

Trial Hearing
WITNESS: UGA-D26-P-0042

(Open Session)

ICC-02/04-01/15

1 International Criminal Court
2 Trial Chamber IX
3 Situation: Republic of Uganda
4 In the case of The Prosecutor v. Dominic Ongwen - ICC-02/04-01/15
5 Presiding Judge Bertram Schmitt, Judge Péter Kovács and
6 Judge Raul Cano Pangalangan
7 Trial Hearing - Courtroom 3
8 Friday, 29 November 2019
9 (The hearing starts in open session at 9.30 a.m.)
10 THE COURT USHER: [9:30:38] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE SCHMITT: [9:30:52] Good morning, everyone.
14 Could the court officer please call the case.
15 THE COURT OFFICER: [9:31:04] Good morning, Mr President and your Honours.
16 Situation in the Republic of Uganda, in the case of The Prosecutor versus Dominic
17 Ongwen, case reference ICC-02/04-01/15.
18 And for the record, we are in open session.
19 PRESIDING JUDGE SCHMITT: [9:31:22] I ask for the appearances of the parties.
20 Mr Gumpert first for the Prosecution.
21 MR GUMPERT: [9:31:26] Good morning, your Honours.
22 Ben Gumpert, with me today Colleen Gilg, Colin Black, Pubudu Sachithanandan, Beti
23 Hohler, Hai Do Duc, Yulia Nuzban, Jasmina Suljanovic, Grace Goh and Nikila
24 Kaushik.
25 PRESIDING JUDGE SCHMITT: [9:31:39] Thank you.

Trial Hearing
WITNESS: UGA-D26-P-0042

(Open Session)

ICC-02/04-01/15

- 1 And for the representatives of the victims, first Ms Massidda.
- 2 MS MASSIDDA: [9:31:43] Good morning, Mr President, your Honours.
- 3 For the Common Legal Representative team, Orchlon Narantsetseg, Caroline Walter,
- 4 and I am Paolina Massidda.
- 5 PRESIDING JUDGE SCHMITT: [9:31:51] And Mr Cox.
- 6 MR COX: [9:31:53] Good morning, your Honours, sorry for that.
- 7 Mr James Mawira and myself, Francisco Cox.
- 8 PRESIDING JUDGE SCHMITT: [9:32:03] Thank you.
- 9 And for the Defence, Mr Obhof.
- 10 MR OBHOF: [9:32:06] Thank you very much, your Honour.
- 11 Good morning, happy Movember 29th. Today we have Beth Lyons, Tibor Bajnovic,
- 12 Krispus Charles Ayena Odongo, Michael Rowse, Monia Ingabire, Roy Titus Ayena,
- 13 Gordon Kifudde, myself, Thomas Obhof, and Dominic Ongwen is in Court.
- 14 PRESIDING JUDGE SCHMITT: [9:32:24] Thank you.
- 15 And again, it's now a ritual even, good morning --
- 16 WITNESS: UGA-D26-P-0042 (On former oath)
- 17 (The witness speaks English)
- 18 THE WITNESS: Good morning, your Honour.
- 19 PRESIDING JUDGE SCHMITT: [9:32:32] -- Professor Ovuga, and welcome again in
- 20 the courtroom. I give Ms Lyons the floor.
- 21 MS LYONS: [9:32:38] Thank you, your Honour.
- 22 Good morning to everyone.
- 23 QUESTIONED BY MS LYONS:
- 24 Q. [9:32:46] I want to start with a few questions and clarifications from your
- 25 rejoinder report.

Trial Hearing
WITNESS: UGA-D26-P-0042

(Open Session)

ICC-02/04-01/15

1 At page -- sorry, I will read the whole UGA for the first time, UGA-D25-0015-1576.

2 At the bottom of the page -- I'm sorry, 74, my error. Let's try again, 74.

3 PRESIDING JUDGE SCHMITT: [9:33:16] And it's D-26, but we have it already. I
4 think nobody will (Overlapping speakers)

5 MS LYONS: [9:33:21] Yes, okay, fine. Yes. So D-20 -- it's stamped wrong -- okay,
6 it's stamped D-25. All right.

7 Now we are on the same page, thank you, 1574.

8 Q. [9:33:32] At the bottom you say:

9 "We would like to clarify our findings" -- "We would like to clarify that our findings
10 were corroborated by the Chamber appointed Expert Witness, Professor De Jong,
11 [and] the clinical notes of the treating psychiatrist at the Detention Centre."

12 We've discussed the clinical notes, but could you clarify what findings were
13 corroborated by Professor De Jong, please. What you meant here.

14 A. [9:34:11] What I meant -- or, what we meant to say is that Professor De Jong
15 made diagnosis of PTSD, major depression, and -- and for him he went a bit -- a step
16 further and he rated the severity of depression using the Hamilton -- I think Hamilton
17 Depression Scale. So that is what we meant, that he -- he reached the same
18 conclusions as far as depression and PTSD are concerned.

19 Q. [9:35:02] Thank you.

20 Now, in his report Professor Weierstall-Pust on page 10, this is the Weierstall-Pust
21 expert opinion rebuttal report, he gives some examples of what he describes as, quote,
22 "prominent inconsistencies" and I would like you to address some of these. I will
23 read them out.

24 But we are on page 10. For those looking at the hard copy of the report, it's about
25 halfway down the page. He says in the report, that -- he takes two quotes from your

1 second report, you quote Dominic as saying "he says he forgot how to be happy or
2 smile for many years".

3 At another point in your second report on page 15, you say the mood alternated with
4 happiness.

5 The position of the Professor Weierstall-Pust is this is an inconsistency.

6 Now, he concludes on the same page 10 that this inconsistency contradicts the, quote,
7 "clinical picture of a patient suffering from a severe mental disorder", end quote.

8 The question is: is this an inconsistency and how do you interpret it?

9 A. [9:36:50] There is no inconsistency in what we reported. The reports were
10 elicited at two different times in the course of his stay at the detention centre, times at
11 which we were able to interact with him.

12 Previously, both Dr Akena and myself did allude to fluctuations in the form of mental
13 disorder expression, so the same patient presenting with a set of symptoms at one
14 point and then presenting with other symptoms, some other set of symptoms at
15 another point in time is, is normal in the phenomenology of psychiatric illness.

16 Yesterday, I also said -- first let me step back to last week. Last week I talked about
17 the individual that is Mr Ongwen, having symptoms of mental disorder which at one
18 point resemble something else, at another point resembling another. And yesterday
19 I said the explanation for this is reaction formation in the bush, and the effect of
20 reaction formation continued up to -- up to when he was brought to the detention
21 centre. And under stress this reaction formation can still happen, and that is that the
22 mental, mental picture can change to the opposite. On the outside, the mental
23 picture can change on the outside to the opposite of what is being experienced
24 internally. So there is no inconsistency.

25 Q. [9:39:47] Thank you. Now on the same section -- same section, the bottom of

Trial Hearing
WITNESS: UGA-D26-P-0042

(Open Session)

ICC-02/04-01/15

1 1574 and the top of 1575 of your report, you talk about transference. I will read out
2 what's in your report, but I'm sure you know what it is, but for the record. You say:
3 "We hope that the use of the word 'Transference'" in quotes "by the Rebuttal Witness
4 does not refer to what he knows to be the professional meaning of the word
5 'transference'."

6 PRESIDING JUDGE SCHMITT: [9:40:19] I think that's enough for citation, because
7 we have it --

8 MS LYONS: Fine. Thank you.

9 PRESIDING JUDGE SCHMITT: -- we have the report. And I think -- I assume it is
10 even enough to trigger, the word transference with the expert, and he might explain
11 what he meant by it. I think that that's --

12 MS LYONS: That's fine. That's the question. Thank you.

13 PRESIDING JUDGE SCHMITT: [09:40:40] -- the quickest, the quickest way, so to
14 speak, to go forward.

15 So you have heard it, Professor Ovuga.

16 THE WITNESS: [9:40:46] Yes. Transference in, in psychotherapy refers to
17 a phenomenon in which the patient reacts to the therapist in a way that suggests the
18 therapist has become one of the significant others in the life of the -- of the patient.
19 So that is what we were wondering.

20 However, for the record, we simply put that to draw attention to the fact that the
21 witness was using words without analysing and interpreting the meanings of the
22 words he used. It is possible that by using transference the witness was referring to
23 something like generalising findings from one situation to another situation; findings
24 from the general population to findings in Mr Ongwen, this is my speculative
25 explanation. I don't know what he meant, but the technical meaning is that the

Trial Hearing
WITNESS: UGA-D26-P-0042

(Open Session)

ICC-02/04-01/15

1 patient reacts to the therapist as if the therapist was, for example, the father of the
2 patient, authority figure of the patient, or whatever.

3 PRESIDING JUDGE SCHMITT: [9:42:51] Thank you.

4 MS LYONS: [9:42:53] Thank you.

5 Q. [9:42:54] Now, there has been a lot of testimony in this trial that Mr Ongwen
6 acted like a child, and when the OTP questioned Professor Weierstall-Pust they used
7 a chart which is at tab 2 of our binder, UGA-OTP-0287-0063.

8 Now, Witness number 1, 0026, said "He led a kind of childish life." D-75, number 4
9 on that chart, says he played with junior soldiers. Number 14, D-100 on the OTP
10 chart which was used, says, "He liked playing. He really ... liked playing more than
11 anything else. He was childish." Number 15, D-19 on the OTP chart, says he
12 always wanted to play around.

13 And I would add one last phrase which is on the Defence chart at tab 2.1, there's
14 a witness who is listed on the OTP --

15 PRESIDING JUDGE SCHMITT: [9:44:14] Could you please help us where we find
16 this.

17 MS LYONS: [9:44:17] Yes. sorry.

18 *MR BAJNOVIC: [9:44:18] In the binder.

19 MS LYONS: [9:44:19] Yes, the OTP chart is at tab 2, and behind --

20 PRESIDING JUDGE SCHMITT: [9:44:27] But you said now "Defence
21 chart" -- (Overlapping speakers)

22 MS LYONS: [9:44:29] And there is a Defence chart behind that --

23 PRESIDING JUDGE SCHMITT: Behind that --

24 MS LYONS: [9:44:31] Sorry. I'm sorry.

25 PRESIDING JUDGE SCHMITT: [9:44:32] No, that was my fault. That's okay.

Trial Hearing
WITNESS: UGA-D26-P-0042

(Open Session)

ICC-02/04-01/15

1 MS LYONS: [9:44:38] It's a little -- yeah, we're using two, I'm quoting from two
2 places.

3 PRESIDING JUDGE SCHMITT: [9:44:40] I appreciate it that you are so quick, but
4 this had had the effect at the moment that I did not follow properly.

5 MS LYONS: [09:44:47] Okay. I accept. Okay.

6 PRESIDING JUDGE SCHMITT: [09:44:48] So I have -- I have got it now. So where
7 are we now?

8 MS LYONS: [9:44:52] So now I'm talking about the Defence chart, number 3, on
9 page ending in 1590, P-0235, who was a witness -- who was also on the OTP chart,
10 and he's quoted at transcript 17, saying -- he used -- he says -- the question, "What
11 kind of games would he play with the boys?"

12 "He used to joke with the boys that -- the boys that were used to him. That's my
13 observation." And lastly the question is, "Was he at some points behaving just like
14 them, like he was one of them?" "Yes."

15 My question to you is, what is your interpretation of these observations of
16 Mr Ongwen acting in a child-like manner, as a child?

17 A. [9:45:58] The question is very long, but I will give a simple, short answer. My
18 interpretation is that the psychological and cognitive development of Mr Ongwen
19 was arrested at a sensitive period in his development and growth, and that is at about
20 between 8 and 10 years. Otherwise, it is difficult to explain the observations made
21 by those witnesses that Mr Ongwen preferred to stay with and joke with and play
22 with children and behave like a child. Simply, this is due to arrested cognitive and
23 psychological development.

24 Q. [9:47:20] You mentioned just now "sensitive period". Could you explain what
25 you mean by that to us?

Trial Hearing
WITNESS: UGA-D26-P-0042

(Open Session)

ICC-02/04-01/15

1 A. [9:47:29] You see, now a development -- much of the process of development
2 occurs between birth, up to about 12 years, 15 years, and the age between or just
3 before 12 and coming backwards, all of the years, they are very sensitive periods.
4 And any insult to the organism - organism here meaning we human beings at that
5 period - can disturb the growth and development of the individual, both physically
6 and psychologically and mentally.

7 Q. [9:48:38] Thank you. Now I'm going to ask some very brief questions about
8 chart 2.1, these are the Defence chart and I will read it out, as the witness requested
9 yesterday, for ease. I'm going to read out a few statements from witnesses who are
10 on the OTP chart and our chart, we took from that, and ask your interpretation.

11 There will just be a few here.

12 The first one is on the Defence chart ending in 1589, number 1, D-0027. The last
13 comment by the witness at 9:59:58 in response to a question from the Presiding Judge
14 is -- the question is:

15 "Mr Witness, did you talk with Mr Ongwen about these matters? About the threats
16 and how coping -- and -- coping about -- how coping with life in the bush." The
17 answer is: "Well, we will talk about the threats when we are together, but we do not
18 have any way out."

19 What is your interpretation of "we do not have any way out"?

20 A. [9:50:19] Just for clarification, that witness was a former LRA child soldier?

21 Q. [9:50:27] Yes.

22 A. [9:50:30] Yeah.

23 Q. [9:50:32] Yes.

24 A. [9:50:35] "We don't have any way out" means that Mr Ongwen and that witness
25 and their other colleagues had no available options to resort to if they, they found

Trial Hearing
WITNESS: UGA-D26-P-0042

(Open Session)

ICC-02/04-01/15

1 themselves face to face with conflicting situations. It is like last week me saying, we
2 are in this room, the door is behind me, and the over, overall powerful person is
3 behind me. And the person gives an order, we either implement or execute the
4 order or we perish. So there is no way of escaping.

5 PRESIDING JUDGE SCHMITT: [9:51:44] Thank you.

6 MS LYONS: [9:51:45] Thank you.

7 Q. [9:51:47] Now number 2 is Witness D-0056, who was also an abductee, abducted
8 by the LRA, child soldier. And at the end of the person's statement says those -- the
9 person is talking about -- the question is: "From what you witnessed and heard from
10 others, did others in the LRA believe that spirits would speak through Joseph Kony?"
11 The answer the witness gave is, "I think it's true, because there are some people who
12 were very close to him and they listen to him, to everything he says. But those of us
13 who would stay further away from him, that creates some difference in the belief of
14 the people."

15 Do you have any response to this?

16 PRESIDING JUDGE SCHMITT: [9:52:50] Or any comments, I would say.

17 MS LYONS: [9:52:53] Any comment. That's fine.

18 PRESIDING JUDGE SCHMITT: [9:52:55] I think this is more -- that's fine, but it's
19 simply about commenting, if Professor Ovuga wants to comment on the citations, yes.
20 Please proceed, Professor Ovuga.

21 THE WITNESS: [9:53:07] That is an interesting response from the abductee. I
22 talked about the LRA being a cult organisation, and the members of the cult
23 organisation who are at the centre tend to believe in whatever the cult leader says.
24 But this influence that is exacted on the core internal members of the cult, cult group,
25 will not be felt as strongly as -- sorry, will not be felt by the other members of the

1 group who are not members of the internal group of the cult movement.

2 So what I'm saying is that the influence on the core members is more intense, and the
3 ones on the outside members of the cult, is not so intense. So the level of belief
4 outside the core will be quite different from the level of belief amongst the people
5 who are in the centre.

6 Q. [9:54:49] Now, did this idea of belief and the relation to how close you were to
7 the centre that you are commenting on, does this have any application to Mr Ongwen,
8 in your opinion?

9 A. [9:55:09] Yes, your Honour, it does. Although as I said yesterday, Mr Ongwen
10 still retained some remnants of the cultural teaching he received before he was
11 abducted. So while that belief and its influence upon him applies, for some reason
12 he -- I don't think he was 100 per cent convinced, although to us in the clinical
13 interview he did mention certain belief systems related to spirit protection of the
14 soldiers when their bodies are smeared with oil, so that they don't get hurt.
15 So I think with respect to Mr Ongwen, the influence he's -- maybe 75/25, I'm just
16 speculating, 75 being for and 25 per cent being against.

17 Q. [9:56:52] Now the last -- the last quote on the Defence chart, number 4, is P-0231.
18 Again, the witness is responding to a question from Presiding Judge Schmitt and the
19 witness is talking about Silindi as a spirit. The -- at the -- and the witness later on, on
20 page 1591, says "The spirit speaks through Kony, just has Kony speaking. It is
21 actually in Kony and so, when Kony speaks, the spirit is speaking through him."
22 Now from the -- from your perspective and from what you know, did Mr Ongwen
23 perceive Kony and the spirits speaking through him in the same way?

24 A. [9:57:55] He did report to us the number of personalities whose spirits would
25 talk through Kony to -- to them.

Trial Hearing
WITNESS: UGA-D26-P-0042

(Open Session)

ICC-02/04-01/15

1 So I think that is the shortest answer I can give so far. He did believe that Kony was
2 sometimes possessed by one or two of those spirits, and he listed a number of them,
3 about six or seven, who were speaking through Mr Kony at different times.

4 Q. [9:58:37] Thank you.

5 Now I have just a few questions about testimony that was given by Professor
6 Weierstall in response to the OTP chart, if I may ask those?

7 PRESIDING JUDGE SCHMITT: [9:59:00] Yes, please proceed for the moment, and
8 when we think --

9 MS LYONS: Just stop me.

10 PRESIDING JUDGE SCHMITT: -- you are distancing yourself too much from the
11 second report and the rebuttal report and the rejoinder report, then I will remind you.

12 MS LYONS: [9:59:13] Okay. All right. Thank you.

13 Q. And then I will return, there will be a few more questions specifically on
14 your -- on your comments in your report.

15 The question is, we are now looking at -- and I will read for the Professor and for all
16 of us, we are looking at tab 2, ending in 0063, which is in evidence from the OTP, and
17 I would ask you -- I will read sections of a few of these and ask you to comment, if
18 you want to, on some of them, on them.

19 Now -- one second.

20 Now the first one I have a question about is D-26, it's extract 1. For those checking
21 the transcript, it's at the edited transcript 252, pages 27 and 28.

22 PRESIDING JUDGE SCHMITT: [10:00:17] I think we had --

23 MS LYONS: We did this, yes --

24 PRESIDING JUDGE SCHMITT: [10:00:19] We had this already.

25 MS LYONS: [10:00:20] Yes, we did, you're right. I just realised (Overlapping

Trial Hearing
WITNESS: UGA-D26-P-0042

(Open Session)

ICC-02/04-01/15

1 speakers)

2 PRESIDING JUDGE SCHMITT: [10:00:23] I don't, I don't want to --

3 MS LYONS: -- before I finish.

4 PRESIDING JUDGE SCHMITT: [10:00:23] But I would be surprised if you would
5 draw something completely new out of this citation. We had this (Overlapping
6 speakers)

7 MS LYONS: [10:00:30] You are absolutely right, I am just -- before I came to the end
8 of my question, I said mentally -- okay. All right.

9 Q. [10:00:38] Now let's try for another one, D-27, extract 2, which is in the edited
10 transcript 252, 28, and the gist of it is that people with severe mental health disorders
11 lose contact with their social environment.

12 And Professor Weierstall says -- this may not -- let me just get the --

13 PRESIDING JUDGE SCHMITT: [10:01:13] I think the question would derive from
14 the testimony of this witness, I would assume. So perhaps you simply read out what
15 you are referring to and then you might put it into context with the discussion we
16 have here --

17 MS LYONS: [10:01:29] Absolutely.

18 PRESIDING JUDGE SCHMITT: [10:01:31] -- on potential mental disorders.

19 MS LYONS: [10:01:33] Okay, thank you. One moment, let me just get the
20 testimony.

21 PRESIDING JUDGE SCHMITT: [10:01:40] It's is a short one.

22 MS LYONS: [10:01:45] Yes. Yes, these are very short.

23 But I'm just getting it from the transcript here.

24 For 27, the testimony -- the -- this is what the quote says: "Yes, Dominic was liked by
25 so many people. And just like I told you earlier, his lifestyle didn't change. He was

Trial Hearing
WITNESS: UGA-D26-P-0042

(Open Session)

ICC-02/04-01/15

1 easily likeable; everyone liked him, the young, the old. Even personally, when I met
2 him the last time, he was a bigger commander. ... I met him we stayed together, we
3 chatted ... spent a lot of time together, [and] we talked about so many things. And
4 what I know is his lifestyle didn't change. He loved people and people liked him ..."
5 My question is this: Professor Weierstall concluded that this -- at edited transcript 252,
6 page 28, that people with severe mental disorders do not function the same -- the
7 same way in -- within their social environment. So --

8 PRESIDING JUDGE SCHMITT: [10:02:56] You can, I think --

9 MS LYONS: [10:02:58] I'm sorry.

10 PRESIDING JUDGE SCHMITT: [10:02:58] The question is, since Professor
11 Weierstall-Pust has brought this up and has a certain interpretation that Professor
12 Ovuga is aware of, and Professor Ovuga can simply comment on that, I would say. I
13 think that's the easiest --

14 MS LYONS: [10:03:18] That's the question. All right. That's fine. Okay.

15 PRESIDING JUDGE SCHMITT: -- and quickest, quickest way to proceed. Because
16 we have, we have here an expert witness, a professor, who I think does not have to be
17 explained too many things. I think you understand what's about here.

18 MS LYONS: [10:03:35] Thank you.

19 THE WITNESS: [10:03:40] I think I would still say that having severe mental
20 disorder in the form of PTSD does not necessarily impair individuals, and I would in
21 this case say it does not necessarily have to impair the social functioning of
22 Mr Ongwen, because at one point, he -- he served as one of the officials in the section
23 that dealt with cleansing and purifying soldiers - soldiers here in inverted
24 quotes - referring to the LRA soldiers. And one would expect, although he didn't
25 say it openly, one would expect that he too underwent cultural therapy and spiritual

Trial Hearing
WITNESS: UGA-D26-P-0042

(Open Session)

ICC-02/04-01/15

1 cleansing which then enabled him to function at the level described by that witness.
2 But again, the same psychological reaction formation would be at play here. Being
3 a commander or, in the words of that witness, a bigger officer, meant that he had to
4 do all he could to overcome his personal distress because the junior officers and men
5 and women were looking up to him as a leader. So the two explanations I think are
6 the reason why the witnesses didn't see changes in him and he -- he tried his best to
7 like people and stay with them, and reciprocally people liked him as well.

8 Q. [10:06:32] Thank you. Now number -- I want to go to extract 3, I will not read
9 it. It's very long, it's D-56. But Professor Weierstall-Pust was asked to comment on
10 this extract, which talks about, if I may summarise, the abilities of -- abilities to -- in
11 tactics and planning of Mr Ongwen, among other things.

12 Now, what Professor Weierstall-Pust concluded at edited transcript 252, page 29, lines
13 10 to 12 is:

14 "... what I conclude from this quote is that Mr Ongwen had the cognitive abilities in
15 such situations to discuss with other people very important tactical things."

16 Does this show, in your opinion, cognitive ability?

17 A. [10:07:47] Yes, I agree with the witness.

18 Q. [10:07:52] However, the question I also have is, what does the diagnosis of
19 depression, which you and Dr Akena, Professor De Jong made, what impact, if any,
20 does it have on cognitive ability?

21 A. [10:08:13] Usually depression results in impaired concentration and impaired
22 concentration translates into forgetfulness, poor memory, and an inability to get
23 organised properly. But let us recall that I did talk about bipolar personality traits
24 that I thought Mr Ongwen had. We didn't make any diagnosis of bipolar disorder
25 but I thought he had traits. And the traits of bipolar condition, on the one hand, are

1 expressed in very good cognitive abilities, on the one hand, and then on the other,
2 very poor cognitive functioning.

3 The good cognitive functioning abilities associated with manic -- manic side of the
4 bipolar condition, and then the poor cognitive functioning on the other is associated
5 with depressive pole of the trait.

6 So it is quite possible that Mr Ongwen was somewhere in the middle, whereby he had
7 a mixture of manic features and a mixture with -- with the features of depressive
8 illness, but on the whole, it is quite likely that the features of the manic in the mixture
9 were more prominent.

10 Q. [10:10:37] Let me be -- understand. Are you saying that given your diagnosis
11 of mental illness in Mr Ongwen, given the clinical picture that you and Professor
12 Akena concluded, it would be possible, for example, for him in some situations to
13 exhibit cognitive abilities, but in other situations he would not have -- be exhibiting
14 what is termed cognitive abilities?

15 A. [10:11:13] You are right.

16 Q. [10:11:14] Thank you. Now, D-118 in extract number 5, and we're in tab 2, and
17 this is on page 0066. It's very short. The Presiding Judge asks:

18 "How did you see him as a person at the time? How did you perceive him?"

19 The witness:

20 "In my observation, he was ... kind; he was ... loving ... He used to talk to everyone
21 very freely. That's why I said he was a loving person."

22 Do you have any comment on this? This was a person by -- let me just add, sorry.

23 This extract -- this was a person who was in the sickbay with -- with Mr Ongwen
24 during the charged period.

25 A. [10:12:30] Can you summarise the question.

Trial Hearing
WITNESS: UGA-D26-P-0042

(Open Session)

ICC-02/04-01/15

1 Q. [10:12:37] Sure. Let me rephrase it.

2 PRESIDING JUDGE SCHMITT: [10:12:44] It's a short one, the question was -- it

3 could have been put by anybody, but I asked this witness: "How did you see

4 [Mr Ongwen] at the time? How did you perceive him?"

5 And the answer was as Ms Lyons has read it out.

6 THE WITNESS: [10:13:01] And so the question is my comment on the observation?

7 PRESIDING JUDGE SCHMITT: [10:13:10] I think we are not really in the

8 questioning mode, but if you -- but no, but it's absolutely correct, if you want to

9 comment on this or want to put it into your perspective.

10 THE WITNESS: [10:13:25] You see, being a loving person, being sociable, being kind,

11 being friendly, those are features of the manic portion of bipolar trait. I talked about

12 bipolar disorder and then bipolar trait where the features don't meet diagnosis either

13 of a personality disorder or a mental disorder.

14 PRESIDING JUDGE SCHMITT: [10:13:56] Ms Lyons, I know that in the chart of the

15 Prosecution there are quite -- in this chart especially, there are quite more of similar

16 quotes. I think we don't need to go to every one -- everything.

17 MS LYONS: [10:14:11] Just one moment, your Honour. Yes, I just have a last

18 general question about the chart based on testimony. I'm not going through any

19 more of the chart witnesses we're done with that.

20 Q. [10:14:24] This is a question about methodology and form, actually.

21 Professor Weierstall-Pust at -- was asked to give -- he gave a description when he

22 testified here. It's edited transcript 252, line 15, at page 34. This was on direct.

23 And he described the quotes, all of these quotes as building blocks to make a holistic

24 picture of Dominic Ongwen.

25 And my question is, do you agree that these quotes are building blocks and if strung

Trial Hearing
WITNESS: UGA-D26-P-0042

(Open Session)

ICC-02/04-01/15

1 together, put together, they form a holistic picture?

2 Do you have any comment on that methodology?

3 A. [10:15:23] Yes, they would form a comprehensive picture of the person that we
4 are talking about, but unfortunately there are other quotes which are lacking. There
5 are some individuals who probably gave testimonies that do not depict what you
6 have read.

7 The other explanation I would say is, you see, people who came to testify here, they
8 came -- if I can read their collective mind, I don't pretend to read them accurately, but
9 if I can read their collective mentality, they were in two minds: This was our
10 commander, should we condemn him or should we not condemn him?

11 MR GUMPERT: [10:16:55] Your Honours, this is rank speculation, with the greatest
12 of respect to the Court and to the witness.

13 PRESIDING JUDGE SCHMITT: [10:17:01] But like always, since we are not -- we are
14 not discussing here a question by one of the parties which I would -- which there
15 could be an objection to, we take the answers from Professor Ovuga how he
16 formulates them. Please, proceed.

17 THE WITNESS: [10:17:20] And your Honour, I thought I -- I said I was attempting to
18 read the collective mind and I wasn't saying that they are factual. I was simply, as
19 he says, he's right, speculating and I said so.

20 PRESIDING JUDGE SCHMITT: [10:17:43] Yes, exactly, yes.

21 Ms Lyons, please continue.

22 MS LYONS: [10:17:50]

23 Q. [10:17:51] Now going back -- just a few more clarifications on your report. I'm
24 at page 1579 of the report and at -- it's the top part. You -- can you clarify what you
25 meant about what is dissociative identity disorder versus what is *psychosis. And the

Trial Hearing
WITNESS: UGA-D26-P-0042

(Open Session)

ICC-02/04-01/15

1 example was I think a person having one body, but multiple parts, arms, head et
2 cetera.

3 Can you clarify in your report at -- what you mean by the -- is this -- I'm confused and
4 Professor Weierstall's confused, I think, but I want to say, can you clarify what it
5 means here, the difference between DID and psychosis, if there is one?

6 A. [10:18:57] Psychosis is characterised by hallucinations, that is, the experience of
7 sensory stimuli that do not exist and then delusions, that -- that is, the experience of
8 firmly held belief systems or convictions that one cannot be argued out of and then
9 bizarre behaviour.

10 Bizarre behaviour here means the form of behaviour of the individual cannot be
11 understood in the context -- the normal context of the social environment of the
12 individual.

13 Identity disorder on the other hand is an interruption, the experience of an
14 interruption of the mental functioning of the individual, which results in physical
15 actions of the person being cut off from the cognitive and psychological and mental
16 functioning of that same person.

17 So the bodily activities are not correlated with the mental activities. There may or
18 may not be any hallucinatory experiences, but those hallucinatory experiences are, as
19 I described last week, in the form of derealisation and depersonalisation, not true
20 hallucinations.

21 Q. [10:21:08] Thank you.

22 PRESIDING JUDGE SCHMITT: [10:21:09] Thank you.

23 MS LYONS: [10:21:10]

24 Q. [10:21:10] Now on page 1580 of the report, there is a -- there's a reference to
25 Professor Weierstall's report, which is on his page 22. I'll just read it out fast, it's

1 short:

2 "PTSD: The various symptoms ... are non-systematically assessed and verified."

3 Professor Ovuga and Dr Akena "don't provide a profound example for the avoidance
4 criterion."

5 And then you respond and talk about that.

6 Could you just explain a little more about PTSD, avoidance and the example you give
7 here about fireworks. Could you tell us a little bit more about that, please.

8 A. [10:22:05] Let me explain and then I give a shortcoming or maybe I start with the
9 shortcoming. If we were to have assessed Mr Ongwen in the bush, he would most
10 likely have told us places and situations that he didn't like visiting, but this was not
11 what was possible. We assessed him at the detention centre where his environment
12 is totally different from the bush environment. But one night he was woken up by
13 fireworks and the memories of fireworks, meaning bullets being fired in rapid
14 succession at the time of fighting in the bush was evoked, and he therefore attempted
15 to flee or at least to be given his gun so that he can go and face the people who were
16 firing live ammunitions.

17 Of course, this seemed strange in the detention centre, which is quite secure. The
18 sound of fireworks was obvious and he was convinced he was in a situation he didn't
19 like to be in. He thought he had left the situation of fighting, but here fighting has
20 followed him.

21 So his reaction there was that of active avoidance of reminders, reminders of his bush
22 life. I'm not sure why the professor did not appreciate it the way we put it, but
23 maybe if, as I said yesterday, if he was here, he would probably have been convinced
24 if he had me explain it the way I have.

25 Q. [10:25:16] Thank you. Now I'm on the last page of your report. This is

Trial Hearing
WITNESS: UGA-D26-P-0042

(Open Session)

ICC-02/04-01/15

1 dealing with -- let me start again.

2 Professor Weierstall at page 26 addresses some of the -- addresses all the
3 recommendations that you made in your second report and he focuses in on the issue
4 of medications. And what he says you recommend at the -- page 33 of your second
5 report, a continuation of medication against depression, PTSD and suicidal urges.

6 And what Professor Weierstall --

7 PRESIDING JUDGE SCHMITT: [10:25:58] We concentrate on 2002 until 2005, not the
8 actual state of health.

9 MS LYONS: [10:26:06] Okay, but this is a question -- I'm just asking about the
10 medications in the statement he makes in the report, that's all. May I do that?

11 PRESIDING JUDGE SCHMITT: [10:26:16] Frankly speaking, I'm not so happy about
12 that because it does not have to do -- if you show us a connection to the charged
13 period, I would allow it.

14 MS LYONS: [10:26:29] All right. Your Honour --

15 PRESIDING JUDGE SCHMITT: [10:26:32] For example, if you want -- in the -- you
16 can formulate it perhaps, if I may help you, in the abstract if the psychiatric expertise
17 that is displayed by one or the other opinion, if there is a comment on this.

18 MS LYONS: [10:26:50] Okay.

19 Q. [10:26:52] My only question so I can do it really -- finally I can do it simply and
20 you can rule on -- let me know was whether there's a medication for PTSD and are
21 they the same as depression medicines.

22 That was my question because the question was raised in Professor Weierstall's
23 (Overlapping speakers)

24 PRESIDING JUDGE SCHMITT: [10:27:10] In Professor --

25 MS LYONS: [10:27:11] -- report.

Trial Hearing
WITNESS: UGA-D26-P-0042

(Open Session)

ICC-02/04-01/15

- 1 PRESIDING JUDGE SCHMITT: [10:27:11] -- yes. In this abstract manner, Professor
2 Ovuga, is there a medication for PTSD, for example?
- 3 THE WITNESS: [10:27:14] Yes, yes, your Honour.
- 4 PRESIDING JUDGE SCHMITT: [10:27:16] Thank you.
- 5 MS LYONS: [10:27:16]
- 6 Q. [10:27:17] And are the medications for PTSD the same as or are they -- is PTSD
7 medicine also sometimes given for depression?
- 8 A. [10:27:27] Yes, your Honour.
- 9 Q. [10:27:29] Okay. I'm getting towards the end, just a few more questions here.
10 There's evidence in this trial -- and you've mentioned it in your report and it's in the
11 witness -- some of the witnesses' quotes about sickbay. Mr Ongwen was in sickbay.
12 He was injured.
- 13 Now we don't have exact consensus on the amount of time. There were a number of
14 witnesses, I won't read them all out, but 235, 205, 231 -- a Prosecution witness. Let's
15 assume that he was in sickbay for roughly a period of a year.
- 16 PRESIDING JUDGE SCHMITT: [10:28:17] He was in sickbay for some amount of
17 time --
- 18 MS LYONS: [10:28:23] Some amount of time.
- 19 PRESIDING JUDGE SCHMITT: [10:28:25] Please.
- 20 MS LYONS: [10:28:26] Right. Some amount of time.
- 21 PRESIDING JUDGE SCHMITT: [10:28:27] And the question please.
- 22 MS LYONS: [10:28:26] Okay. And the question is, did Mr Ongwen describe to you
23 his feelings at the time and does this serious injury have any impact, in your opinion,
24 on his mental health illnesses?
- 25 A. [10:28:48] The serious injury was just an additional traumatic experience added

Trial Hearing
WITNESS: UGA-D26-P-0042

(Open Session)

ICC-02/04-01/15

1 to the long list of injuries he had undergone. While in the sickbay, he in fact
2 describes how he was being treated, using boiling water, which would be poured on
3 to the wound to clean it, to disinfect the wound so to speak. And he said this was
4 extremely painful and it would make him black out. And this was being done twice
5 a day because they didn't have a supply of antibiotics. There was no other way that
6 the wound could be made to heal faster.

7 So I don't know if I have answered the question, otherwise you can rephrase ...

8 PRESIDING JUDGE SCHMITT: [10:30:10] No, I think this was (Overlapping
9 speakers)

10 MS LYONS: [10:30:12] That's clear.

11 Your Honour, I've come to the end of my -- however, there are -- that during -- during
12 the course, there have been other questions I would -- I may want to address. I need
13 to consult. I really -- I really need to have -- for five to 10 minutes, if I may? And
14 I'll tell you if there are more questions.

15 PRESIDING JUDGE SCHMITT: [10:30:31] I would perhaps then again ask

16 Mr Gumpert, has anything changed to your assessment from yesterday?

17 MR GUMPERT: [10:30:36] No, your Honour.

18 PRESIDING JUDGE SCHMITT: [10:30:37] So I think we can give you -- why not
19 have a coffee break now and you have your time --

20 MS LYONS: [10:30:40] Thank you.

21 PRESIDING JUDGE SCHMITT: [10:30:40] -- enough time, you don't -- are in a hurry
22 or not under tension and pressure. Until 11 o'clock.

23 MS LYONS: [10:30:55] Thank you very much.

24 PRESIDING JUDGE SCHMITT: [10:30:58] And then you come with an answer.

25 MS LYONS: [10:30:59] Yes.

Trial Hearing
WITNESS: UGA-D26-P-0042

(Open Session)

ICC-02/04-01/15

- 1 THE COURT USHER: [10:31:00] All rise.
- 2 (Recess taken at 10.31 a.m.)
- 3 (Upon resuming in open session at 11.00 a.m.)
- 4 THE COURT USHER: [11:00:41] All rise.
- 5 Please be seated.
- 6 PRESIDING JUDGE SCHMITT: [11:01:00] Ms Lyons, you have the floor.
- 7 MS LYONS: [11:01:03] Thank you. No more questions, your Honour.
- 8 PRESIDING JUDGE SCHMITT: [11:01:06] Thank you very much.
- 9 Mr Gumpert.
- 10 MR GUMPERT: [11:01:09] No questions at all, your Honour.
- 11 PRESIDING JUDGE SCHMITT: [11:01:12] Thank you.
- 12 This concludes the hearing for today.
- 13 And this concludes your testimony, Professor Ovuga. On behalf of the Chamber I
- 14 would like to thank you that you came to this court and took a lot of time to help us
- 15 establish the truth.
- 16 We wish you a safe trip back home, Professor Ovuga.
- 17 THE WITNESS: [11:01:32] Thank you, your Honours, for, for giving me the time and
- 18 for having listened to me.
- 19 I would like to apologise if, for any reason, on any occasion in the course of the four
- 20 days I have appeared before you, if I, I was too harsh or I acted undiplomatically. So
- 21 I pray you forgive me. Thank you for inviting me.
- 22 PRESIDING JUDGE SCHMITT: [11:02:13] No, no. Thank you.
- 23 (The witness is excused)
- 24 PRESIDING JUDGE SCHMITT: [11:02:18] This concludes the hearing for today.
- 25 The hearing is adjourned and we see each other sometime next year.

Trial Hearing
WITNESS: UGA-D26-P-0042

(Open Session)

ICC-02/04-01/15

- 1 THE COURT USHER: [11:02:25] All rise.
- 2 (The hearing ends in open session at 11.02 a.m.)
- 3 CORRECTIONS REPORT
- 4 The following corrections, marked with an asterisk and included in the audio-visual
- 5 recording of the hearing, are brought into the transcript.
- 6 Page 6 line 18
- 7 "PRESIDING JUDGE SCHMITT" Is corrected to "MR BAJNOVIC"
- 8 Page 17 line 25
- 9 "psychosis And" Is corrected to "psychosis. And"