

Trial Hearing

(Open Session)

ICC-02/04-01/15

WITNESS: UGA-D26-P-0092

1 International Criminal Court

2 Trial Chamber IX

3 Situation: Republic of Uganda

4 In the case of The Prosecutor v. Dominic Ongwen - ICC-02/04-01/15

5 Presiding Judge Bertram Schmitt, Judge Péter Kovács and

6 Judge Raul Cano Pangalangan

7 Trial Hearing - Courtroom 3

8 Thursday, 28 March 2019

9 (The hearing starts in open session at 9.31 a.m.)

10 THE COURT USHER: [9:31:55] All rise.

11 The International Criminal Court is now in session.

12 PRESIDING JUDGE SCHMITT: [9:32:09] Good morning, everyone. Especially

13 good morning to Mr Arop.

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15 (The witness speaks Acholi)

16 THE WITNESS: [9:32:28](Interpretation) Good morning.

17 PRESIDING JUDGE SCHMITT: Thank you.

18 Could the court officer please call the case.

19 THE COURT OFFICER: [9:32:31] Good morning, Mr President, your Honours.

20 The situation in the Republic of Uganda, in the case of The Prosecutor versus Dominic

21 Ongwen, case reference ICC-02/04-01/15.

22 And for the record, we are in open session.

23 PRESIDING JUDGE SCHMITT: [9:32:42] Thank you. And like always, the

24 appearances of the parties, Mr Choudhry for the Prosecution first.

25 MR CHOUDHRY: [9:32:49] Good morning, your Honours. Kamran Choudhry,

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1 here today with Mr Benjamin Gumpert, Adesola Adeboyejo, Mr Shkelzen Zeneli,  
2 Pubudu Sachithanandan, Beti Hohler, Sanyu Ndagire, Milena Bruns, Natasha Barigye,  
3 Laura de Leeuw, Grace Goh and Jasmina Suljanovic.

4 PRESIDING JUDGE SCHMITT: [9:33:07] You couldn't have known this by heart, of  
5 course.

6 Ms Massidda.

7 MS MASSIDDA: [9:33:13] Good morning, your Honours. For the Common Legal  
8 Representatives team Orchlón Narantsetseg, Caroline Walter, and myself  
9 Paolina Massidda.

10 PRESIDING JUDGE SCHMITT: [9:33:21] Ms Hirst.

11 MS HIRST: [9:33:22] Good morning, Mr President, your Honours. I'm Megan Hirst,  
12 with me is James Mawira and Anushka Sehmi.

13 PRESIDING JUDGE SCHMITT: [9:33:28] Thank you.

14 And Mr Obhof for the Defence.

15 MR OBHOF: [9:33:31] Good morning, your Honours. Today we have  
16 Chief Charles Achaleke Taku, Roy Titus Ayena, myself Thomas Obhof, our client  
17 Mr Ongwen and Mr Kifudde. And Counsel Ayena Odongo will be joining us in  
18 about two minutes.

19 PRESIDING JUDGE SCHMITT: [9:33:49] Thank you.

20 We continue now with your examination, Mr Arop.

21 And I give the Prosecution the floor, Mr Choudhry, for the examination by the  
22 Prosecution.

23 QUESTIONED BY MR CHOUDHRY:

24 Q. [9:34:01] Good morning, Mr Witness.

25 A. [9:34:03] Good morning.

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1 Q. [9:34:03] I'll be asking you some questions today, and I want to explain to you  
2 the format of how I shall be asking those questions. Okay?

3 A. [9:34:16] Okay.

4 Q. [9:34:17] You spoke to us on Tuesday and a record of what you told us is  
5 available to me from that day. Do you understand that?

6 A. [9:34:32] Yes, I do.

7 Q. [9:34:33] And so I may be reading some of the things that you told us on  
8 Tuesday and asking you questions about them, okay?

9 A. [9:34:44] That's all right, I understand.

10 Q. [9:34:49] And before you came to this Court it's right that you were interviewed  
11 by the Defence team for Dominic Ongwen; that's correct, isn't it?

12 A. [9:35:01] Yes, I was.

13 Q. [9:35:04] And they created a record of the things that you told them and so I  
14 may be referring to some of the things that you told them; is that clear?

15 A. [9:35:17] It is clear.

16 Q. [9:35:21] Another piece of information I may be referring to is that when you  
17 came to this Court before giving testimony, you spoke to people who looked after you,  
18 didn't you?

19 A. [9:35:35] Yes, I did.

20 Q. [9:35:39] And I may be referring to some of the things that you told them, okay?

21 A. [9:35:45] Okay.

22 MR CHOUDHRY: [9:35:52] Your Honours, the first area concerns the witness's  
23 wives. I don't see a reason for why it should be in private session, but my learned  
24 friend questioned this witness in private session so I'm in your Honours' hands.

25 PRESIDING JUDGE SCHMITT: [9:36:05] Do we need to mention the names here?

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1 MR CHOUDHRY: [9:36:09] I will be, your Honour.

2 PRESIDING JUDGE SCHMITT: [9:36:10] You will be.

3 Any opinion by the Defence on that matter?

4 MR OBHOF: [9:36:14] I would prefer if he used "person 1" or "person 2" just for  
5 privacy reasons, especially considering with the person who was in the bush.

6 PRESIDING JUDGE SCHMITT: [9:36:24] I think I would agree on that, what

7 Mr Obhof suggests. So we would have to establish a person 1 and person 2. For  
8 that we would have to mention the names, and to discuss this we would have to go  
9 shortly to private session to clear that up and then go back to open session, I think.

10 MR CHOUDHRY: [9:36:43] Well, your Honour, just for the purpose of the public  
11 gallery, I think I can dispense with that in two minutes in its entirety.

12 PRESIDING JUDGE SCHMITT: [9:36:50] So as information of the public, a short  
13 private session and then we go back to open session.

14 (Private session at 9.37 a.m.) \* (Reclassified partially in public)

15 THE COURT OFFICER: [9:37:02] We're in private session, Mr President.

16 PRESIDING JUDGE SCHMITT: [9:37:05] Thank you.

17 And perhaps, Mr Arop, for your information, we are -- Mr Arop, we are now  
18 establishing for your wives sort of pseudonyms so that it can be discussed in open  
19 session and so the privacy of them is protected.

20 Please, Mr Choudhry, continue.

21 THE WITNESS: (Interpretation) Okay.

22 MR CHOUDHRY:

23 Q. [9:37:31] Mr Arop, on Tuesday you told us that you had a wife in the bush.

24 Yes?

25 A. [9:37:38] Yes, that's correct.

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1 Q. [9:37:40] Now I would like to remind you what you told us on Tuesday.

2 Your Honour, this is at realtime transcript page 73, lines 18 to 20.

3 Mr Arop, on Tuesday you said, "So I accepted. I picked the girl and I went with her  
4 to my home, and we had a relationship and I fathered with her a child and she came  
5 back with that child."

6 When you said that, you were talking about (Redacted), weren't you?

7 A. [9:38:23] Yes, that's correct.

8 Q. [9:38:25] You also told us on Tuesday that -- and, your Honour, this is realtime  
9 transcript page 75, lines 4 to 8 -- "... when this girl came, I talked to her, explained to  
10 her that even myself, I was abducted. So 'We are going to stay, it is it not in my  
11 interest, so we need to stay together. I also want to escape', I told her this secret. I  
12 even -- so we had a very good relationship; we even understood each other."

13 Again, when you said this, you were talking about (Redacted), weren't you?

14 A. [9:39:10] Yes, that's correct.

15 Q. [9:39:13] And it's correct in saying that you still have a good relationship with  
16 (Redacted) today, don't you?

17 A. [9:39:25] No, we are not together anymore.

18 Q. [9:39:34] But you still speak to her today, don't you?

19 A. [9:39:39] Yes, I do speak to her.

20 MR CHOUDHRY: [9:39:43] Your Honour, with that we can go into public session.

21 PRESIDING JUDGE SCHMITT: [9:39:53] Still or with additional information by

22 Mr Gumpert?

23 MR CHOUDHRY: [9:39:57] Your Honour, that was simply just to outline that I  
24 forgot to mention --

25 PRESIDING JUDGE SCHMITT: [9:40:00] No, no. I had this sharp look to the right

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1 and I observed this. But we go back to open session.

2 (Open session at 9.40 a.m.)

3 THE COURT OFFICER: [9:40:08] We are back in open session, Mr President.

4 PRESIDING JUDGE SCHMITT: [9:40:17] Thank you. Few things go unnoticed  
5 here in the courtroom. Please, Mr Choudhry.

6 MR CHOUDHRY: [9:40:23] Your Honour, the thing that I forgot to do was to  
7 mention the transcript and that is transcript 208.

8 Q. [9:40:33] Mr Arop, I'd like to talk to you about some of the things you said about  
9 Kony's powers, okay? On Tuesday you told us that Kony "can give an order to  
10 someone who is lower than you and say you go and do this work. Sometimes he  
11 would pick [the person] ... close to him as signallers. For you, the officer, you are  
12 irrelevant." Do you remember that?

13 A. [9:41:02] Yes, I do.

14 Q. [9:41:08] Now the phrase "to do work" in the LRA means to go and do an attack,  
15 doesn't it?

16 A. [9:41:16] Yes, that's correct.

17 Q. [9:41:23] So when you said that, you meant that Kony could give a lower-ranked  
18 LRA fighter more responsibility than a higher-ranked LRA fighter in an attack, didn't  
19 you?

20 A. [9:41:40] Yes, that would happen.

21 Q. [9:41:51] Now, Mr Witness, Vincent Otti was the LRA's number 2 at a point in  
22 time, wasn't he?

23 A. [9:42:02] Yes, he was.

24 Q. [9:42:07] And just like Kony, Vincent Otti also had the authority to give  
25 a lower-ranked LRA fighter more responsibility than a higher-ranked LRA fighter in

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1 an attack, didn't he?

2 A. [9:42:23] Yes, that's correct.

3 Q. [9:42:32] And staying with the subject of ranks, on Tuesday, and this is it  
4 realtime transcript page 32, lines 11 to 13, you said:

5 "I saw that the ranks which are given there, you are given rank to try and lure you to  
6 stay so you would not be able to escape." You said that, yes?

7 A. [9:43:00] Yes, I did.

8 Q. [9:43:03] When you said ranks could lure you to stay, you meant that ranks in  
9 the LRA were sometimes used to discourage LRA fighters from escaping; isn't that  
10 correct?

11 A. [9:43:19] You're given a rank to make it difficult for you to escape.

12 Q. [9:43:31] This was because the higher the rank you had, the more power you  
13 had, correct?

14 A. [9:43:43] No, you did not have more authority based on your rank.

15 Q. [9:43:56] What was your rank, your highest rank in the LRA, Mr Witness?

16 A. [9:44:04] I was a captain.

17 Q. [9:44:07] What was Vincent Otti's highest rank in the LRA, Mr Witness?

18 A. [9:44:16] When I left, he was the brigadier.

19 Q. [9:44:21] Did you have the same or more authority than Vincent Otti,  
20 Mr Witness?

21 A. [9:44:29] No, I did not even have the audacity to speak with him. I did not  
22 have the rank to enable me to speak to him directly.

23 Q. [9:44:42] So Vincent Otti, his rank, he had more power than you; isn't that right?

24 A. [9:44:50] Yes, he was highly ranked than myself.

25 Q. [9:45:01] So you agree with me that the higher your rank, the more power you

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1 have?

2 A. [9:45:08] You have power in the area where you're located but you do not have  
3 power over other people in other areas.

4 Q. [9:45:26] And the more power you have in the areas that you're located, the  
5 more privileges you have; isn't that right?

6 A. [9:45:39] Based on your locality, you live socially with other people, but all the  
7 orders come from above and whoever is above is in charge of everybody else.

8 Q. [9:46:01] Let's look at it this way: Senior commanders had escorts, didn't they?

9 A. [9:46:13] Yes, they did have escorts.

10 Q. [9:46:18] Lower-ranked commanders didn't have escorts?

11 A. [9:46:24] They did not have escorts.

12 Q. [9:46:30] And on Tuesday, you gave us an example of when a lower-ranked  
13 officer was jealous of a higher-ranked officer, and that example was of Matata being  
14 jealous of Otti Lagony; isn't that correct?

15 A. [9:46:55] That's correct.

16 Q. [9:47:02] I'd like to ask you a few questions now about the death of Otti Lagony.  
17 It's right in saying that before Otti Lagony was executed, you were originally ordered  
18 to go with the group that were tasked with killing him; isn't that right?

19 A. [9:47:28] Yes, that's correct.

20 Q. [9:47:37] And when you realised that you were in a group that was going to kill  
21 Otti Lagony, that upset you, didn't it?

22 A. [9:47:49] It made me afraid.

23 Q. [9:47:55] You didn't agree with the decision that he should be killed, did you?

24 A. [9:48:05] Well, I did feel that he should not be killed, personally, but I could not  
25 speak out about it.



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1 Q. [9:48:19] But you refused to go with the group that killed him, didn't you?

2 A. [9:48:25] Yes, I did refuse.

3 Q. [9:48:33] And in fact you told Kony that you refused to go with that group,  
4 didn't you?

5 A. [9:48:42] No, I did not tell him personally but they asked me.

6 Q. [9:48:53] When you say "they" do you mean Kony asked you?

7 A. [9:49:00] The soldiers, the soldiers who I lived with at Kony's household.

8 Q. [9:49:11] Mr Witness, I'm going to refer to something in a summary that the  
9 Defence have provided me which they say you said to them, okay? And I'll read  
10 this:

11 "The witness was one of the last persons to see Otti Lagony and Okello Director alive.  
12 He was part of the long walk 'to Uganda', and they were eventually split just before  
13 Lagony and Okello Director were executed. He stated that he refused to go the last  
14 mile, noting that he told this to Kony. He said that Kony did not kill him because  
15 Kony respected his ability to speak his mind and the truth."

16 PRESIDING JUDGE SCHMITT: [9:50:08] Perhaps for the information of the witness.  
17 Mr Arop, this is a summary of a conversation obviously or interview you had with  
18 the Defence. It's not your -- not exactly one on one your words written down here,  
19 but it is, as I said, a summary.

20 Just so that the witness is clear about what you put to him.

21 MR CHOUDHRY: [9:50:34]

22 Q. [9:50:34] So my question to you, Mr Witness, is that you told Kony that you  
23 refused to go with the group that executed Otti Lagony, didn't you?

24 A. [9:50:47] Yes, I did.

25 MR OBHOF: [9:50:52] And I wonder, just a small point before we go forward. I'm

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1 not objecting to this, but next time when the summary is used, we just request it  
2 would be actually on the list provided.

3 PRESIDING JUDGE SCHMITT: Yes. I have -- yes --

4 MR OBHOF: [09:51:02] Which I'm okay with --

5 PRESIDING JUDGE SCHMITT: No, no, I --

6 MR OBHOF: [09:51:03] -- and I understand it is something that could be used.

7 PRESIDING JUDGE SCHMITT: [9:51:06] Yes, I also shortly thought about telling  
8 everyone where we -- that is paragraph 7 of your summary, everything. But since  
9 this is a very short summary and since you have fabricated it, I think it's not too  
10 complicated to follow here. Because of that I did not intervene.

11 Please continue --

12 MR OBHOF: [9:51:27] I actually pulled it up on my computer screen earlier today.

13 PRESIDING JUDGE SCHMITT: Yes.

14 Please continue, Mr Choudhry.

15 MR CHOUDHRY: [9:51:33] Your Honour, in that regard I can apologise if -- and I'll  
16 do that in future.

17 PRESIDING JUDGE SCHMITT: [9:51:38] No problem, Mr Choudhry. Please  
18 continue.

19 MR CHOUDHRY:

20 Q. [9:51:42] Mr Witness, after you told Kony that you refused, Kony didn't kill you,  
21 did he?

22 A. [9:51:50] He asked me -- he asked me why did you refuse to go. And I told him,  
23 I said no, I couldn't go and witness him being killed because I used to live with him.  
24 And he didn't say anything else to that.

25 Q. [9:52:06] And you believed that when you told Kony that, Kony respected your

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1 ability to speak your mind and provide the truth and your opinion to him; isn't that  
2 right?

3 A. [9:52:18] I was afraid. But when he did not take any action against me I  
4 believed that he understood what I'd told him.

5 Q. [9:52:36] So there were times, Mr Witness, that Kony actually listened to LRA  
6 fighters and respected their opinions; isn't that correct?

7 A. [9:52:53] If he asks you a question, and you respond to him directly and  
8 correctly, then, yes. But you are not the one who asks him, you don't question him.

9 Q. [9:53:13] Mr Witness, I would like to move on to a different topic now and that's  
10 the subject of an attack at Odek. Do you understand that?

11 A. [9:53:22] No, I do not -- I did not understand but I did hear about the incident.

12 Q. [9:53:36] When you spoke to the Defence team, you told them about an attack at  
13 Odek, didn't you?

14 A. [9:53:45] I do not recall.

15 PRESIDING JUDGE SCHMITT: [9:53:57] It's paragraph 14 of the summary. I think  
16 you may put it to him if you want. Again, under the -- that it is clear that we have  
17 here a summary and not his original words.

18 MR OBHOF: [9:54:10] Your Honour, you mean paragraph 16, correct?

19 PRESIDING JUDGE SCHMITT: [9:54:14] I would put 14 to him, but it's up to the  
20 Prosecution, first of all.

21 MR OBHOF: [9:54:20] I believe you are reading the old summary.

22 PRESIDING JUDGE SCHMITT: [9:54:24] It might be then the old summary. So we  
23 won't discuss that.

24 MR OBHOF: [9:54:27] For your information, it's filing 1367 (sic) confidential  
25 annex A.

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1 PRESIDING JUDGE SCHMITT: [9:54:35] I can prove that I have 14 here in front of  
2 me.

3 MR CHOUDHRY: [9:54:40] Your Honour, before I put that to him, perhaps he -- he  
4 said that he has heard about the attack at Odek. Maybe I can just ask him a few  
5 questions along that line.

6 PRESIDING JUDGE SCHMITT: [9:54:49] That's absolutely clear.

7 MR CHOUDHRY: [9:54:50]

8 Q. [9:54:51] Mr Witness, you told us - and I will try and find it - you heard about an  
9 attack at Odek; is that correct?

10 A. [9:55:02] I heard about the attack. While we were in the Sudan I heard that  
11 Odek was attacked.

12 Q. [9:55:10] Can you tell us what you did hear happen at Odek?

13 A. [9:55:16] I heard that there was an attack, but I did not get any other details  
14 about the actual attack.

15 Q. [9:55:26] Who did you hear that there was an attack from?

16 A. [9:55:31] The soldiers who came back from Uganda.

17 Q. [9:55:39] And how did the soldiers who came back from Uganda know about  
18 the attack?

19 A. [9:55:47] I did not ask. Because when you're there, as I stated earlier, you do  
20 not go around asking questions because if you ask questions, you raise suspicions  
21 about yourself.

22 Q. [9:56:03] What LRA units were these soldiers who told you about the attack at  
23 Odek, what units did they belong to?

24 A. [9:56:15] Some of them were part of Trinkle.

25 Q. [9:56:20] What about Sinia, were any of them from Sinia?

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1 A. [9:56:30] I was in Trinkle brigade.

2 Q. [9:56:36] Did you hear anything about Dominic Ongwen being involved in the  
3 attack at Odek?

4 A. [9:56:46] No, I did not hear anything to that effect.

5 Q. [9:56:53] Now, Mr Witness, I'm going to read something that the Defence team  
6 have said that you told them, so I would just like to understand that.

7 Your Honour, that is paragraph I think I've got 14. It might be corrected.

8 PRESIDING JUDGE SCHMITT: [9:57:10] Yes, okay, 14/16.

9 MR CHOUDHRY: [9:57:13]

10 Q. [9:57:14] "The witness was in Trinkle sickbay at this time. He did not go, and  
11 he heard about it after the fact. After the attack, some of the wounded came to his  
12 sickbay. He said that the wounded said that it was an attack was a mixture of all  
13 brigades. As some of the injured were from Sinia brigade, the witness assumes  
14 Dominic was there."

15 My question to you, Mr Witness, is, does that help you remember what you told the  
16 Defence?

17 A. [9:57:54] I do remember that there were a lot of people who came to the bay and  
18 I did speak to those people, but I did not get concrete information or I did not fully  
19 understand that Ongwen was there.

20 PRESIDING JUDGE SCHMITT: [9:58:25] And this is -- of course this cannot be  
21 concluded also from paragraph 14, to make it clear. So what the witness now says  
22 would concur with this paragraph, let me put it this way, or not contradict it.

23 MR CHOUDHRY: [9:58:45]

24 Q. [9:58:46] Mr Witness, you first met Dominic Ongwen in Sudan; is that right?

25 A. [9:58:52] Yes, that's correct.

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1 Q. [9:58:58] And according to you, he was a friendly person?

2 A. [9:59:06] Yes, that's correct.

3 Q. [9:59:11] He was a good commander, yes?

4 A. [9:59:15] Yes, he treated people well.

5 Q. [9:59:20] And he didn't just treat people well, but he treated LRA fighters that  
6 were under him well, correct?

7 A. [9:59:31] Yes, he treated them well.

8 Q. [9:59:38] And you told us on Tuesday that you were able to get close to him?

9 A. [9:59:46] Yes, I was able to get close to him when we were in the Sudan.

10 Q. [9:59:53] So you yourself liked Dominic Ongwen?

11 A. [9:59:59] Yes, I did like him.

12 Q. [10:00:04] You told us on Tuesday that you last saw Dominic Ongwen in 2004; is  
13 that correct?

14 A. [10:00:14] I -- the last -- the last time I did see him was in 2004.

15 Q. [10:00:23] What did you talk about when you last saw him?

16 A. [10:00:27] The minute I found him he was limping. I didn't take time with him,  
17 I didn't talk about his injury, but he had his thigh bound by something. And we  
18 were all on the go, it was not somewhere where we are stationed. So we eventually  
19 separated.

20 Q. [10:00:59] Mr Witness, you should have a binder in front of you. I ask you to  
21 turn to tab 2, please.

22 PRESIDING JUDGE SCHMITT: [10:01:14] So if you could please open the binder  
23 and then at tab 2.

24 And I think on top, if I am correct, Mr Choudhry, there is The Telegraph and there is  
25 a picture, too.

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1 MR CHOUDHRY: [10:01:31] That is correct, your Honour.

2 THE WITNESS: [10:01:53](Interpretation) I'm seeing a picture.

3 MR CHOUDHRY: [10:02:00]

4 Q. [10:02:00] Mr Witness, Mr Witness, after you left the bush, you gave interviews  
5 to journalists, didn't you?

6 A. [10:02:08] Yes, I did.

7 Q. [10:02:20] Now tab 2 -- and, your Honour, that's ERN UGA-OTP-0286-0650.

8 This is an article containing an interview that you did. Can you please turn to page 6  
9 of this article.

10 Your Honour, that's at ERN 0655.

11 PRESIDING JUDGE SCHMITT: [10:02:47] That might not be so easy for the witness  
12 if he is not used -- because it's very small printed. On the bottom -- or perhaps --

13 MR CHOUDHRY: [10:02:59] Your Honour, I have an easier way.

14 Q. [10:03:02] Mr Witness, if you could turn to this page, please. If you look at me,  
15 this page, please.

16 A. [10:03:08] I have seen. I have found it.

17 PRESIDING JUDGE SCHMITT: [10:03:11] Okay. Very good. Thank you.

18 MR CHOUDHRY: [10:03:13]

19 Q. [10:03:13] That's you, isn't it?

20 A. [10:03:16] Yes, that's me.

21 Q. [10:03:20] I would like to read to you something that this journalist has said, and  
22 quotes you:

23 "Kony must explain why he started the rebel activity, the ICC must follow him," he  
24 said. "But for the other people, the constitution of Uganda says they should be  
25 protected."

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1 My question, Mr Witness, is that you believe that Kony should be prosecuted, correct?

2 A. [10:03:58] Yes, that's what I said.

3 Q. [10:04:09] But you believe that other LRA fighters like Dominic Ongwen should  
4 not be prosecuted; isn't that right?

5 A. [10:04:20] That's correct.

6 Q. [10:04:25] If you could turn now to tab 3 in your binder, please.

7 MR CHOUDHRY: [10:04:37] Your Honour, that's UGA-OTP-0286-0647.

8 PRESIDING JUDGE SCHMITT: [10:04:48] 647? I have on tab 3, I have 664.

9 MR CHOUDHRY: [10:04:57] Your Honour, it's my mistake, it's tab 4.

10 PRESIDING JUDGE SCHMITT: [10:05:03] Then it makes sense. Thank you.

11 MR CHOUDHRY: [10:05:07]

12 Q. [10:05:09] Mr Witness, just so that you are clear, the article looks like this.

13 PRESIDING JUDGE SCHMITT: [10:05:26] I think we have to really appreciate that  
14 Mr Arop very quickly understands where we are, because it's not so easy if you are  
15 for the first time in such a situation in such a courtroom here.

16 Thank you, Mr Arop.

17 MR CHOUDHRY: [10:05:43]

18 Q. Sir, to make it easier, I will read to you another sentence and this article is  
19 written by the same journalist that also wrote the other article I've just read to you.  
20 Is that clear? Right.

21 Your Honour, I'm reading from 0648, and it's -- one, two, three, four, five, six,  
22 seven -- the eight paragraph or the penultimate paragraph.

23 The journalist wrote this: "Many feel strongly that Ongwen, a former child soldier  
24 himself, should not be prosecuted but instead sent home to benefit from  
25 a government amnesty offered to other former LRA soldiers. Among them is Alfred



1 Arop, a former bodyguard to Joseph Kony."

2 My question, Mr Witness, is you believe not only that Dominic Ongwen should not be  
3 prosecuted, but you think he should be granted an amnesty as well, don't you?

4 MR OBHOF: [10:06:50] Your Honour, the Defence objects. We have asked this  
5 question before about whether or not Mr Ongwen should be up here, and we have  
6 been denied the right to have the witness answer. It's only fair the Prosecution be  
7 not allowed to do the same thing.

8 PRESIDING JUDGE SCHMITT: [10:07:04] I think this -- but the difference here is  
9 that you can infer it from what the witness has said formally, and I would not see any  
10 reason, even from the perspective of the Defence, why not ask him that.

11 MR OBHOF: [10:07:21] Well, you know, I'm just saying it's been denied to us before,  
12 so it should be treated equally.

13 PRESIDING JUDGE SCHMITT: [10:07:27] Yes, but this is, as I said, this is a little bit  
14 different here since we have this utterance by the witness himself, this public  
15 utterance. I think I would want to allow it, yes.

16 Please, Mr Choudhry.

17 MR CHOUDHRY: [10:07:44] Your Honour, the next session of my questioning  
18 ought to be done in private session and I --

19 PRESIDING JUDGE SCHMITT: [10:07:49] But we don't have an answer yet.

20 MR CHOUDHRY: [10:07:58]

21 Q. [10:07:58] So, Mr Witness, could you please answer the question. You believe  
22 that Dominic Ongwen should also be granted an amnesty; is that right?

23 A. [10:08:08] Yes, even right now I would still say he should be granted amnesty  
24 because he was abducted when he was still young. He did not know anything and  
25 that is part of the things I saw that was a problem. He was also affected by the war.

1 MR CHOUDHRY: [10:08:32] And your Honour, for that, the remaining portion of  
2 my questioning, which is only about 10 minutes, will probably be in private session.

3 PRESIDING JUDGE SCHMITT: [10:08:40] Okay, then we go to private session.

4 (Private session at 10.08 a.m.) \* (Reclassified partially in public)

5 THE COURT OFFICER: [10:08:44] We are in private session, Mr President.

6 PRESIDING JUDGE SCHMITT: [10:08:55] Perhaps a short comment. Mr Obhof, I  
7 think the answer, I think you would not object on the substance but more on the  
8 procedural -- yes, okay, good.

9 Please, Mr Choudhry, continue.

10 MR CHOUDHRY: [10:09:13]

11 Q. [10:09:13] Mr Witness, you are now in private session so that nothing you say  
12 can be heard by the public and is confidential; do you understand that?

13 A. [10:09:24] Yes, I do.

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

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5 MR CHOUDHRY: [10:24:16] Your Honour, I have no further questions.

6 PRESIDING JUDGE SCHMITT: [10:24:19] Thank you. We go back to open session.

7 Do you have questions in private session? Yes, because the Defence has the right, as  
8 always, but I don't assume that this will be an extended exercise. No.

9 Then, Mr Obhof, just -- you think -- you indicated one or two questions; that's all.

10 Please.

11 MR OBHOF: [10:24:31] I have one for private and then I believe counsel has two or  
12 three for public.

13 QUESTIONED BY MR OBHOF:

14 Q. [10:27:00] Mr Witness, just so we can make this clear --

15 PRESIDING JUDGE SCHMITT: [10:24:40] Just before, indeed my colleague reminds  
16 that I would first have to ask, but I didn't assume that Ms Hirst or Ms Massidda  
17 would have questions. No.

18 MS MASSIDDA: [10:24:51] Thank you very much, your Honour.

19 Just for the record, we don't have any question for this witness. Thank you.

20 PRESIDING JUDGE SCHMITT: [10:24:56] And Ms Hirst neither?

21 MS HIRST: [10:24:57] Also no questions from us.

22 PRESIDING JUDGE SCHMITT: [10:25:00] That was very suggestive. Okay.  
23 Please, Mr Obhof.

24 MR OBHOF: [10:25:02] I'm sorry to my learned colleagues across the way; I did  
25 not mean to usurp you.



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1 Thank you very much, your Honour, for remembering.

2 (Redacted)

3 (Redacted)

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11 MR OBHOF: [10:26:09] Thank you.

12 Thank you. We can go into public session.

13 PRESIDING JUDGE SCHMITT: [10:26:13] Public. But only additional questions  
14 that arise I would suggest from the questioning of the Prosecution, please. No, no,  
15 you -- no, no, so to speak, coming back to the direct examination, please.

16 Back to open session for this.

17 (Open session at 10.26 a.m.)

18 THE COURT OFFICER: [10:26:31] We are back in open session, Mr President.

19 PRESIDING JUDGE SCHMITT: [10:26:39] Please, Mr Ayena, you have the floor.

20 MR AYENA ODONGO: [10:26:44] Thank you, Mr President, your Honours.

21 QUESTIONED BY MR AYENA ODONGO:

22 Q. [10:26:51] Mr Arop, I'm going to ask you to verify on the question of  
23 hierarchy -- power and hierarchy in the LRA.

24 When my learned friend across asked you as to whether Otti was higher in rank than  
25 you, you said yes. And you said -- you told Court that he had more privileges and

1 had more powers.

2 Now I want to find out between you and Vincent Otti was there anything to stop

3 Kony from bypassing Vincent Otti and giving orders direct to you if he chose to?

4 A. [10:27:47] You know, basing on the questions you are asking, I feel as if they are

5 just repeating the questions. I mentioned this very clearly. I said Kony was the

6 overall person. Otti could be above me, but at any one point Otti could even go to

7 the *dog adaki* to become an escort. But each time he is above me, yes, that would

8 happen. But that would be changed at any one point. I mentioned this clearly even

9 on Tuesday. I think I have answered that question.

10 Well, let me emphasise further. For instance, if Otti was in this rank, and at that

11 point I cannot antagonise him because by his rank he's above me, because I would be

12 below him in terms of rank. But there is another person who would be lower in rank

13 than me; I would send them to fetch water or run for errands because I am above

14 them. But all the orders come from Kony and not from Otti.

15 Have I answered you?

16 PRESIDING JUDGE SCHMITT: [10:29:03] Mr Witness, this sometimes happens in

17 a courtroom that statements by witnesses are tested, as we say here, and they are

18 put -- the parties try to put light on them from different angles and for the witness, it

19 might seem that this is repetitive -- just as an explanation what sometimes happens in

20 a courtroom.

21 Mr Ayena.

22 MR AYENA ODONGO: [10:29:26] And to reassure you, Mr Witness, you

23 answered very well.

24 THE WITNESS: [10:29:35] (Interpretation) Thank you.

25 MR AYENA ODONGO: [10:29:36]

1 Q. [10:29:36] You answered very well.

2 The last question I want to put to you, when you were asked about the death of Otti  
3 Lagony, a question was put to you as to who actually asked you. The first time you  
4 said it was the soldiers who came, who were within Kony's, you know, household,  
5 but later on you said you told Kony it was Kony who asked you. Now, my question  
6 is, when Kony finally asked you, how did he come to know that you had not  
7 participated? Was it you who told him or some other persons?

8 A. [10:30:25] Thank you. I think this -- the question is very clear. I had not  
9 understood the other one. At the time when they picked me, I carried the bomb; I  
10 did not know they were taking Otti to be killed. When I arrived at the *dog adaki*, I  
11 just bumped into him, I got angry, I threw down the B-10. And when I returned,  
12 Kony himself came and asked me, he didn't ask -- he asked me why I did not shoot  
13 these people with the B-10. Because I was asking why they took me to go and see  
14 him. He asked me himself. Because at that time I was so angry I had comment to  
15 myself, I was -- I wanted to even die. I didn't want to do anything else.

16 MR AYENA ODONGO: Thank you very much.

17 PRESIDING JUDGE SCHMITT: [10:31:17] But now for me, it is not clear anymore  
18 if you knew what was going to happen with Otti Lagony. I understood you before  
19 that you knew that this person would be killed; is that correct when I say this?

20 THE WITNESS: [10:31:32] (Interpretation) Initially, I did not know because they  
21 were kept in another place. I was picked from a different place and then we all just  
22 bumped into each other and I saw them. And at that time, he was now a prisoner.

23 PRESIDING JUDGE SCHMITT: [10:31:48] And then you did not participate in  
24 going with these other peoples who were about to kill Otti Lagony? That we have  
25 understood correctly?

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1 THE WITNESS: [10:32:01] (Interpretation) Exactly, that I did not go with them; I  
2 just threw down the B-10 and I even fell down.

3 PRESIDING JUDGE SCHMITT: [10:32:08] And let me formulate it by myself; then,  
4 the short conversation with Kony later on was about you not going with the others  
5 who were going to kill Otti Lagony, is that also correct?

6 THE WITNESS: [10:32:23] (Interpretation) That is it. He asked me and that's  
7 what I told him. I told him I never went with them.

8 PRESIDING JUDGE SCHMITT: [10:32:31] Thank you very much.

9 Mr Ayena, do you have further questions?

10 MR AYENA ODONGO: [10:32:36] No.

11 MR OBHOF: [10:32:37] I have a short correction from something I said earlier. At  
12 page 13, line 12 it was filing 1376 confidential annex A. I said 1367.

13 PRESIDING JUDGE SCHMITT: [10:32:52] I trust your word, Mr Obhof.

14 This concludes the questioning of the witness.

15 And this concludes your testimony, Mr Arop. On behalf of the Chamber, I would  
16 like to thank you that you have been coming to this courtroom to help us establish the  
17 truth. And on behalf of the Chamber, I would like to wish you a safe trip back  
18 home.

19 THE WITNESS: [10:33:13] (Interpretation) Thank you. You also stay back well.

20 PRESIDING JUDGE SCHMITT: [10:33:18] Thank you very much.

21 (The witness is excused)

22 PRESIDING JUDGE SCHMITT: And this concludes the hearing for today.

23 We adjourn until tomorrow 9.30; we continue then with D-65.

24 THE COURT USHER: [10:33:28] All rise.

25 (The hearing ends in open session at 10.33 a.m.)

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1 RECLASSIFICATION REPORT

2 Pursuant to the Trial Chamber' IX's instructions, ICC-02/04-01/15-497, dated 13 July  
3 2016, the public reclassified and lesser redacted version of this transcript is filed in the  
4 case.