

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 Tuesday, 27 February 2018
9 (The hearing starts in open session at 9.31 a.m.)
10 THE COURT USHER: [9:31:47] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE SCHMITT: [9:32:15] Good morning, everyone.
14 Could the court officer please call the case.
15 THE COURT OFFICER: [9:32:21] Thank you, Mr President.
16 The situation in Uganda, case of Prosecutor versus Dominic Ongwen,
17 case reference ICC-02/04-01/15.
18 We are in open session.
19 PRESIDING JUDGE SCHMITT: [9:32:29] Thank you.
20 For the appearances of the parties, Mr Choudhry for the Prosecution.
21 MR CHOUDHRY: [9:32:37] Good morning, your Honour. It's Kamran Choudhry
22 here today with Mr Ben Gumpert, Ms Beti Hohler, Mr Julian Elderfield,
23 Mr Pubudu Sachithanandan, Ms Yulia Nuzban, Mr Hai Do Duc, Ms Sanyu Ndagire,
24 Ms Agnese Valenti and Ms Ramu Bittaye.
25 PRESIDING JUDGE SCHMITT: [9:32:50] Thank you.

1 Mr Cox for the representatives of the victims.

2 MR COX: [9:32:54] Good morning, your Honours. With me Ms Anushka Sehmi,
3 Mr James Mawira, and myself Francisco Cox.

4 PRESIDING JUDGE SCHMITT: [9:33:01] Mr Narantsetseg.

5 MR NARANTSETSEG: [9:33:03] Good morning, Mr President your Honours. With
6 me Ms Caroline Walter; Mr Innocent Mpoko, our visiting professional from the
7 Central African Republic; and my name is Orchlon Narantsetseg. Thank you.

8 PRESIDING JUDGE SCHMITT: [9:33:14] Thank you, Mr Narantsetseg.

9 And for the Defence, Mr Obhof. No, Mr Ayena.

10 MR AYENA-ODONGO: [9:33:18] Good morning, Mr President and your Honours.

11 Today I am accompanied by Chief Taku Achaleke, Thomas Obhof, Abigail Bridgman,
12 Mr Michael Rowse. And our client Dominic Ongwen is in Court. I am Krispus
13 Ayena Odongo.

14 PRESIDING JUDGE SCHMITT: [9:33:40] Thank you, Mr Ayena.

15 And we have Rule 74 counsel also in the courtroom.

16 MR RAIMONDO: [9:33:47] Good morning, Mr President and your Honours. This
17 is Fabian Raimondo and I am the legal adviser to the witness.

18 PRESIDING JUDGE SCHMITT: [9:33:52] Thank you very much, Mr Raimondo.

19 The Prosecution is now calling P-209 as its next witness.

20 Before commencing, the Chamber notes briefly that protective measures have been
21 granted to this witness by virtue of the well-known decision 612, and that the VWU
22 recommends no further protective measures.

23 We will now have -- and for that we have Mr Raimondo in the courtroom -- the issue
24 of Rule 74 assurances. And to address that we would go shortly to private session.

25 (Private session at 9.34 a.m.) *(Reclassified entirely in public)

1 THE COURT OFFICER: [9:34:45] We are in private session, Mr President.

2 PRESIDING JUDGE SCHMITT: [9:34:46] Thank you.

3 Mr Raimondo submitted a filing recommending Rule 74 assurances for his client.

4 This is filing 1191 in the case record. And as always I would like to hear -- we are a

5 little bit too quick I think with the witness. Madam, we are simply -- we are simply

6 too quick. You have to go outside with the witness shortly. We are not yet ready.

7 I explain it to the witness later. It's not a problem, that can happen.

8 So Mr Raimondo submitted a filing recommending Rule 74 assurances.

9 Mr Choudhry, as always, inter partes your views.

10 MR CHOUDHRY: [9:35:39] Your Honour, we have no observations.

11 PRESIDING JUDGE SCHMITT: [9:35:42] Thank you.

12 Mr Obhof, or Mr Ayena, whoever wants to speak.

13 MR AYENA ODONGO: [9:35:47] Mr President and your Honours, we have no

14 objection.

15 PRESIDING JUDGE SCHMITT: [9:35:49] Thank you very much. Then we can

16 move to public session.

17 Just wait -- it's a couple of seconds. It will be very quick. And I tell you.

18 (Open session at 9.36 a.m.)

19 THE COURT OFFICER: [9:36:14] We are in open session, Mr President.

20 PRESIDING JUDGE SCHMITT: [9:36:16] Thank you very much.

21 The Chamber will now render its decision on the requested assurances. Mindful of

22 the factors specified in Rule 74(5) of the Rules, the Chamber has decided to provide

23 these assurances pursuant to Rule 74 of the Rules in order to enable the witness to

24 testify without fear of the consequence of self-incrimination.

25 This concludes the ruling of the Chamber and now we can bring the witness into the

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

1 courtroom, please.

2 (The witness enters the courtroom)

3 PRESIDING JUDGE SCHMITT: [9:37:29] Mr Witness, good morning.

4 Do you hear me?

5 WITNESS: UGA-OTP-P-0209

6 (The witness speaks Acholi)

7 THE WITNESS: [9:37:36] (Interpretation) Good morning, I can hear you.

8 PRESIDING JUDGE SCHMITT: [9:37:38] You are going to testify before the

9 International Criminal Court. I have to apologise that -- for this short delay, but we

10 had to discuss a procedural matter in your absence, so to speak, where we took views

11 of all the parties. Nothing to disturb you.

12 We welcome you on behalf of the Chamber, I welcome you in the courtroom, and I

13 will now read the solemn undertaking to you to tell the truth that every witness who

14 testifies before this Court has to agree upon.

15 Mr Witness, please listen carefully to me: I solemnly declare that I will speak the

16 truth, the whole truth and nothing but the truth. Mr Witness, do you understand?

17 THE WITNESS: [9:38:29] (Interpretation) Yes, I do.

18 PRESIDING JUDGE SCHMITT: [9:38:29] Do you agree?

19 THE WITNESS: [9:38:32] (Interpretation) I agree.

20 PRESIDING JUDGE SCHMITT: [9:38:34] Thank you. You are now sworn in and

21 we continue.

22 First of all, I explain to you the protective measures that we have put in place for your

23 testimony. Face distortion, first of all, has put in place. This means that no one

24 outside the courtroom can see your face during your testimony.

25 We will also use a pseudonym. That means that we refer only to you as

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

1 "Mr Witness" as I'm doing so at the moment, not with your real name. So this is to
2 make sure that the public does not come to know your identity. When you answer
3 questions that will not give away your real name, who you are, then we do this in
4 open session and the public can hear what is being said.

5 On the other hand, when we are discussing matters that could reveal your identity,
6 we will do so in private session. That means that no one outside the courtroom can
7 hear what you are saying.

8 You have also been assigned a lawyer to provide you with legal advice about possible
9 self-incrimination. Mr Raimondo is sitting to the right. So if any issue arises in that
10 respect he will address the Court, and also every party and participant and the Bench
11 will be vigilant in that respect. And if you answer any questions that could lead to
12 your self-incrimination, we will do this in -- address this in private session where, as I
13 have already explained to you, no one outside the courtroom can hear you.

14 That was a lot of information, Mr Witness. Do you understand?

15 THE WITNESS: [9:40:12] (Interpretation) I do.

16 PRESIDING JUDGE SCHMITT: [9:40:16] Before we start with your testimony,
17 a practical issue: Everything we say here in the courtroom is written down and
18 interpreted, and to allow for the interpretation we need to speak at a relatively slow
19 pace and speak clearly and speak into the microphone. And we should observe
20 these, so to speak, little rules. If you have any questions yourself, Mr Witness, raise
21 your hand, then we know you want to address the Court and I will give you the floor.
22 This is the information to start with, and Mr Choudhry has now the floor for the
23 Prosecution.

24 QUESTIONED BY MR CHOUDHRY:

25 Q. [9:40:59] Good morning, Mr Witness.

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Private Session)

ICC-02/04-01/15

1 Mr Witness, in a minute or so I will be asking you some questions, and I want to ask
2 you questions in relation to three areas: The first of those is the LRA and your
3 experience of the LRA. The second area relates to an attack at Pajule IDP camp.
4 And the third is your experience of how you came to leave the LRA.
5 Your Honours, with that, perhaps I can go into private session for approximately one
6 minute.

7 PRESIDING JUDGE SCHMITT: [9:41:38] Yes, private session.

8 (Private session at 9.41 a.m.)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Private Session)

ICC-02/04-01/15

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Open session at 9.45 a.m.)

18 THE COURT OFFICER: [9:45:13] We are back to open session, Mr President.

19 MR CHOUDHRY: [9:45:18]

20 Q. [9:45:20] Mr Witness, you told us that you stopped your primary school
21 education at primary 5. Why did you stop?

22 A. [9:45:41] I stopped because of the insurgency.

23 Q. [9:45:49] What do you mean by "the insurgency"?

24 A. [9:45:55] The war, it was the war when Museveni was fighting to overthrow the
25 government.

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

1 Q. [9:46:25] Can I just clarify, who were the sides in this war that you are speaking
2 of?

3 A. [9:46:39] It was the NRA and UNLA.

4 Q. [9:46:50] What did you do after you stopped your primary school education?

5 A. [9:47:04] I stayed home.

6 Q. [9:47:10] And how long did you stay home for?

7 A. [9:47:16] From 1985 up to 1994.

8 Q. [9:47:34] What did you do in 1994.

9 A. [9:47:39] It was in 1994, that's when the LRA rebels abducted me.

10 Q. [9:47:54] Can you please tell the Court the story of what happened when the
11 LRA abducted you in 1994?

12 A. [9:48:09] When the LRA abducted me in 1994, we moved with them and we
13 went to the side of Kitgum.

14 Q. [9:48:37] Can you please explain how the abduction happened and by example,
15 what time of day was it? Who were you with?

16 A. [9:48:53] Thank you. My abduction took place at around 10:00 o'clock in the
17 morning, I was in the garden with my mother.

18 Q. [9:49:11] How many LRA fighters were there that abducted you?

19 A. [9:49:22] It is difficult to estimate, but from my observation there were many in
20 numbers.

21 Q. [9:49:33] What happened to your mother?

22 A. [9:49:45] They left my mother in the garden and they continued along with me.

23 Q. [9:49:56] Who else was abducted the day that you were?

24 A. [9:50:06] We moved forward a little while and some more people were
25 abducted.

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

1 Q. [9:50:18] What was the name of the LRA commander that abducted you?

2 A. [9:50:27] He was called Beba Beba.

3 Q. [9:50:35] And what unit, what LRA unit did Beba Beba belong to?

4 A. [9:50:46] At that time he was in Sinia.

5 Q. [9:50:56] Mr Witness, what year did you leave the LRA?

6 A. [9:51:07] I left the LRA in 2009.

7 Q. [9:51:21] From the moment of your abduction in 1994 up until the time you left
8 in 2009, can you please tell the Court all the LRA units that you were attached to and
9 the role that you had in each of those units? Thank you.

10 A. [9:51:55] Okay. When I was abducted, I was in Sinia. Then after that, I was
11 transferred to Control Altar, which is the big group where most LRA senior
12 commanders were.

13 Q. [9:52:32] And did you stay in Control Altar?

14 A. [9:52:39] I stayed in Control Altar and later I was transferred to Gilva group.
15 Then from Gilva, I was transferred to Trinkle group.

16 Q. [9:53:12] What year were you transferred to Trinkle group?

17 A. [9:53:23] You know, most of the things that happened that has past, it's difficult
18 to guess, I do not recall the exact year.

19 PRESIDING JUDGE SCHMITT: [9:53:40] Mr Choudhry, if you think this is
20 important, I think nobody would object if you simply put to him, "Could it have
21 been ..." And if the witness recalls, it is good; if not, we just leave it at that. You can
22 put dates and so to him that you might have out of former statements of the witness,
23 no problem, you don't have to say always where you have it from when it comes to
24 such chronologies.

25 MR CHOUDHRY: [9:54:10] Thank you, your Honour.

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

1 Q. Mr Witness, in 2003, were you in Trinkle group?

2 A. [9:54:20] I was in Trinkle.

3 Q. [9:54:25] I would now like to move on to the second area of my questioning and
4 that relates to Pajule. Have you heard of a place called Pajule in Uganda?

5 A. [9:54:45] Yes, I have.

6 Q. [9:54:57] And when you were with the LRA, did the LRA ever attack Pajule?

7 A. [9:55:13] Yes, there was an attack.

8 Q. [9:55:18] What year was that attack on, please?

9 A. [9:55:30] It's difficult to guess, but what I put in my statement, it was
10 2004 -- 2003, 2004.

11 Q. [9:55:50] Can you remember the month that that attack took place on, please?

12 A. [9:56:01] I did not write it down in my statement, but I recall later that it was
13 on 9 October.

14 PRESIDING JUDGE SCHMITT: [9:56:18] I think you can move on. We have -- we
15 have a lot of evidence that might put the attack that we are talking about into a certain
16 time frame, so I think you can move on. Of course it's about what the witness knows,
17 but nevertheless, you can put all the different pieces together in the end.

18 MR CHOUDHRY: [9:56:39] Thank you, your Honour.

19 Q. [9:56:41] Mr Witness, how do you know about this attack?

20 A. [9:56:53] How I came to know about that attack, I was present at the place where
21 the attack was planned.

22 Q. [9:57:14] Which LRA units were involved in this attack?

23 A. [9:57:28] The groups were Control Altar, Trinkle and Sinia brigade.

24 Q. [9:57:47] You've told us that in 2003 you were in Trinkle brigade, who was the
25 commander of Trinkle brigade at that time?

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Private Session)

ICC-02/04-01/15

1 A. [9:58:06] It was Charles Kapere.

2 Q. [9:58:18] And what was your rank within Trinkle brigade at that time?

3 A. [9:58:26] I was a captain.

4 MR CHOUDHRY: [9:58:38] Your Honour, I have two questions for private session.

5 PRESIDING JUDGE SCHMITT: [9:58:40] Of course, I understand. Private session.

6 (Private session at 9.58 a.m.)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Open session at 10.00 a.m.)

18 THE COURT OFFICER: [10:00:14] We are in open session, Mr President.

19 MR CHOUDHRY: [10:00:22]

20 Q. Mr Witness, who decided that Trinkle should go for this attack at Pajule?

21 A. [10:00:38] The commander of the high command is in Control Altar. Vincent

22 Otti was the one who decided.

23 Q. [10:00:58] What did Vincent Otti do for Trinkle brigade to become involved in
24 this attack?

25 A. [10:01:13] He sent someone to Trinkle to come to him.

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

1 Q. [10:01:27] And what location was Trinkle moving in when Vincent Otti
2 summoned them?

3 A. [10:01:40] As you know, it is not easy to know the exact location while you are
4 in the bush, but at that time we were operating around Latanya hills.

5 Q. [10:02:00] How do you know that Vincent Otti summoned Trinkle brigade when
6 you were at Latanya Hill?

7 A. [10:02:13] He communicated with brigade commander and then the brigade
8 commander assembled us and told us that we were being summoned.

9 Q. [10:02:27] And by "brigade commander" do you mean Charles Kapere?

10 A. [10:02:36] Yes, indeed.

11 Q. [10:02:40] Did you know why Vincent Otti was summoning Trinkle brigade?

12 A. [10:02:49] I learnt from Kapere when Kapere told us.

13 Q. [10:02:59] And what did Kapere tell you?

14 A. [10:03:03] Kapere told us that Vincent Otti had summoned his brigade to go to
15 him, to go to his location and for that matter, we should prepare and go to him.

16 Q. [10:03:21] What was the name of the location that Vincent Otti wanted you to go
17 to?

18 A. [10:03:33] Like I said, there was no permanent location where someone would
19 stay. Otti can communicate to you right now from one location and then he would
20 move away to another location until you meet again. When you meet, that's when
21 you will know that this is where we were meant to meet.

22 Q. [10:03:59] After Vincent Otti summoned Trinkle brigade, did Trinkle brigade go
23 to meet Vincent Otti?

24 A. [10:04:09] Yes, they met.

25 Q. [10:04:16] When you got to that location, when Trinkle brigade met Vincent Otti,

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

1 what was the name of that location, please?

2 A. [10:04:28] It was in the bush, and it was not easy to know the exact location, but
3 I think, according to my statement which I even wrote down -- forgive me, I have
4 forgotten it.

5 Q. [10:04:50] How far away was the location where Trinkle brigade met Vincent
6 Otti from Pajule?

7 A. [10:05:01] It was far. But later on we moved closer, and according to my
8 estimation, we didn't have a GPS at that time or how to measure distance, so you just
9 estimate, so according to my estimation, it could be about 10 kilometres.

10 Q. [10:05:36] Approximately what time did Trinkle brigade arrive at that meeting
11 point to meet Vincent Otti?

12 A. [10:05:49] It was about 4 p.m.

13 Q. [10:06:01] And where was Vincent Otti when Trinkle brigade arrived at that
14 meeting point?

15 A. [10:06:16] He was in the exact location where we met him.

16 Q. [10:06:24] Mr Witness, my next few questions I would like you to focus on what
17 you yourself personally saw. What LRA unit did you see at the meeting point?

18 A. [10:06:45] I said earlier there was Trinkle brigade and Sinia. There was also
19 High Command, the brigade where Otti was located.

20 Q. [10:07:03] What about LRA commanders, can you please list the names of LRA
21 commanders that you yourself saw at the meeting point?

22 A. [10:07:16] Firstly, there was Vincent. Secondly, there was Charles Kapere.
23 There was Dominic. Opoka was also there. There was Raska Lukwiya. Those are
24 the commanders whom I saw. And there were really many people. You could not
25 see everybody and recognise everyone.

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

- 1 PRESIDING JUDGE SCHMITT: [10:08:09] If you want to ask him certain names I
2 think simply, otherwise I think Mr Obhof and Mr Ayena will do it later on tomorrow.
3 So simply put the names to him, "Was the person there?" and then he can answer, if
4 you think this is necessary.
- 5 MR CHOUDHRY: [10:08:28]
- 6 Q. [10:08:30] Mr Witness, have you heard of a name of "Bogi"?
- 7 A. [10:08:36] Yes, I have heard.
- 8 Q. [10:08:39] Was Bogi at the meeting point with Vincent Otti?
- 9 A. [10:08:45] Yes, Bogi was there, but I listed the more senior commanders.
- 10 Q. [10:08:57] What about Caesar Acellam?
- 11 A. [10:09:03] Caesar Acellam was there.
- 12 Q. [10:09:11] What about Acel Calo Apar?
- 13 A. [10:09:16] Yes, he was there.
- 14 Q. [10:09:20] Now you mentioned the name Dominic, what was Dominic's full
15 name, please?
- 16 A. [10:09:33] The one that we knew there was Dominic Ongwen.
- 17 PRESIDING JUDGE SCHMITT: [10:09:47] Just shortly one more name,
18 Mr Choudhry.
- 19 Was Buk there, Mr Witness?
- 20 THE WITNESS: [10:09:57](Interpretation) Yes, Buk was there.
- 21 PRESIDING JUDGE SCHMITT: [10:09:59] Thank you.
22 Mr Choudhry.
- 23 MR CHOUDHRY: [10:10:02]
- 24 Q. [10:10:04] Does Dominic Ongwen have any other names, Mr Witness?
- 25 A. [10:10:14] We know him as Dominic Ongwen.

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

1 Q. [10:10:20] How well do you know Dominic Ongwen?

2 A. [10:10:28] I do know him.

3 Q. [10:10:33] How young were you when you first met Dominic Ongwen?

4 A. [10:10:45] It is difficult to say how old I was at that time, but the first time I met
5 him was in 1995.

6 Q. [10:11:05] At the time of the meeting for the Pajule attack, what unit did
7 Dominic Ongwen belong to?

8 A. [10:11:18] Dominic Ongwen was with Vincent in Control Altar.

9 Q. [10:11:36] Why was Dominic Ongwen with Vincent in Control Altar at that
10 time?

11 A. [10:11:46] I do not know why he was there.

12 Q. [10:11:52] What did you believe was the reason that Dominic Ongwen was with
13 Vincent Otti in Control Altar at that time?

14 A. [10:12:16] It is difficult to guess, because there are two things in Control Altar.
15 Sometimes you go there as a prisoner and sometimes you are summoned there or,
16 rather, you are transferred there. So I do not know which was which.

17 PRESIDING JUDGE SCHMITT: [10:12:45] Now, shortly, I follow what you asked
18 the witness.

19 Mr Witness, you said you do not know exactly how old you were when you first met
20 Mr Ongwen. Can you recall if you were a grown-up man already or if you were
21 perhaps an adolescent or even a child, do you recall that?

22 THE WITNESS: [10:13:13](Interpretation) I was grown up.

23 PRESIDING JUDGE SCHMITT: [10:13:22] Thank you.

24 Mr Choudhry.

25 MR CHOUDHRY: [10:13:24] Your Honour, with that answer, perhaps I can put to

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

1 the witness what he said in his earlier statement.

2 PRESIDING JUDGE SCHMITT: [10:13:31] Yes. The reason why I asked is because
3 it did not fully comply with the summary that you gave, and I thought that you
4 would like to follow up. But please do that. So you want to refer him to the
5 former -- to his statement.

6 MR CHOUDHRY: [10:13:46] Yes, your Honour. That is in fact a defence interview.
7 The ERN is UGA-D26-0011-0345, and that's at page 0359. And it would be between
8 lines 385 to 392.

9 Q. [10:14:07] Mr Witness, I'm going to read to you what you said in an interview.
10 You were asked: "Do you know Dominic Ongwen?"
11 You responded: "I know".

12 You were then asked: "Did you know him as a child?"

13 Your answer was: "Yes, I knew him as a child".

14 Does that refresh your memory?

15 A. [10:14:34] Yes, it does remind me. But I knew Dominic when I was already
16 grown up.

17 PRESIDING JUDGE SCHMITT: [10:14:55] Mr Obhof, please.

18 MR OBHOF: [10:14:56] Your Honours, when we heard that when we were doing the
19 interview, we believed that he knew Dominic as a child, and the reading of that, not
20 as they're interpreting, that he knew the witness was a child when he first met
21 Mr Ongwen. I mean, the math clearly says that he's 20 years old.

22 PRESIDING JUDGE SCHMITT: [10:15:15] And then we put perhaps, Mr Choudhry,
23 you put it differently, that indeed that would be an explanation indeed.

24 So, Mr Witness, when you said you met Mr Ongwen for the first time and you were
25 already grown up, do you recall how old Mr Ongwen might have been at the time?

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

1 Perhaps not the exact age, but was he younger than you? Was he of the same age?

2 Was he older?

3 THE WITNESS: [10:15:48] (Interpretation) As far as I remember, Dominic is older
4 than me.

5 PRESIDING JUDGE SCHMITT: [10:16:14] I think we have to leave it at that.

6 And we know, Mr Witness, all these events were a long time ago, and especially
7 when we even go back to the 1990s, so it's perfectly clear that you won't remember all
8 the details.

9 Please continue, Mr Choudhry.

10 MR CHOUDHRY: [10:16:30] Your Honour, just prior to Your Honour's question, I
11 was dealing with the issue as to why the witness believed Dominic Ongwen was with
12 Vincent Otti. There's -- I asked the witness, he couldn't remember. There is a small
13 point I would like to refresh him on that's important.

14 PRESIDING JUDGE SCHMITT: [10:16:45] Yes, I think that could be, that could
15 indeed be of some significance. Please continue.

16 MR CHOUDHRY: [10:16:53] And, your Honour, the ERN for that is
17 UGA-D26-0011-0362. It's at page 0379, lines 489 to 496.

18 Q. [10:17:09] Mr Witness, I was asking you before as to why Dominic Ongwen was
19 with Vincent Otti at the time before the Pajule attack. I want to read something to
20 you that you now said in one of your interviews. You were asked --

21 PRESIDING JUDGE SCHMITT: [10:17:28] Which tab perhaps for us?

22 MR CHOUDHRY: [10:17:31] Your Honour, that I believe would be in tab 11.
23 Forgive me, your Honour. That is, in fact --

24 PRESIDING JUDGE SCHMITT: [10:17:42] If there were a tab 11, I would
25 immediately believe you.

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

1 MR CHOUDHRY: [10:17:46] It should be tab 8.

2 PRESIDING JUDGE SCHMITT: [10:17:49] Yes, thank you.

3 MR CHOUDHRY: [10:17:52] Does your Honour have that in front of him?

4 Thank you.

5 Q. [10:17:54] Starting at line 489, Mr Witness, you said, "At that time he didn't
6 commit any offence, but at that time, there were -- he didn't have skills to support
7 Otti."

8 You were asked, "Can you repeat that, please?"

9 And your answer was, "At that time, Otti Vincent did not have soldiers who would
10 help him with planning. So, he saw that he could take him to help him with that,
11 since he at that time, his head was able."

12 What did -- does that refresh your memory?

13 A. [10:18:53] Yes, it does.

14 PRESIDING JUDGE SCHMITT: [10:18:55][10:18:56] A follow-up question by me to
15 that, Mr Choudhry.

16 Mr Witness, how do you know that? How did you come to know that, what the
17 reason was that Mr Ongwen was with Otti? Did anybody tell you? Or did you
18 hear that? Or did Mr Ongwen tell you that?

19 THE WITNESS: [10:19:17] (Interpretation) In regard to that, it is what happens there
20 always. Like I said earlier, you are summoned there sometimes as a prisoner or you
21 are taken there on a transfer, or sometimes you are brought there to rest. So in
22 regard to that, as far as I understood at the time, it is what I knew there, it is what I
23 knew from there, the practice that was going on.

24 PRESIDING JUDGE SCHMITT: [10:20:18] Yes, I have understood, Mr Witness, but
25 you mentioned several possibilities why someone would be removed and the

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

1 question would be, how you could determine which possibility was the correct one in
2 this case?

3 THE WITNESS: [10:20:38] (Interpretation) When we reached there, I saw that he was
4 not being mistreated or taken badly.

5 PRESIDING JUDGE SCHMITT: [10:21:09] Mr Choudhry, thank you for your
6 indulgence. Please continue.

7 MR CHOUDHRY: [10:21:14]

8 Q. Mr Witness, I want to focus on four words that I read to you, you said, "His
9 head was able." What did you mean by that when you spoke of Dominic Ongwen?

10 A. [10:21:35] What I meant was he was able to advise in that group.

11 MR OBHOF: [10:22:02] Your Honour, the Defence isn't objecting, the Defence is just
12 noting for the record that the witness is not a psychiatrist, psychologist, or any type of
13 mental professional.

14 PRESIDING JUDGE SCHMITT: [10:22:12] Yes, that's of course correct. And we all
15 know that we might have such evidence in the course of the proceedings, but of
16 course the witness has said this in the past and he can deliver, so to speak, some sort
17 of factual basis for anything. That of course we know that he is not an expert, and he
18 was not asked in that capacity by Mr Choudhry as I understood it.

19 Mr Choudhry, please continue. I assume simply that you did not ask him as an
20 expert.

21 MR CHOUDHRY: [10:22:45] Not at all, your Honour, your assumption is correct.

22 Q. [10:22:51] Mr Witness, what do you mean by when you said "he was able to
23 advise in that group?"

24 A. [10:23:01] It means he can help his senior commander to advise him.

25 Q. [10:23:20] And who did you believe Dominic Ongwen was advising?

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

1 MR TAKU: [10:23:30] Your Honours, we object. He didn't say that he advised, he
2 said he could -- he can advise. But now the question of whom do you say was
3 advising presupposes that the witness has testified that he advised (Overlapping
4 speakers)

5 PRESIDING JUDGE SCHMITT: [10:23:42] So then I reformulate it. Mr Witness, did
6 you at some point in time come to know that he was advising one of the commanders?
7 Just generally, in general first.

8 THE WITNESS: [10:24:03] (Interpretation) No, I did not see.

9 PRESIDING JUDGE SCHMITT: [10:24:07] Mr Choudhry, continue.

10 MR CHOUDHRY: [10:24:10]

11 Q. [10:24:10] What rank was Dominic Ongwen at the time of this meeting before
12 the attack at Pajule?

13 A. [10:24:28] You know, there are things that happened among the high command
14 or the senior officers, there would be little communication to ask the junior officers.
15 That is why I estimated that he was either a colonel or a brigadier.

16 Q. [10:24:49] Thank you. I'd like to move on to the person called Bogi, please.
17 Who was Bogi?

18 A. [10:25:07] Bogi was a CO.

19 Q. [10:25:08] Which LRA unit did he belong to?

20 A. [10:25:14] He was in Trinkle.

21 Q. [10:25:19] And what was Bogi's role as a CO in Trinkle?

22 A. [10:25:29] He was in charge of a battalion.

23 Q. [10:25:34] You also mentioned the name Opoka. Who was Opoka, please?

24 A. [10:25:45] Opoka was a director, he was a director of operation.

25 Q. [10:25:58] Which LRA unit was Opoka a member of?

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

1 A. [10:26:05] He was in high command.

2 Q. [10:26:14] And what was Opoka's role as a director of operations in high
3 command?

4 A. [10:26:27] In regard to his role, he would take orders from Vincent. If Vincent
5 wanted something done, he would pass down the orders to him and then he would
6 send down the orders.

7 Q. [10:26:55] When you arrived at the meeting point, what did Vincent Otti do?

8 A. [10:27:09] When we arrived there, Vincent summoned the high-ranking officers.
9 For us in Trinkle, Charles Kapere was the one who went.

10 Q. [10:27:35] What other LRA officers did Vincent Otti summon?

11 A. [10:27:43] According to what Kapere told us, he said that Vincent called him.
12 And when he arrived there he found his colleagues, his other commander colleagues
13 were also there. There was Buk, Raska, Dominic, there was Opoka, those are the
14 people he found there.

15 Q. [10:28:25] And just to be clear, this is information that you learned from
16 Charles Kapere; is that right?

17 A. [10:28:38] Yes, that's right, I got it from Kapere.

18 Q. [10:28:45] Why didn't you go to the place where Vincent Otti summoned these
19 commanders?

20 A. [10:28:55] I was not yet a high-ranking officer, I did not qualify to go there.

21 Q. [10:29:03] What did Vincent Otti do with these high-ranking commanders after
22 he summoned them?

23 A. [10:29:20] According to what Kapere told us, he said that he was summoned,
24 and when he was there Vincent distributed roles to each of them.

25 Q. [10:29:43] And just to be clear, when you say "summoned", do you mean

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

1 meeting with?

2 A. [10:30:00] Yes, it was in a meeting. First, they were summoned from the
3 different locations that they were in, and then they came and met together. And
4 then later on he called for a meeting where he invited them.

5 Q. [10:30:25] How long approximately was this meeting between Vincent Otti and
6 the high-ranking LRA commanders?

7 A. [10:30:38] In relation to the meeting, Kapere took there about two hours.

8 Q. [10:30:53] And what did Charles Kapere do after this meeting?

9 A. [10:31:04] When Charles Kapere returned, he called his commanders, his COs,
10 the COs that were under him.

11 Q. [10:31:24] Can you list the names of the people that Charles Kapere called,
12 please?

13 A. [10:31:36] Charles Kapere called Bogi, who was in charge of battalion -- first
14 battalion. He called Opio Sam. Opio Sam is also his CO. He called the IO and he
15 called me.

16 Q. [10:32:20] How soon after the meeting with Vincent Otti did Charles Kapere call
17 you and other COs?

18 A. [10:32:35] Immediately after he returned from the meeting. It did not take
19 more than 30 minutes he had already sent the invitation.

20 Q. [10:32:56] What did Charles Kapere say to you and other COs when he called
21 you?

22 A. [10:33:13] What he told us was that we were called to the high command,
23 Vincent explained to us why he called us, that there is going to be an operation.

24 Q. [10:33:40] Did Charles Kapere explain what that operation was?

25 A. [10:33:46] He told us that Vincent told him that he wants us to go and attack the

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

1 UPDF.

2 Q. [10:34:09] Where were you going to attack the UPDF?

3 A. [10:34:14] In Pajule.

4 Q. [10:34:25] Did he say anything else about what other parts of Pajule the LRA
5 were to go to?

6 A. [10:34:37] Sorry, could you say the question again?

7 Q. [10:34:49] What other parts of Pajule were the LRA to go to as part of this
8 operation?

9 A. [10:34:58] According to the information from Kapere, how and what Otti told
10 him, there was not any other place apart from Pajule, but there are other smaller,
11 smaller areas within Pajule that the attack should focus. And the first place is the
12 barracks, where there were government soldiers, and then we should go and -- we
13 should go to the mission to take the radio equipment and then go to the centre to
14 collect food, soap, salt and other items.

15 Q. [10:36:00] If I can just take those one by one, starting with the barracks. Who
16 was in charge of the group going to the barracks?

17 A. [10:36:18] The person in charge of the group going to the barracks was CO Bogi.

18 Q. [10:36:38] Why did the LRA want to go to the barracks?

19 A. [10:36:45] The LRA wants to go and fight the government soldiers.

20 Q. [10:37:05] Who was in charge of the group going to the centre?

21 A. [10:37:14] According to information that Charles Kapere gave us, he said it was
22 Dominic who would lead the group going to the centre.

23 Q. [10:37:38] Now, you mentioned that the group going to the centre would collect
24 food, soap and salt. Apart from food items, did that group have any other objective
25 at the centre?

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

1 A. [10:37:57] According to the information that Kapere gave us and the plan they
2 had with Vincent, that was the only thing that they were supposed to do at the centre.

3 Q. [10:38:25] Who would carry the food, soap and salt that was obtained at the
4 centre?

5 A. [10:38:33] That would be carried by people who were abducted, that is if some
6 people were abducted. But in case they do not abduct anyone, then those items
7 would be carried by those soldiers who went there.

8 Q. [10:39:05] Mr Witness, did the plan to go to Pajule involve abducting civilians
9 from the centre?

10 A. [10:39:23] Yes, it includes.

11 Q. [10:39:31] Why did the LRA want to abduct civilians from the centre?

12 A. [10:39:41] To help them carry items and also to increase their numbers, the
13 number of soldiers in their group, especially for those that are able to.

14 Q. [10:40:10] You spoke of a group going to the mission to obtain radio equipment.
15 Who was in charge of that group, please?

16 A. [10:40:25] That, I do not recall who was in charge.

17 Q. [10:40:38] Who was the overall operational commander for the attack at Pajule?

18 A. [10:40:48] It was Raska Lukwiya.

19 Q. [10:40:59] What LRA commander was in charge of organising the fighting force
20 to go to Pajule?

21 A. [10:41:13] It was -- it was Opoka who was in charge of mobilising the fighters.

22 Q. [10:41:33] And for this attack, what steps did Opoka take to organise the
23 fighting force?

24 A. [10:41:43] There was nothing else that Opoka did, only that he was to ensure
25 that the number that Vincent want to go for the operation is achieved.

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

1 Q. [10:42:06] And what was that number?

2 A. [10:42:14] It's difficult to guess; I do not know.

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. [10:43:06] And how many fighters was Charles Kapere tasked to organise?

7 A. [10:43:18] 75.

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted), "Otti had wanted 150 people, but the number did not reach there".

20 Does that refresh your memory?

21 A. [10:44:50] Yes, it does.

22 Q. [10:44:55] What do you say about that today?

23 A. [10:44:59] I still refer back to that one.

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Private Session)

ICC-02/04-01/15

1 Q. [10:45:40] What made it difficult?

2 A. [10:45:46] The number of people could not reach that one, that number.

3 Q. [10:45:55] Can you explain why not?

4 A. [10:46:04] Because some members of Kapere's group had gone to Sudan.

5 Q. [10:46:14] (Redacted), was that limited to Trinkle

6 brigade or was that across all brigades that were at the meeting point?

7 A. [10:46:30] Could you say that question again?

8 (Redacted)

9 (Redacted)

10 PRESIDING JUDGE SCHMITT: [10:46:57] Mr Choudhry, I have -- I would like to go
11 shortly to private session if you allow.

12 We go to private session, yes.

13 (Private session at 10.47 a.m.)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Private Session)

ICC-02/04-01/15

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Open session at 10.49 a.m.)

20 THE COURT OFFICER: [10:49:43] We are in open session, Mr President.

21 MR CHOUDHRY: [10:49:48]

22 Q. [10:49:50] Mr Witness, after fighters were selected what did Vincent Otti do?

23 A. [10:50:03] From the high command, I do not know what he said to his officers

24 who were going for operation, but what he told Charles Kapere is what I am also

25 talking about.

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

1 Q. [10:50:36] Did anyone address the LRA fighters that were selected to go for the
2 attack at Pajule?

3 A. [10:50:52] Most times the person who organises the fighters like in the person of
4 Opoka, he would speak with the fighters briefly. Then, Vincent would come and
5 speak and then the fighters would leave to go. But for that particular occasion, I did
6 not see with my own eyes if it happened.

7 Q. [10:51:34] After the LRA fighters were selected, did they go to Pajule?

8 A. [10:51:43] They went.

9 Q. [10:51:50] Can you estimate approximately how many LRA fighters in total
10 went to Pajule?

11 A. [10:52:02] It's difficult to estimate because when I sent my people, I came back to
12 my position.

13 Q. [10:52:25] Can you estimate how old was the youngest person that you saw go
14 to Pajule?

15 A. [10:52:34] Could you say the question again.

16 Q. [10:52:48] How old was the youngest person that you saw go for the attack at
17 Pajule?

18 A. [10:52:58] There were very many people and not easy to know the youngest
19 person.

20 Q. [10:53:21] When the LRA fighters left for Pajule, did they have weapons with
21 them?

22 A. [10:53:33] They had weapons.

23 Q. [10:53:39] What kind of weapons did they have with them?

24 A. [10:53:44] From our group, because at the point -- at the point where the fighters
25 were already assembled I was not present, so I only know the ones that we had in our

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

1 group.

2 Q. [10:54:15] What kind of weapons did the people from your group have with
3 them?

4 A. [10:54:36] Our group went with AK-47, PKM, RPG, and 12.7 gun.

5 Q. [10:55:07] What time of day did the LRA fighters leave to go to Pajule?

6 A. [10:55:15] It was around 10 -- I think that I cannot recall very well now.

7 Q. [10:55:40] Do you mean 10 in the morning or 10 in the evening?

8 A. [10:55:47] It was in the night.

9 MR CHOUDHRY: [10:55:48] Your Honours, perhaps with that, we could take
10 a break and come back early because I'm about to move to my next portion.

11 PRESIDING JUDGE SCHMITT: [10:56:02] Yes. I think that's a good idea. We
12 meet again then at 11.30.

13 THE COURT USHER: [10:56:11] All rise.

14 (Recess taken at 10.56 a.m.)

15 (Upon resuming in open session at 11.31 a.m.)

16 THE COURT USHER: [11:31:45] All rise.

17 PRESIDING JUDGE SCHMITT: [11:32:04] Mr Choudhry, you still have the floor.

18 MR CHOUDHRY: [11:32:07] Thank you, your Honour. And the Prosecution is
19 joined by Ms Adesola Adeboyejo.

20 PRESIDING JUDGE SCHMITT: [11:32:17] And the Defence remains unchanged, I
21 would say.

22 MR CHOUDHRY: [11:32:26]

23 Q. [11:32:26] Mr Witness, before the break you had told us that LRA fighters had
24 left to go and attack Pajule at around 10 o'clock in the evening.

25 When the LRA fighters left for Pajule, where was Vincent Otti?

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

- 1 A. [11:32:55] He was in that same location.
- 2 Q. [11:33:01] Did he go to Pajule?
- 3 A. [11:33:07] No, he remained behind.
- 4 Q. [11:33:12] How about yourself, did you go to Pajule?
- 5 A. [11:33:18] No, I did not go.
- 6 Q. [11:33:28] Can you please list the names of who else remained behind?
- 7 A. [11:33:43] Those who did not go to Pajule include Charles Kapere. Vincent
- 8 himself did not go. Opoka did not go. Caesar Acellam did not go. Those are the
- 9 people I remember among the high-ranking officials.
- 10 Q. [11:34:13] Why did a group of LRA fighters remain behind?
- 11 A. [11:34:25] Most times when there is such an operation not all the fighters go.
- 12 Other fighters remain at the base.
- 13 Q. [11:34:37] Have you heard of a person called Van Damme?
- 14 A. [11:34:47] Yes, I heard about Van Damme.
- 15 Q. [11:34:52] Where was Van Damme when LRA fighters went to Pajule?
- 16 A. [11:35:03] Van Damme used to be Kapere's signaller.
- 17 Q. [11:35:11] Did he go to Pajule or remain behind?
- 18 A. [11:35:18] He remained behind with the brigade commander.
- 19 Q. [11:35:27] After the LRA troops left for Pajule, what time did the attack start?
- 20 A. [11:35:46] We started hearing gunshots about 6 a.m. in the morning.
- 21 Q. [11:36:00] How long did the gunshots go on for?
- 22 A. [11:36:06] It started at that time when we heard the gunshots first and it
- 23 continued till about 8 a.m. There was a little break, but it continued up to about
- 24 8 a.m.
- 25 Q. [11:36:26] Why did the gunshots stop?

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

1 A. [11:36:34] I do not know why it stopped. I don't know what was happening
2 there.

3 Q. [11:36:48] Other than gunshots, could you see anything of the attack at Pajule?

4 A. [11:37:06] I would like to clarify, what do you mean seeing? From where?

5 Q. [11:37:18] I will ask a better question, Mr Witness. Are you aware of why the
6 attack at Pajule stopped?

7 A. [11:37:40] According to reports from those who returned later, what happened
8 and stopped them from continuing to attack Pajule was that the government soldiers
9 were many.

10 Q. [11:38:09] Did you ever hear about a government aircraft being used during the
11 attack at Pajule?

12 A. [11:38:28] I saw and I also heard.

13 Q. [11:38:32] What did you see?

14 A. [11:38:38] The helicopter gunship is what I saw, because when there was a stop
15 in the gunfire, I saw a gunship, a helicopter gunship hovering and it was, it started
16 firing later, firing at those who went to attack Pajule.

17 Q. [11:39:06] When was the next time you saw LRA fighters that went to Pajule?

18 A. [11:39:22] It was the following day. It was when it was daybreak already when
19 they came back and they rejoined us where we were at the base.

20 Q. [11:39:42] Who were the LRA fighters that rejoined you at the base with?

21 A. [11:39:53] The ones who went to attack Pajule.

22 Q. [11:40:01] Mr Witness, you mentioned that the LRA fighters went to the centre
23 to get -- to abduct civilians. Did you see any civilians when the LRA fighters
24 returned to the base?

25 A. [11:40:25] Yes, I saw they came back with the civilians.

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

1 Q. [11:40:34] Approximately how many civilians did you see the LRA come back
2 with?

3 A. [11:40:45] The ones I saw were about 50 people.

4 Q. [11:40:58] What gender were these civilians? Were they men, women or both?

5 A. [11:41:13] There were men and there were also women.

6 Q. [11:41:20] Can you please estimate the age of the youngest civilian that you saw
7 back at the base.

8 A. [11:41:39] Between 18 and 20, going upwards.

9 Q. [11:41:48] What were the civilians that returned with the LRA doing?

10 A. [11:42:05] The civilians with whom the LRA came back with were not doing
11 anything really, except that they helped to carry the luggage.

12 Q. [11:42:23] Can you please describe how they were helping to carry the luggage.

13 A. [11:42:40] In regard to that, when we talk about carrying luggage, it means
14 carrying on their, on their head.

15 Q. [11:42:56] How were the civilians who were carrying the luggage dressed?

16 A. [11:43:09] They were still wearing the clothes in which they were abducted.

17 Q. [11:43:16] What type of luggage were these civilians carrying?

18 A. [11:43:26] I could not know what was inside the luggage they were carrying.

19 Q. [11:43:36] Mr Witness, you mentioned earlier that the group going to the centre
20 wanted to collect food items. Were any food items brought back?

21 A. [11:43:55] I did not see personally because at the time that they were returning
22 there were -- people were up and down, and you could not know who was carrying
23 what and what was inside the luggage being carried. But you could see clearly that
24 they were carrying luggage which covered on their heads.

25 PRESIDING JUDGE SCHMITT: I have a question, Mr Choudhry.

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

1 Mr Witness, what would happen if the civilians did not want to carry the luggage?

2 THE WITNESS: [11:44:38] (Interpretation) The civilians could not refuse to carry the
3 luggage. First of all, you have to fear for your life. Let me give you an example like
4 here now. The cold is here, you cannot resist wearing a jacket.

5 PRESIDING JUDGE SCHMITT: [11:44:56] That's interesting. And it indeed is, even
6 if you live here a couple of years, it is relatively cold. I never experienced a coldness
7 like that. So, Mr Witness, it is not always like that, not even in the Netherlands.

8 Mr Choudhry, please continue.

9 MR CHOUDHRY: [11:45:17]

10 Q. [11:45:18] What happened to these civilians after they returned to the base?

11 A. [11:45:31] The ones who could be recruited to work were left behind. And then
12 the ones who could not be recruited to work were told to return home.

13 Q. [11:45:46] What is the difference between the ones who could be recruited to
14 work and the ones who could not?

15 A. [11:46:05] The grownup men who were married, as well as women who were
16 already married.

17 Q. [11:46:20] What about the grownup men and grownup women that were
18 married, were they the ones that were kept, or not?

19 A. [11:46:36] No, they were the ones who were released and returned home.

20 Q. [11:46:44] Approximately how many civilians were released to go home?

21 A. [11:46:55] I do not know, because it was the senior commanders who were doing
22 that. As a junior commander I could not know what was going on there.

23 Q. [11:47:13] What senior commanders are you thinking of when you say they were
24 the ones releasing these civilians?

25 A. [11:47:33] As far as I know, Vincent would instruct Opoka to do this and that.

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

1 Opoka would then coordinate all those things.

2 Q. [11:47:59] Can you help us with approximately how many civilians remained?

3 A. [11:48:13] It is hard for me to guess. I only know the ones who were sent to us
4 in Trinkle.

5 Q. [11:48:24] How many civilians were sent to you in Trinkle?

6 A. [11:48:30] They were six.

7 Q. [11:48:34] Who sent those civilians to you in Trinkle?

8 A. [11:48:46] It was Opoka.

9 Q. [11:48:49] How do you know about the six civilians that were sent to Trinkle?

10 A. [11:49:02] Let me ask for clarification. Knowing them personally or knowing
11 how they were sent?

12 Q. [11:49:11] Knowing how they were sent.

13 A. [11:49:18] All right. In regard to how they were sent, according to how Kapere
14 went to Vincent, he came back and said that we have been given people, we have
15 been given six people to be part of our soldiers. These were given from the high
16 command, from the high command where Vincent is.

17 Q. [11:49:54] Did you ever learn whether any other LRA unit or commander
18 received any of the civilians that were abducted from Pajule?

19 A. [11:50:14] Since some of them came to us, I am sure that the different units in the
20 LRA at that time were given, because that is what happens there. But I did not
21 personally know how many were given to Control Altar, to Sinia. All I know is that
22 ours was given. So since we were given some soldiers, I am certain that the different
23 units at that time present were also given.

24 Q. [11:50:51] Other than food items and civilians, did the LRA take anything else
25 from Pajule?

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

1 A. [11:51:10] From the government soldiers, I saw the LRA came back with the
2 weapons, a weapon known as recoillers. In our military language in the LRA we
3 used to call it B-10.

4 Q. [11:51:34] Thank you, Mr Witness.

5 That ends my questioning so far as Pajule is concerned. I now want to focus on how
6 you came to leave the LRA. You told us that you left the LRA in 2009. Before 2009
7 did you ever think of escaping?

8 A. [11:52:10] Yes. You have to start thinking about escaping from the LRA on the
9 day you get abducted until you escape. From the time you are abducted up to the
10 time you really escape you keep thinking when to leave.

11 Q. [11:52:31] Why did you not try to escape before 2009?

12 A. [11:52:43] What made me not to try to escape was I saw personally what
13 happened to someone who planned to escape, but they got wind of his plan and they
14 worked on him.

15 Q. [11:53:03] What do you mean "worked on him"?

16 A. [11:53:12] He was killed.

17 Q. [11:53:17] What was the name of the person that was killed?

18 A. [11:53:24] I remember he was called Ocira.

19 Q. [11:53:38] Why did you decide to leave in 2009?

20 A. [11:53:52] What made me decide to leave -- to escape, rather, is because I had an
21 opportunity to escape at that time. Besides, I, I realised that even if I escape, the LRA
22 or Kony himself were no longer capable of coming to cause atrocities in my area of
23 origin.

24 Q. [11:54:38] How long did it take to organise your escape in 2009?

25 A. [11:54:52] It took a long time. Like I said earlier, I had been thinking of

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

1 escaping. But you don't share that plan. Right from the time I was abducted, all
2 the time that I was in the LRA, I had been planning on how to escape.

3 Q. [11:55:16] After you decided to escape did you ever discuss your plans with
4 anybody?

5 A. [11:55:33] I did share.

6 Q. [11:55:40] Who did you share your plans with?

7 A. [11:55:48] I discussed with Dominic.

8 Q. [11:55:53] And by "Dominic" do you mean Dominic Ongwen?

9 A. [11:56:05] Yes, that is correct.

10 Q. [11:56:06] What did you say to Dominic Ongwen when you shared your plans
11 about escaping?

12 A. [11:56:20] I told him that, "Sir, I think my time has come to go back home
13 because I, I think that if I go back home now, Kony will not be able to follow me up to
14 where I will be. Secondly, the propaganda and the lies that Kony was telling us that
15 when you come back home you will be killed, for me, I have realised that was a lie.
16 And, for that matter, I am going to leave."

17 Q. [11:57:18] Why did you share your plans to escape with Dominic Ongwen?

18 A. [11:57:29] I did that because Kony was also disturbing him at that time.

19 Q. [11:57:42] What do you mean "disturbing him at that time"?

20 A. [11:57:55] As far as I know, and according to what I observed, Kony had plans of
21 killing him.

22 Q. [11:58:09] What was Dominic Ongwen's response when you shared your plans
23 to escape with him?

24 A. [11:58:25] He told me only one thing, about the court case on him, the
25 indictment.

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

1 Q. [11:58:37] What did he say about the court case and indictment?

2 A. [11:58:51] He told me that he feared about the court case.

3 Q. [11:58:57] What court case did he mean?

4 A. [11:59:05] He was talking about the ICC.

5 Q. [11:59:10] And what did Dominic Ongwen say about the ICC court case?

6 A. [11:59:22] He didn't say much, but he just told me that he feared the Court.

7 Q. [11:59:34] Which year did this discussion about your escape take place in,
8 please?

9 A. [11:59:46] It was in the year 2008.

10 PRESIDING JUDGE SCHMITT: [11:59:54] Mr Choudhry, I just step in for one
11 question.

12 Mr Witness, would it be correct to say that when you talked to Mr Ongwen that at the
13 time you confided in him?

14 THE WITNESS: [12:00:18] (Interpretation) Yes, that is correct. It was not only mine,
15 also his condition.

16 PRESIDING JUDGE SCHMITT: [12:00:28] And it's of course difficult when you
17 never have been in such a situation and -- but perhaps you can try to explain, when I
18 say you confided in him and you said that is correct, have you thought before you
19 addressed him and talked with him about these matters that this could be a risk
20 for you?

21 THE WITNESS: [12:01:03] (Interpretation) I did not think of the risk, for this reason:
22 First of all, he and Kony were not on very good terms at this point. It would actually
23 lead to his death as well. That is the reason why I was not sceptical that telling him
24 would put me at risk because I was still his -- well, I was still his -- his soldier, and
25 Dominic himself was a victim of circumstances and was supposed to be killed. Even

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Private Session)

ICC-02/04-01/15

1 me myself, I was already a target of Kony and for that matter I thought it was safe.

2 PRESIDING JUDGE SCHMITT: [12:02:03] Thank you, Mr Witness.

3 Mr Choudhry.

4 MR CHOUDHRY: [12:02:07]

5 Q. [12:02:08] Just to clarify, Mr Witness, when you say "I was still his soldier", who
6 do you mean by the word "his"?

7 A. [12:02:26] Excuse me, could you say the question again.

8 Q. [12:02:33] Mr Witness, you have just told us "I was his soldier" in response to
9 one of the Judge's questions. Who did you mean by the word "his"?

10 A. [12:02:55] I meant, I meant Kony.

11 Q. [12:03:03] You told us that you left in 2009. Can you please tell the Court the
12 story of how you came to leave the LRA in 2009?

13 MR OBHOF: [12:03:19] Your Honour, this isn't an objection. Could we go into
14 private session so I could make a brief explanation of why I would like to be in
15 private session.

16 PRESIDING JUDGE SCHMITT: [12:03:28] Yes, we trust you now when you say you
17 need a private session for that.

18 Private session shortly.

19 (Private session at 12.03 p.m.)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Private Session)

ICC-02/04-01/15

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted - Private session

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

1 (Open session at 12.07 p.m.)

2 THE COURT OFFICER: [12:07:23] We are back in open session, Mr President.

3 PRESIDING JUDGE SCHMITT: [12:07:32] Thank you. And for the public,
4 the Prosecution has finished its questioning. And my question would be now to the
5 Legal Representatives of the Victims, if they have any questions that they want to put
6 to the witness?

7 MR COX: [12:07:42] Not from our team, your Honour.

8 PRESIDING JUDGE SCHMITT: [12:07:45] Mr Narantsetseg, any questions?

9 MR NARANTSETSEG: [12:07:47] No further questions, your Honour. Thank you.

10 PRESIDING JUDGE SCHMITT: [12:07:50] I have a question of course now leaning
11 towards the Defence. How long do you envision your examination, Mr Ayena?

12 MR AYENA ODONGO: [12:07:59] Mr President and your Honours, our fair
13 estimate is that it won't take more than two sessions.

14 PRESIDING JUDGE SCHMITT: [12:08:11] I can propose simply that we finish for
15 today and you have the first two sessions tomorrow. That would be a possibility. I
16 would simply leave it to you, so to speak. Or we start in the afternoon with one
17 session and have tomorrow another session.

18 MR AYENA ODONGO: [12:08:27] You read my mind correctly.

19 PRESIDING JUDGE SCHMITT: [12:08:30] You would prefer the latter option?

20 MR AYENA ODONGO: [12:08:32] No.

21 PRESIDING JUDGE SCHMITT: The first.

22 MR AYENA ODONGO: Tomorrow.

23 PRESIDING JUDGE SCHMITT: [12:08:34] Tomorrow.

24 MR AYENA ODONGO: Yes.

25 PRESIDING JUDGE SCHMITT: Okay, then we do it this way. So we will have

Trial Hearing
WITNESS: UGA-OTP-P-0209

(Open Session)

ICC-02/04-01/15

- 1 then tomorrow at 9.30 the two sessions that you envision and finish for today.
- 2 This concludes the hearing for today.
- 3 For the moment, thank you very much, Mr Witness, you will come back tomorrow
- 4 and then there will be the questioning by the Defence.
- 5 THE COURT USHER: [12:09:09] All rise.
- 6 (The hearing ends in open session at 12.09 p.m.)
- 7 RECLASSIFICATION REPORT
- 8 Pursuant to the Trial Chamber' IX's instructions, ICC-02/04-01/15-497, dated 13 July
- 9 2016, the public reclassified and lesser redacted version of this transcript is filed in the
- 10 case.