12 A. [10:09:35] Yes.

13 Q. [10:09:37] And we can hear your voice greeting Dominic Ongwen, can't we?

14 A. [10:09:53] Yes, I spoke on phone.

15 Q. [10:09:56] Madam Witness, that's not the question. We can hear your voice
16 greeting Dominic Ongwen, can't we?

17 A. [10:10:10] That's my voice.

18 Q. [10:10:11] And you are greeting Dominic Ongwen, aren't you?

19 MR OBHOF: [10:10:17] Objection, your Honour. Asked and answered. I mean, it
20 was a confirmation that was her, she said it was her voice.

21 PRESIDING JUDGE SCHMITT: [10:10:26] I would -- Mr Gumpert, coming from this
22 more civil law system - not more - from this civil law system, we would as a judge in
23 my former times, in the old times, I would have understood it the way Mr Obhof has
24 described it. And we have the transcript here: So first there was another voice,
25 then there was the second voice, she has said it is her voice. I think we can proceed

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1 from there.

2 Your question was not -- I would not have now overruled it or something like that,
3 but simply I also think it's not necessary. You can simply proceed.

4 MR GUMPERT: [10:11:08] I'll move on.

5 Q. [10:11:12] Now I want you to listen to one of the things that you said to Dominic
6 Ongwen.

7 And, your Honour, this is from tab 34, filing 26, annex 4. The English transcript is at
8 tab 35, UGA-OTP-0286-2579.

9 PRESIDING JUDGE SCHMITT: [10:11:49] And to listen to that we go again into
10 private session, I would suggest, and then we discuss it again in open session we did
11 it like the last time.

12 MR GUMPERT: [10:11:59] Indeed. There will be four -- sorry, five extracts, and
13 we'll adopt that procedure every time.

14 PRESIDING JUDGE SCHMITT: [10:12:05] No problem. I think for purposes of
15 coherence it would make sense to proceed the same way. So we go to private
16 session to listen to this portion.

17 MR GUMPERT: [10:12:17] Yes, please.

18 (Private session at 10.12 a.m.) *(Reclassified entirely in open session)

19 THE COURT OFFICER: [10:12:26] We are in private session.

20 (Playing of the audio excerpt)

21 PRESIDING JUDGE SCHMITT: [10:13:39] Back to open session.

22 MR GUMPERT: [10:13:41] Back to open session, please.

23 (Open session at 10.13 a.m.)

24 THE COURT OFFICER: [10:13:53] We are back in open session.

25 MR GUMPERT: [10:14:02] I think I omitted to say the line numbers.

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1 PRESIDING JUDGE SCHMITT: [10:14:09] Indeed.

2 MR GUMPERT: [10:14:10] Fortunately they are the first lines in the transcript, on
3 page 2580, lines 10 to 35.

4 MS LYONS: [10:14:31] Excuse me, I don't mean to interrupt. Just a technical issue.
5 It's not -- your Honours, the transcript is not on the evidence channel, is that -- the
6 other one was. I'm just confused.

7 PRESIDING JUDGE SCHMITT: [10:14:44] Since we have, since we have here on the
8 Bench, we have it also on paper, so we are perhaps in a privileged situation, but
9 I don't know if it is on one of the evidence channels.

10 THE COURT OFFICER: [10:14:57] The transcripts were published on the evidence 1
11 channel and the audio was played on the evidence 2 channel. You just need to
12 switch on your console.

13 PRESIDING JUDGE SCHMITT: [10:15:08] So now I see why it makes sense to have
14 two evidence channels.

15 Please proceed, Mr Gumpert.

16 MR GUMPERT: [10:15:16]

17 Q. [10:15:17] Now, the two voices that we heard there were the voices of you and
18 Dominic Ongwen, weren't they?

19 A. [10:15:31] That's correct.

20 Q. [10:15:33] And he was saying that he knew that there was no problem with you,
21 but he was worried that other people would talk carelessly. That's right, isn't it?

22 A. [10:15:54] That is correct. But the reason why he said like that was because for
23 us we had gathered and agreed as our co-wives to take care of our children jointly.

24 And when he was referring to politics was at a time when we went to World Vision,
25 while we were there they did not allow our children to go home, they wanted us to

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1 take care of the children. So when we started the group, we agreed amongst ourself
2 that each of our children, each child should go to their father's home. But when we
3 had just reached World Vision the organisation didn't want us to send the children
4 home. So because, you know, when you are a parent and especially with the
5 mothers, you cannot refuse a child to go to their father's home.

6 Q. [10:16:55] He told you ladies whom he considered to be his wives that you
7 needed to be wise women, didn't he?

8 A. [10:17:10] Yes, he said we should be wise, we shouldn't misbehave, because at
9 the moment there are a lot of diseases.

10 Q. [10:17:19] Well, he didn't mention diseases, did he? I'm just sticking with what
11 you and he said to each other, Madam Witness.

12 A. [10:17:33] Yeah, he counselled us to be wise.

13 Q. [10:17:36] And you reassured him, didn't you?

14 A. [10:17:53] I assured him that we will stay.

15 Q. [10:17:58] You said "I have influenced them." You meant the other wives,
16 didn't you?

17 A. [10:18:16] I did not influence them. I told him that I have spoken to all of them.

18 Q. [10:18:23] Well, again, Madam Witness, I'm just dealing with what you said.
19 You said, we heard, "I have already coached or influenced them." That's what you
20 said, isn't it?

21 It's a question, Madam Witness. I'm asking you to confirm that you said that you
22 had already influenced them. Coached them.

23 A. [10:19:25] To say that I taught them, yes, I said. Because I was a bit mature,
24 organised, and I was able to talk to my co-wives because some of them didn't know
25 where the home of their husband was, so it was me who told them.

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1 Q. [10:19:50] And you reassured Mr Ongwen that although there had been some
2 disagreement, there is now one voice. You were talking about you and the other
3 women whom Dominic Ongwen considered his wives, weren't you?

4 A. [10:20:20] Yes.

5 Q. [10:20:21] And you had -- sorry, do go ahead.

6 A. [10:20:27] The disagreement which was there was that, for instance, Apiyo, Min
7 Nono's mother, had told us that the grandmother of the children did not want her to
8 take the children to Dominic's home. But when we sat down, we advised her that,
9 being a boy child, it is important that he should know where his father comes from so
10 that he should know their home. And after we talked to her, that's when she agreed.

11 Q. [10:21:07] Madam Witness, isn't the truth that you had been influencing those
12 other women to speak with one voice and not to say anything which might harm
13 Dominic Ongwen's defence?

14 MR OBHOF: [10:21:22] Your Honour, I'm not necessarily objecting, I'm saying this --

15 PRESIDING JUDGE SCHMITT: [10:21:25] But then please let her answer the
16 question then.

17 MR OBHOF: [10:21:27] No, I'm saying that this should be a Rule 74 issue, because if
18 the witness is -- Mr Gumpert is asking her if she violated Article 70 --

19 PRESIDING JUDGE SCHMITT: [10:21:36] That is correct. That indeed is correct.
20 So you or I should remind her that if she would, with a true answer, would perhaps
21 incriminate herself. Perhaps I do it.

22 Madam Witness, if you answer this question truthfully and the truthful answer
23 would incriminate you, you can refuse to answer. You don't have to answer it. In
24 general, you don't have to answer this question if you don't want to. I think that's
25 correct this way.

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1 Too complicated. Okay, please proceed.

2 MR GUMPERT: [10:22:31]

3 Q. [10:22:33] Are you willing to answer my question, Madam Witness? Let me
4 remind you of what it was: I suggest that the truth is that you had been influencing
5 the women to speak with one voice and not to say anything which might harm
6 Dominic Ongwen's defence? As the Judge has explained, you can choose whether to
7 answer or not.

8 PRESIDING JUDGE SCHMITT: [10:22:58] Or you could give an assurance.

9 MR GUMPERT: [10:23:07] That's quite a big call on my feet at my pay grade. But
10 I'm --

11 PRESIDING JUDGE SCHMITT: [10:23:13] Yes, I understand, I understand.

12 MR GUMPERT: [10:23:15] No, I -- realistically, I think I can give that assurance.

13 Indeed, I am going to give that assurance.

14 PRESIDING JUDGE SCHMITT: [10:23:24] So then we go to private session to
15 discuss this.

16 (Private session at 10.23 a.m.) * (Reclassified entirely in open session)

17 THE COURT OFFICER: [10:23:39] We are in private session.

18 PRESIDING JUDGE SCHMITT: [10:23:41] So, please Mr Gumpert.

19 MR GUMPERT: [10:23:46] Normally, obviously, questions of whether investigations,
20 Prosecutions might be undertaken against a particular person are the subject of rather
21 longer deliberation and, ultimately, the decision taken by somebody who is paid a bit
22 more money than I can.

23 But as I say, realistically, this matter has been known since 2015. I can't give any
24 assurances about what might follow from what she says today, but that's true of every
25 witness. Your Honour has warned many witnesses that they have got to tell the

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1 truth when they are on oath in the courtroom, otherwise they might come to trouble.
2 But this matter, what I'm putting to her she did in 2015, was years ago. There aren't
3 going to be any proceedings now. That's plain in relation to that. So I think I can
4 properly give that assurance that she will not be prosecuted for what I am suggesting
5 she did four years ago.

6 PRESIDING JUDGE SCHMITT: [10:24:53] What do you say?

7 MR TAKU: [10:24:55] May it please, your Honours, I have listened carefully to my
8 colleague, and you said something important. I come from a dual system, both civil
9 law and common law, by the bilingual and by dual nature my ancestral home. The
10 transcripts are before you.

11 I perused the Article 56 and this matter was not put to them, whether she influenced
12 them or not. And I do not know any reason why my colleague would pursue it now
13 when the persons concerned were here and the question was never put to them
14 whether she influenced them or not.

15 Yes, your Honour.

16 PRESIDING JUDGE SCHMITT: [10:25:39] I think this is an issue, this is something
17 new, and I think we should shortly go to the deliberation room to think about that,
18 not to make too quick a decision. But please stay here in the room.

19 THE COURT USHER: [10:25:57] All rise.

20 PRESIDING JUDGE SCHMITT: [10:25:59] Short break.

21 (Recess taken at 10.26 a.m.)

22 (Upon resuming in open session at 10.36 a.m.)

23 THE COURT USHER: [10:36:44] All rise.

24 Please be seated.

25 PRESIDING JUDGE SCHMITT: [10:37:01] We are in open session, which is okay.

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1 And after really careful deliberation, the Chamber comes back to the first solution out
2 of fairness to the witness.

3 Madam Witness, you may object to making a statement and to answer this question if
4 it might tend to incriminate you.

5 We simply do it this way so you don't have to answer this question by the Prosecutor
6 without further consequences.

7 I think that is -- we have thought it through.

8 So perhaps you repeat the question and I tell her again that she does not have to
9 answer. And then you can proceed, however she answers then.

10 MR GUMPERT: [10:37:50] Thank you, your Honour.

11 Q. [10:37:52] So the question is: Isn't the truth that you were trying -- had tried to
12 influence the other women whom Dominic Ongwen considered to be his wives so
13 that they spoke with one voice and didn't say anything which might harm his
14 defence?

15 PRESIDING JUDGE SCHMITT: [10:38:14] And as I told you, I repeat it, Madam
16 Witness, you may object to making any statement in regard to this question.
17 Yes, please.

18 MS LYONS: [10:38:25] Excuse me, your Honour.

19 It just occurred to me as I'm listening to your instruction and to the Prosecution, in
20 this courtroom we know that certain conduct, if it's supported by allegations, is
21 criminal and certain words depict that in terms of the issues of influence or -- what
22 was the other word? Influence, okay.

23 I'm not sure the witness understands what the crime -- potential problem is. You see
24 what I'm saying? So without that context I just -- it makes no sense. It's hard
25 for -- it's hard to comprehend the total importance of what you're saying without that

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1 context. I don't know if she knows.

2 PRESIDING JUDGE SCHMITT: [10:39:07] No, I agree with you, Ms Lyons.

3 Perhaps we would have to elaborate a little bit on that.

4 This question, Madam Witness, if there was something that you -- if it was correct,

5 like the Prosecutor seems to suggest, that you influenced other so-called wives in a

6 manner that was not correct - I put it in easy, easy wording so that the witness

7 understands that - in a manner that was not correct, that would be something that

8 not -- would be seen in this environment here as something that could incriminate

9 you. This is meant by the word incriminate. And if that were so and if you -- and if

10 this is so, then you can object to answer the question without further ado.

11 I think, Ms Lyons, that's okay do you think? Yes, please tell me.

12 MS LYONS: [10:40:08] That's clearer. I'm not trying to overcomplicate it, but you

13 have to know what you're --

14 PRESIDING JUDGE SCHMITT: [10:40:16] No, no, but it's -- it's correct, your

15 intervention is correct. We have no jurists here.

16 But again, Madam Witness, have you understood now what I have said? And if you

17 want further explanation, I will provide it and perhaps also Mr Gumpert will provide

18 it.

19 And I didn't hear --

20 THE INTERPRETER: No sound came through, your Honour.

21 MR GUMPERT: [10:40:47] Can I have a go, your Honour?

22 PRESIDING JUDGE SCHMITT: [10:40:50] Yes, please.

23 MR GUMPERT: [10:40:52]

24 Q. [10:40:53] Madam Witness, the lawyers think that your answer to this question

25 could get you into trouble with the Court, so you don't have to answer. It's your

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1 choice. Are you going to answer?

2 PRESIDING JUDGE SCHMITT: [10:41:06] I think that that's -- Mr Obhof.

3 MR OBHOF: [10:41:13] No, your Honour, we're saying how she has to be explained
4 what the rules are, what the law is.

5 Now, from earlier, from -- I would say tab 38, I don't think that she's going to say
6 anything bad. And I have stuff highlighted in my book to where I think that
7 her -- what she's been saying is supported by the phone calls both before and after
8 this current tab we're looking at. But I don't -- we don't think that she understands
9 what the law is, not that we're saying that her answer may have her break it. We
10 don't think she (Overlapping speakers)

11 PRESIDING JUDGE SCHMITT: [10:41:45] No. Then perhaps I give it, I give it now
12 perhaps, in my words, another try and then we simply ask her.

13 Madam Witness, please listen and I will afterwards ask you if you have understood.
14 The question by Mr Gumpert, the Prosecutor, might suggest that you have, perhaps,
15 influenced the other wives in an unduly manner, in a not correct way. Not
16 technically speaking, simply in a -- and any person, even -- or, especially non-jurists
17 know what, what I mean I think with "unduly" or "not correct manner".

18 MS LYONS: [10:42:28] And if I may, your Honour, and this, this is possibly a crime.
19 She has to know the connection.

20 PRESIDING JUDGE SCHMITT: [10:42:39] Yes, thank you.

21 And this possibly could be an offence or crime under the ICC Statute.

22 So have you understood that?

23 THE WITNESS: [10:43:04](Interpretation) I have understood, but I reiterate what I
24 said. I did not influence them, but I advised them as to how they should take the
25 children to their father's home so that their children know their father's home. If

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1 Nono's mum did not want Nono to go to the father's home, I was advising her to
2 make sure that she should take the child. I did not influence anybody. If this was
3 something that happened, then I don't know, but I did not influence anybody. If
4 people did not want to do something, you can't influence them.

5 PRESIDING JUDGE SCHMITT: [10:43:47] Mr Gumpert, I think this was sort of
6 reiteration, but also sort of an answer.

7 MR GUMPERT: [10:43:53] Whatever it may have been your Honours will decide.
8 I'm going to move on.

9 PRESIDING JUDGE SCHMITT: [10:43:57] Yes, but it also pulls a lot of the tension
10 out of the whole thing I think, let me put -- but this also sometimes in a courtroom
11 that you have, I would not say heated, but at least some discussions, some procedural
12 discussions in a courtroom, and in the end it might not be so complicated.
13 Please proceed.

14 MR GUMPERT: [10:44:24]

15 Q. [10:44:24] Madam Witness, after that meeting you spoke to Dominic Ongwen on
16 the telephone again, didn't you? That's a third conversation on the same day?

17 A. [10:44:50] I do not recall that.

18 Q. [10:44:52] Let me remind you.

19 Your Honours, I'm going to play another passage now. This is from tab 31, which is
20 annex 3 to filing 268. The English transcript is at tab 33. The portion we will be
21 hearing is transcribed in English at lines 146 to 156 and the timestamp is from 6:30
22 until 7:14.

23 PRESIDING JUDGE SCHMITT: [10:45:35] Yes, and we do this like we did before in
24 private session, but we will be back soon, for the gallery here, in open session.

25 MR GUMPERT: [10:45:47] Yes.

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1 (Private session at 10.45 a.m.) * (Reclassified entirely in open session)

2 THE COURT OFFICER: [10:46:03] We are in private session.

3 (Playing of the audio excerpt)

4 PRESIDING JUDGE SCHMITT: [10:46:58] Back to open session.

5 MR GUMPERT:

6 Q. Again, Madam Witness -- sorry.

7 (Open session at 10.47 a.m.)

8 THE COURT OFFICER: [10:47:11] We are back in open session.

9 MR GUMPERT: [10:47:17]

10 Q. [10:47:18] Again, Madam Witness, we heard two voices, your voice and
11 Dominic Ongwen's voice. Do you confirm that?

12 A. [10:47:37] Yes.

13 Q. [10:47:41] And we heard you reassuring Dominic Ongwen that you were not
14 going to say anything, didn't we?

15 A. [10:47:52] I said that I would not say anything because we were talking about
16 things that were taking place at home, but I was -- yeah, they might ask a question
17 and I'm not sure about it.

18 Q. [10:48:40] Let me move -- sorry. Let me move on to the next thing you said,
19 which was this: "I told these people not to say anything". By "these people" you
20 meant the other women that Dominic Ongwen considered to be his wives, didn't you?

21 A. [10:49:15] Yes.

22 THE INTERPRETER: Sorry, could the witness please repeat her answer. It was
23 more of a mumble.

24 PRESIDING JUDGE SCHMITT: [10:49:28] Yes. Again, this is also a question you
25 don't have to answer that, if you think, and I repeat what I said before, that the

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1 answer might incriminate you. I think I don't have to repeat it: Put yourself in
2 trouble, because if you had, for yourself, are thinking that something might not have
3 been correct, you don't have to answer that. But you of course can if you want to.
4 So please repeat your answer if you want to.

5 So perhaps I can repeat it, and I think I should read the whole, whole sentence here:
6 "I told these people" -- this is recorded as what you have said: "I told these people
7 not to say anything because truth is what leads people and the truth lasts."
8 What did you mean by that?

9 As I said, you don't have to answer the question.

10 THE INTERPRETER: Is the witness getting the question?

11 PRESIDING JUDGE SCHMITT: [10:51:43] I'm not sure if the witness is getting the
12 question.

13 THE COURT OFFICER: [10:52:03] The witness is getting the questions.

14 PRESIDING JUDGE SCHMITT: [10:52:06] Madam Witness, then, again you can
15 simply say if -- you can object to these questions, the question that Mr Gumpert put to
16 you and also what I read to you and I asked you how you meant that. If that might
17 tend to incriminate you, if you think it might tend to put you into trouble, if you think
18 there might have been something perhaps not perfectly correct, then you might object
19 to answer the question simply. But we have to know how we continue here. You
20 can answer, but as I said, if you think it might incriminate you, you can refuse to
21 answer.

22 THE WITNESS: [10:53:01](Interpretation) What I said is that the truth lasts and yes,
23 indeed the truth does last. I told them that the truth lasts because if you refuse to
24 take your children to their homes, then what are people supposed to do? The truth
25 lasts because you have to take the children to meet their fathers. If something

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1 happens, God forbid, and you die, their father is alive, you take the children, the
2 father's people know that the child exists, and that is what I meant that the truth lasts.
3 You cannot take a child that belongs to someone else to somebody and tell that person
4 that that's their child whereas the child belongs to somebody else. And that was
5 why I was telling them, I was telling them that the truth lasts because I wanted them
6 to know their real fathers and not to be taken to their homes or to be taken elsewhere.
7 I told them that they need to take the children to their fathers because when they tell
8 them that the children should stay with the mother, should stay at their homes, then
9 no, it's important for the children to be taken to their father's home. It's important
10 for the children to know their lineage. It's important for the children to know where
11 they come from.

12 PRESIDING JUDGE SCHMITT: [10:54:35] Mr Gumpert, this is an answer.

13 MR GUMPERT: [10:54:37] I'll move on.

14 Q. [10:54:42] I want to play you something which you said just a little later in the
15 same conversation.

16 So, your Honour, the same tab, annex 3 to filing 268, same transcript at tab 33,
17 UGA-OTP-0286-2421, and now we are on page 2432, lines 287 to 292 right at the top of
18 the page.

19 PRESIDING JUDGE SCHMITT: [10:55:17] To listen to this, back to private session.

20 MR GUMPERT: [10:55:21] Back to private session.

21 (Private session at 10.55 a.m.) * (Reclassified entirely in open session)

22 THE COURT OFFICER: [10:55:39] We are in private session.

23 (Playing of the audio excerpt)

24 PRESIDING JUDGE SCHMITT: [10:56:13] Open session.

25 (Open session at 10.56 a.m.)

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1 THE COURT OFFICER: [10:56:28] We are back in open session.

2 MR GUMPERT: [10:56:40]

3 Q. [10:56:41] Now, Madam Witness, we heard you telling Dominic Ongwen that he
4 couldn't trust some people and they might make utterances which he wouldn't like.
5 Can I ask you a very precise question: Who? The question is: Who were those
6 people you were talking about?

7 A. [10:57:14] Could you please repeat your question.

8 Q. [10:57:18] With pleasure. You told Mr Ongwen, and I'll read a direct quote
9 from the English transcript: "The other people make utterances which are not pleasant
10 to hear." End quote. My question is a very precise one: Who were the people
11 who were making these utterances?

12 A. [10:58:05] Let me give you an example. I was invited by some people, I do not
13 remember who they are, but we were invited, we went to Ochra Walter's home and
14 they started asking us, they asked me, these people actually came from the ICC and
15 they asked me: "Do you know Dominic?" I said "Yes, I know Dominic." "What
16 crimes did he commit?" I said nothing.

17 But there was a lady who was there who started accusing me, pointing fingers and
18 saying "Don't you know what Dominic did? You know what he did."

19 And they asked me to sign something and I told them no, why are you asking me to
20 sign whatever it is that I'm supposed to sign? And they told me that we are people
21 who have accused Dominic of crimes. And I told them, I said I cannot sign this
22 because so many people went through these problems. I was abducted. Other
23 people were abducted, so many people were abducted.

24 But this lady, well, I wish I could recall her name but I can't. But this particular lady
25 started saying you know everything that happened, so sign this document. And I

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1 told her no, I cannot sign this document to be a Prosecution witness. I'm not going
2 to sign this document. I want to tell the truth. I want to speak the truth. The truth
3 lasts and God actually helps you if you speak the truth.

4 Because this lady was being extremely forceful and coercing me, she said we need to
5 take your children to have DNA tests conducted, and I asked her, I said, "Huh, why
6 do you want to do? Their father knows that these are their children. I know that
7 these are his children. Why do you want to test them?"

8 Q. [11:00:14] And you also said, and I'll quote again, "fortunately, they also don't
9 have the time to talk", end quote. Why was it fortunate that these people didn't have
10 time to talk?

11 A. [11:00:46] I did not understand that question.

12 Q. [11:00:51] I'm quoting from what you said. You said about these people,
13 "fortunately, they also don't have the time to talk", end quote. Why did you think it
14 was fortunate? Why did you think it was lucky that these people didn't have time to
15 talk?

16 MR OBHOF: [11:01:13] Your Honour, I'm not objecting to the question, just that
17 maybe the entirety of the sentence is read. It's being taken out of context, in my
18 opinion.

19 PRESIDING JUDGE SCHMITT: [11:01:24] I think we can really read it further.

20 There is no problem with that. And perhaps I do it, Madam Witness.

21 And simply, Mr Gumpert, we ask her how can we -- how do we have to understand
22 this.

23 MR GUMPERT: [11:01:42] I want to concentrate on a single word. I don't mind
24 how much of the sentence is read out (Overlapping speakers)

25 PRESIDING JUDGE SCHMITT: [11:01:49] Then, okay, okay. I accept that. So this

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1 is your examination and we do it this way. We stick with this short part and then we,
2 in a second step, we amend it, so to speak, yes. So please repeat it again.

3 MR GUMPERT: [11:02:04]

4 Q. [11:02:06] Madam Witness, you said to Dominic Ongwen about these people,
5 the ones you've just described in your last answer, quote, "fortunately, they also don't
6 have the time to talk", end quote. Why was it fortunate, why was it lucky that these
7 people didn't have time to talk?

8 A. [11:02:34] I do not recall that. Because it's something that has happened in the
9 past and I don't recall.

10 Q. [11:02:54] Madam Witness, I'm going to read the longer part of the sentence now
11 so that you can make any explanation or comment you might want to.

12 Just by way of reassurance, I have just one more passage after this one, so --

13 PRESIDING JUDGE SCHMITT: [11:03:14] And of course it might, even if you read
14 out now the longer passage, it might also give her an idea what she meant with the
15 first passage.

16 MR GUMPERT: [11:03:22]

17 Q. [11:03:23] So here's the whole sentence, quote:

18 "But fortunately, they also don't have the time to talk; even if they talk, we are the
19 ones who have the right to talk, we who are staying with you because they want
20 people who are close to you."

21 Is there any explanation or wider statement you want to make about that?

22 A. [11:04:13] I have nothing to say.

23 Q. [11:04:18] Fair enough.

24 Your Honours, the last passage is longer. It's from tab 28, which is filing 26, annex 1.

25 The timestamps are 01:12:56 to 01:16:38 and in the English transcript, which is at

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- 1 tab 30, the portion that we will be hearing in private session starts on -- I'm sorry, the
2 transcript ERN is UGA-OTP-0286-2526, the page that we are concerned with is 2569.
3 I'll pause while your Honours --
4 PRESIDING JUDGE SCHMITT: [11:05:26] We go to private session.
5 MR GUMPERT: And the lines -- sorry.
6 (Private session at 11.05 a.m.) * (Reclassified entirely in open session)
7 THE COURT OFFICER: [11:05:41] We are in private session.
8 MR GUMPERT: [11:05:43] On page 2569 of the English transcript we start at line
9 1232, three-quarters of the way down the page, and we go on to page 2571, that's two
10 pages on, at line 1285.
11 PRESIDING JUDGE SCHMITT: [11:06:37] Yes.
12 MR GUMPERT: [11:06:40] (Microphone not activated)
13 PRESIDING JUDGE SCHMITT: [11:06:43] Also technically, yes, if possible.
14 (Playing of the audio excerpt)
15 MR GUMPERT: [11:11:37] Open session.
16 PRESIDING JUDGE SCHMITT: [11:11:39] Open session.
17 (Open session at 11.11 a.m.)
18 THE COURT OFFICER: [11:11:52] We are in open session.
19 MR GUMPERT: [11:11:57]
20 Q. [11:11:59] Madam Witness, I just want to concentrate on one part of what you
21 said.
22 For your Honours' assistance, it's at lines 1264, 1265 and 1266, and I'm going to read
23 that portion of the English translation out.
24 This is what you said, Madam, to Dominic Ongwen:
25 "... because you can come and chat with me, but to start talking about those things, no

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1 one even starts. I do not know how to talk and spill the beans like other people."
2 You were reassuring Dominic Ongwen that you would keep his secrets, weren't you?
3 A. [11:13:04] It is not like that. Aber came to me. As you heard from the
4 conversation, it started with Aber. Aber came to me and told me that there is a
5 woman, a mother of one called Tibo (phon), who unfortunately has died since. She
6 was talking to me, Aber told me that she came to me and Aber was telling me that she
7 was going to send her away because she was a witch, because everyone didn't want
8 her because Min Tibo was considered a witch. But I was counselling her and said,
9 look, it was Odomi who was taking care of her. He kept her in our homestead.
10 So now that Min Tibo has come home, she is again speaking and talking to us. But
11 for me, I don't have time to speak to anyone, so I spoke on phone and told -- and said
12 Min Tibo was speaking to Aber in a bad way. And for my case I usually only -- I
13 don't want to speak a lot most times, I just keep to my silence. And that's what I told
14 Dominic. And I told Dominic that the person whom Aber accused as being a bad
15 person is called Min Tibo, her real name is Aciro.
16 I also told him that, as for my case, I usually keep my secret. I don't want to speak to
17 people just anyhow. Because sometimes she would come to me and ask me of some
18 information about what happened in the past and I would tell her that, look, things
19 that are past and are gone in the past, let it go with the past. I don't want to speak
20 about it.
21 She, Aber, also told me he also spoke about the same thing with Dominic and I am
22 surprised that my recording was the one that was made, and yet Aber also spoke to
23 Dominic about the same thing.
24 Q. [11:15:20] Madam Witness, isn't the truth that, just like you told the journalist,
25 you know Dominic Ongwen committed very serious and terrible atrocities, but just

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1 like you told Dominic Ongwen, you have decided not to spill the beans? Isn't that
2 the truth?

3 A. [11:15:49] I did not say anything.

4 Q. [11:15:51] No.

5 Thank you very much, that's the end of my questioning.

6 PRESIDING JUDGE SCHMITT: [11:15:55] So it was much shorter than envisioned.

7 MR GUMPERT: [11:15:59] Indeed, your Honour, it was.

8 PRESIDING JUDGE SCHMITT: [11:16:02] I would never complain about that but it
9 came a little bit surprisingly now, admittedly.

10 For the Legal Representative of the Victims, Ms Massidda, any questions?

11 MS MASSIDDA: [11:16:12] We have no question for this witness, your Honour.

12 Thank you for asking.

13 PRESIDING JUDGE SCHMITT: [11:16:17] Ms Sehmi.

14 MS SEHMI: [11:16:17] I have no questions, your Honour.

15 PRESIDING JUDGE SCHMITT: [11:16:23] The Defence, Mr Obhof.

16 MR OBHOF: [11:16:29] No questions, your Honour.

17 PRESIDING JUDGE SCHMITT: [11:16:34] Then we conclude the testimony of this
18 witness.

19 Madam Witness, you have probably recognised that the Prosecutor has finished his
20 questioning. This concludes your testimony at all. On behalf of the Chamber

21 I would like to thank you that you came to video-link location to help us establish the
22 truth. We wish you a safe trip back home.

23 For further planning, on Monday we don't have a witness. Or do we, Mr Obhof?

24 MR OBHOF: [11:17:16] We quite possibly could. But I heard from the Registry it
25 might be easier, because of something else going on on Monday -- oh, I thought that's

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1 what she said.

2 So, yes, we could actually do 138 on Monday, if you would prefer.

3 PRESIDING JUDGE SCHMITT: [11:17:29] So let's --

4 MR OBHOF: [11:17:30] 138 (Overlapping speakers)

5 PRESIDING JUDGE SCHMITT: [11:17:32] Let's discuss this shortly. 138 is a
6 one-day witness, so to speak.

7 MR OBHOF: [11:17:37] That is correct, yes.

8 PRESIDING JUDGE SCHMITT: [11:17:38] So we have one day on Monday or
9 Tuesday; is this correct?

10 MR OBHOF: [11:17:42] Yes. So I would prefer Monday, but it depends on what the
11 Judges would say.

12 (Trial Chamber confers)

13 PRESIDING JUDGE SCHMITT: [11:17:53] So, okay, the Judges are fine with
14 Monday. So then we resume on Monday, 9.30, with witness D-138.

15 THE COURT USHER: [11:18:06] All rise.

16 (The hearing ends in open session at 11.18 a.m.)

17 RECLASSIFICATION REPORT

18 Pursuant to the Trial Chamber' IX's instructions, ICC-02/04-01/15-497, dated 13 July
19 2016, the transcript is reclassified public and is filed in the case