

Trial Hearing
WITNESS: UGA-OTP-P-0059

(Open Session)

ICC-02/04-01/15

1 International Criminal Court
2 Trial Chamber IX
3 Situation: Republic of Uganda
4 In the case of The Prosecutor v. Dominic Ongwen - ICC-02/04-01/15
5 Presiding Judge Bertram Schmitt, Judge Péter Kovács and Judge Raul Pangalangan
6 Trial Hearing - Courtroom 1
7 Tuesday, 31 January 2017
8 (The hearing starts in open session at 9.30 a.m.)
9 THE COURT USHER: [9:30:16] All rise.
10 The International Criminal Court is now in session.
11 PRESIDING JUDGE SCHMITT: [9:30:36] We'd like to welcome everyone in the
12 courtroom. And so welcome again, welcome again, Mr Witness.
13 And, please, court officer, please call the case.
14 WITNESS: UGA-OTP-P-0059 (On former oath)
15 (The witness speaks Acholi)
16 THE WITNESS: [9:30:57] (Interpretation) Thank you.
17 THE COURT OFFICER: [9:31:00] The situation in the Republic of Uganda, in the
18 case of The Prosecutor versus Dominic Ongwen, case reference ICC-02/04-01/15.
19 PRESIDING JUDGE SCHMITT: [9:31:05] Thank you.
20 And for the appearances.
21 MR ELDERFIELD: [9:31:08] Your Honour, Julian Elderfield, Pubudu
22 Sachithanandan, Ben Gumpert, Yulia Nuzban, Mari Pilvio and Ramu Fatima Bittaye.
23 PRESIDING JUDGE SCHMITT: [9:31:20] Thank you.
24 Mrs Massidda.
25 MS MASSIDDA: [9:31:23] Good morning, your Honours. Common Legal

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1 Representation team is composed by myself, Paolina Massidda; with me in courtroom
2 today Ms Caroline Walter and Mr Orchlon Narantsetseg.

3 PRESIDING JUDGE SCHMITT: [9:31:36] Thank you very much.

4 And Mr Manoba, please.

5 MR MANOBA: [9:31:38] Good morning, your Honours. Joseph Manoba and
6 James Mawira.

7 PRESIDING JUDGE SCHMITT: [9:31:44] Thank you.

8 And for the Defence, Mr Odongo.

9 MR AYENA ODONGO: [9:31:47] Good morning, your Honours. I'm Krispus
10 Ayena Odongo. I'm assisted by Chief Taku, Thomas Obhof, Gatarama Tharcisse,
11 and our client, Mr Ongwen, is in Court.

12 PRESIDING JUDGE SCHMITT: [9:32:05] Thank you very much. And I
13 understand that still Mr Elderfield has the floor.

14 MR ELDERFIELD: [9:32:10] Thank you.

15 QUESTIONED BY MR ELDERFIELD: (Continuing)

16 Q. [9:32:13] Good morning, Mr Witness.

17 A. [9:32:16] Good morning.

18 Q. [9:32:18] We'll turn straight away to a sound recording.

19 The ERN is 0247-1070 and this is the second portion of the excerpt. This excerpt will
20 run from 34.18 to 37.29.

21 (Playing of the audio excerpt)

22 MR ELDERFIELD: [9:36:13]

23 Q. [9:36:14] Mr Witness, whose voices did you recognize?

24 A. [9:36:25] I recognized clearly Omona Michael's voice, Joseph Kony and
25 Dominic Ongwen.

1 Q. [9:36:42] And what were they discussing?

2 A. [9:36:52] Omona Michael came on air and started relaying a report. The
3 report was being sent to Joseph Kony. He was informing Kony that Toolbox, a
4 commander known as Toolbox, had ambushed along the road known as
5 Gweng-Diya.

6 He seized three guns, a chain of -- chain of PKN, two chains of PKNs, two pairs of
7 gumboots, one RPG bomb, four pairs of uniform, 14 full magazines, one empty
8 magazine, one pouch, one poncho. And they also recovered 101,000 Ugandan
9 shillings, but he had difficulty giving them the exact figure. Four people were killed.
10 He continued saying Kony should also receive what Dominic did. Dominic had
11 ambushed alongside Opit road. At the ambush he got two guns, SMGs, three pairs
12 of gumboots, two pairs of uniforms, he killed two people.
13 He continued and saying that Dominic also recovered or seized a mobile phone, one
14 mobile phone. Kony instructed them to safeguard the phone. Dominic informed
15 Kony that the screen had cracked. Kony asked whether the screen could be repaired
16 and Dominic responded that yes, it can be repaired if there is a technician. Kony
17 instructed him to take very good care of the phone and informed him that that phone
18 can be used to call up to 10 people.
19 He also concluded that he seized 230,000 at the ambush as well. That's the summary
20 of what was discussed.

21 Q. [9:40:11] Thank you, Mr Witness. Can you please turn to tab 65.

22 The ERN is 0266-0187. And for the court officers this and the other transcripts that
23 we'll look at this morning are confidential. The rolling transcripts, however, are
24 public and can be shown to the public.

25 Tab 65.

1 A. [9:41:01] (Speaks English) I have 65, yeah.

2 Q. [9:41:05] And please turn to page 0206. In fact, please turn one more page to
3 page 0209. And can you please tell us what you've written at line 512?

4 A. [9:41:59] (Interpretation) On line 512 I included "Did you say it's broken?"
5 And that was Joseph Kony asking Omona Michael.

6 Q. [9:42:12] This is the only question I have for this portion of sound recording.
7 From what you've seen of the transcript, how accurately does it reflect the sound
8 recording that you just heard?

9 A. [9:42:32] It reflects it accurately.

10 Q. [9:42:38] Let's move on. Excuse me, let's move on to the next one.
11 The ERN is 0247-0866. And the excerpt is from 26.14 to 30.43.

12 (Playing of the audio excerpt)

13 MR ELDERFIELD: [9:47:50]

14 Q. [9:47:51] Mr Witness, whose voices did you recognize?

15 A. [9:48:02] There was a lot of interference in this recording, but the voices I
16 heard were that of Omona Michael, Joseph Kony and Otti's signaller. Omona
17 Michael was trying to send Otti's signaller information regarding the ambush Toolbox
18 had set up on Gweng-Diya road. Joseph Kony also came on air and they started
19 sending the message together. And it was the exact same message that I discussed
20 earlier. They were talking about the things that were seized: Two PK chains; three
21 pairs of gumboots; one RPG bomb; four pairs of uniform; 14 full magazines; one
22 empty magazine; one pouch; one ponzo.

23 He had difficulty relaying the exact amount of the Ugandan shillings that they had
24 seized. Initially he said 1,001, but then it was 101,000. Four enemy deaths. He
25 also relayed information on the ambush Dominic had set up on Opit road. This

1 ambush involved only soldiers.
2 Dominic got two SMG guns from soldiers, three pairs of gumboots, two pairs of
3 uniform. There were two enemy deaths. There was one Motorola mobile phone.
4 And Kony instructs them to safeguard that phone.
5 Dominic informed Kony that the phone fell and the screen cracked. Kony asked
6 whether the phone was -- whether the phone could not be repaired and Dominic
7 responded that, yeah, if there is a phone technician then the phone can be repaired.
8 Joseph Kony then instructed that the phone should be safeguarded. He informed
9 him that "You know this one phone, this one mobile phone can be used to call up to
10 10 people?" Joseph Kony laughed because he was happy. He then concluded that
11 the money -- that the money that Dominic had seized on Opit road, the 230,000,
12 should also be kept.

13 Q. [9:51:33] I'd like you to turn to tab 67. I'm going to ask you one question.
14 Tab 67 is ERN 0266-0225.

15 Mr Witness, do you see your signature at the bottom of that page?

16 A. [9:52:08] Yes, I do.

17 Q. [9:52:12] Thank you. We'll move straight on to the next sound recording.
18 The ERN of this last one is 0239-0106. The excerpt is of track 1 from 4.40 to 12.03.
19 (Playing of the audio excerpt)

20 MR ELDERFIELD: [10:00:30]

21 Q. [10:00:32] Mr Witness, whose voices did you recognize and can you please
22 summarise the conversation that you heard?

23 A. [10:00:43] The first voice was Two Victor's signaller. He was sending a
24 message. And according to the message, UPDF soldiers had been ambushed at Lira
25 Palwo. The 55th battalion had also been attacked at the barracks. Two Two Victor

1 listed the things that they had seized: One 82-millimetre pipe; one 82-millimetre
2 mortar pipe; 27 SMG mortar guns; pairs of gumboots; 27 shirts; 12 pouches; 12 full
3 magazines; 13 empty magazines; water flasks, 13 -- sorry, 34 empty magazines; 12
4 water flasks; and Ugandan shillings 21,500; two dust coats; 8 sweaters.
5 Joseph Kony then came on air and asked them to repeat because he had missed the
6 communication. Two Two Victor repeated the information that he had previously
7 been relaying. He informed Joseph Kony that he had attacked Lira Palwo. He also
8 informed him that he attacked the 55th battalion and he has seized some things. He
9 listed the things that he had seized: One 82 millimetre pipe. Kony asked "Has it
10 got the stand as well?" And he responded, "Yes, it's got the stand as well." Two 27
11 SMG guns; 28 pairs of gumboots; 20 pairs of uniforms; 7 shirts; 12 pouches; 23 -- 34
12 full magazines; 12 empty magazines; 13 water flasks; 21,500 Ugandan shillings; 8
13 sweaters. And Kony instructed them to take very good care of the stuff that they
14 had seized.
15 He also said, stated that he had burnt the barracks.
16 And Kony asked, "How about the civilian population?"
17 And he responded, "Yes, I burnt the houses of the civilian position as well."
18 Kony asked, "How about the cows?"
19 He did not respond.
20 He asked, "How about the 82-millimetre bombs, how many did you recover?"
21 He said "Four." He informed Kony that he had used one against the UPDF and three
22 were left.
23 And Kony said that was very good. Kony instructed him that he should have
24 actually aimed it at the UPDF officers themselves.
25 Ongwen also came on air and said, "Oh, you've actually relayed the report, but you

1 forgot my stuff. I also have stuff that I seized."

2 And Kony said, "Okay. Could you please tell us what you seized as well."

3 He said he seized 16 pairs of gumboots, 7 pairs of uniforms, 5 SMGs guns, 33 full

4 magazines, 1 PKM belted ammo. He said he scattered all his soldiers in the

5 operation. And the soldiers that -- the soldiers that he had sent, some of them had

6 come back, but others were still out and about.

7 Kony told him, "I really do love you, and even if I'm not here, if there comes a time

8 that I'm not here, the rest of you can actually lead the LRA very well."

9 Ongwen answered "Yeah, war is war, so if we have to fight, we fight."

10 And that's what was said.

11 Q. [10:06:19] Do you know who Two Victor is?

12 A. [10:06:30] I'm not very sure at this particular moment. It's a signaller's voice,

13 but I do not recognize the voice at this particular time.

14 Q. [10:06:42] Let's go to the transcript at tab 69.

15 The ERN is 0266-0260.

16 Can you see your signature at the bottom, Mr Witness?

17 A. [10:07:15] Yes, I can.

18 Q. [10:07:19] Can you please turn to page 0265. At the bottom left you've

19 written "LOKS" and "JKS". Can you tell us who they are?

20 A. [10:07:54] JKS, that's Kony's signaller. And LOK(S), that's Raska's signaller.

21 Q. [10:08:10] At line 132 you've written "Lira Palwo barracks;" is that right?

22 A. [10:08:26] It's Lira Palwo barracks, Lira Palwo.

23 Q. [10:08:34] What have you written at line 136?

24 A. [10:08:44] "Here is what I found, this is what I seized from there."

25 Q. [10:08:51] Can you please turn to page 0273. What have you written at line

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1 316?

2 A. [10:09:22] It should read, "The ones from kafayi are not yet here."

3 Q. [10:09:43] And finally, can you explain to us line 346?

4 A. [10:10:16] Well, for your information, Court, the translator did not translate
5 this very well because according to the Acholi word, Acholi sentence, "We were
6 holding hands. We were holding hands together." That's what should have been
7 translated.

8 Q. [10:10:46] And do you know what that means in the context of this sound
9 recording?

10 A. [10:10:59] He was informing him that they had worked together on the
11 operation with Dominic. The signaller was saying that he and Dominic had worked
12 together on this operation.

13 Q. [10:11:16] Thank you, Mr Witness. That's all my questions for this sound
14 recording.

15 Your Honour, I just have two housekeeping matters to deal with before I sit down.

16 The first is that at page 4 of today's transcript, the realtime transcript, at line 24, I need
17 to correct the ERN of the sound recording. It should be written 0217-0886.

18 The second is a correction to the record from Friday's testimony and I've printed out
19 the page of the edited transcript that I'd like to look at. The answer I'm looking to
20 correct is at lines 2 and 3. I believe it's been misrecorded in the record and I'd like to
21 ask the witness one question to clarify.

22 PRESIDING JUDGE SCHMITT: [10:12:19] We can do this.

23 MR ELDERFIELD: [10:12:28]

24 Q. [10:12:29] Mr Witness, in your experience listening to LRA radio
25 communications, at what time, what year approximately did those communications

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1 start to be not as regular?

2 A. [10:12:54] Are you talking about irregular communication between the LRA?

3 Q. [10:13:10] I'm asking about you throughout your time listening to the LRA, at
4 approximately what year was there not much communication to intercept?

5 A. [10:13:34] Between around 2011 because during that period we would set up
6 the radio, but then there would be no communication. There are times when we had
7 get -- when we would intercept them every other six months and at times there was
8 no communication at all.

9 PRESIDING JUDGE SCHMITT: [10:14:00] I think this might do it for this point.

10 MR ELDERFIELD: [10:14:02] Your Honour, I've just been informed that I made a
11 wrong correction to the record just then. In fact, the sound recording that I was
12 trying to correct should be 0247-0886. That's all the questions that I have.

13 Thank you, Mr Witness.

14 PRESIDING JUDGE SCHMITT: [10:14:20] Thank you, Mr Elderfield.

15 I understand that the Legal Representatives of Victims do not have questions, so it
16 would be now the turn of the Defence to have the floor. And who wants to question
17 the witness?

18 MR AYENA ODONGO: [10:14:41] Thank you very much.

19 PRESIDING JUDGE SCHMITT: [10:14:49] Yes, Mr Odongo.

20 MR AYENA ODONGO: [10:14:57] Your Honours.

21 QUESTIONED BY MR AYENA ODONGO:

22 Q. [10:15:00] Good morning, Mr Witness.

23 A. [10:15:03] Good morning.

24 Q. [10:15:05] Mr Witness, did you say you went to Camboni college for your
25 education?

1 A. [10:15:24] Yes, I did.

2 Q. [10:15:27] Which years were these?

3 A. [10:15:46] 1989 -- 1991, 19 -- 1981.

4 Q. [10:16:03] Great, that was a prestigious school. And between 1981 and 1990,
5 what were you doing?

6 A. [10:16:29] 1981, I was in Camboni until 1984, when I took my senior 4
7 examinations. When I completed my senior 4, I passed and I was accepted, I was
8 accepted at a medical school in Mbale. You know the conflict in Uganda that took
9 place in 1985 seriously interfered with my education, because instead of going for my
10 interviews to start school, at the time the ministry of education was still based at
11 Crested Towers, I was unable to go to Kampala for the interview because the roads
12 were impassible. So I had to go and stay home.
13 That year, 1985, instead of sitting at home redundant, I decided to teach. I was
14 accepted to teach at primary school. I taught from 1985 to 1990.
15 In 1990 I decided to join some organisation.

16 Q. [10:18:27] Thank you very much. But, Mr Witness, you said, you said you
17 trained as a teacher, did you? A grade 3 teacher. When was this?

18 A. [10:18:49] When I was -- I trained when I was already on the job. You know,
19 when you're teaching, you can still train. In 1986 I went back to school, I went to the
20 PTC. And I completed that in 1989, and then -- and that was when I became a grade
21 3 teacher. Up to date, I hold a grade 3 teaching certificate.

22 Q. [10:19:32] Which teacher training college did you go to, Mr Witness?

23 A. [10:19:48] I went to Kitgum Core PTC.

24 Q. [10:19:55] Did you say it was 1996?

25 A. [10:20:08] 1996 to 1998. At the time, exams were at the beginning of the year.

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1 And we sat our exams at the beginning of the year 1998.

2 Q. [10:20:30] Witness, when you finally completed your teacher training college,
3 did you ever teach? And if so, where did you teach?

4 A. [10:20:57] Yes, I did. I did teach. I taught at Guda Primary 7 School. The
5 school is in Kitgum. If you look at my records, you will actually find the information
6 in there.

7 Q. [10:21:29] So much for your teaching course.

8 Now, Mr Witness, from page 8 to 9 of the transcript, the record of this Court, it is
9 reported that you had a two-year course from 1990, February up until 2001; is that
10 correct?

11 A. [10:22:07] Yes, that's correct. Can you please repeat the years?

12 Q. [10:22:19] 1990, February up until 2001.

13 A. [10:22:27] No, that's incorrect. That's incorrect. My education -- I had a
14 two-year education and I finished the course in 1991. In February of 1990, I started
15 and I ended it in January of 1991.

16 MR GUMPERT: [10:23:06] Your Honours, I'm sorry to interject so early in my
17 learned friend's cross-examination.

18 PRESIDING JUDGE SCHMITT: [10:23:12] Please.

19 MR GUMPERT: [10:23:13] I'm not entirely sure of the relevance of this level of
20 detail, but I'm -- that's not my principal objection.

21 Indeed it's not really an objection, but this is a witness whose identity is protected.

22 The number of people who were at the various schools between these years, who
23 taught at, then, thereafter, is going to be extremely limited.

24 Inasmuch as the witness' identity is protected, if these questions are to persist, I, with
25 some regret, submit that we ought to be doing this in private session otherwise the

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1 measure will be obviated.

2 PRESIDING JUDGE SCHMITT: [10:23:57] Yes, I think, Mr Odongo, this is correct
3 what Mr Gumpert is saying. There are two possible measures we can take. Either
4 we go into private session, or you say that this line of questioning soon comes to an
5 end. This would also be a solution, of course. You could please inform us what
6 your line of questioning will be in the near future.

7 MR AYENA ODONGO: [10:24:17] Your Honours, I shall opt for a quick solution.
8 I'll abandon --

9 PRESIDING JUDGE SCHMITT: Okay.

10 MR AYENA ODONGO: -- that line of questioning.

11 PRESIDING JUDGE SCHMITT: [10:24:27] Thank you.

12 MR AYENA ODONGO: [10:24:39]

13 Q. [10:24:39] And when you had a stint of training as a military -- I mean, in
14 military school, you had two years training, did you say so?

15 A. [10:25:04] Yes, that's correct.

16 Q. [10:25:05] Can you tell this honourable Court, Mr Witness, of those two years,
17 how many did you use to train as a signaller?

18 A. [10:25:31] Yes, your Honour, I know that if I discuss this information I will be
19 identified. I know that my identity should not be disclosed. I don't know if my
20 identity can be safeguarded.

21 PRESIDING JUDGE SCHMITT: [10:25:58] Then I suggest that the witness may
22 give this answer in private session. So we go shortly into private session --

23 MR AYENA ODONGO: [10:26:07] Much obliged.

24 PRESIDING JUDGE SCHMITT: [10:26:10] -- Mr Witness, and then you can give the
25 answer.

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1 (Private session at 10.26 a.m.)

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7 (Redacted)

8 (Open session at 10.41 a.m.)

9 PRESIDING JUDGE SCHMITT: [10:41:11] Just wait a second, Mr Witness, and
10 then you can answer.

11 THE COURT OFFICER: [10:41:16] We're in open session, your Honour.

12 THE WITNESS: [10:41:33] (Interpretation) When you listen to a voice, for
13 example, the leaders, our leaders in the community, when you listen to the voice, to a
14 particular voice, you can be able to tell who is speaking and with time you can be able
15 to learn and know whose voice it is.

16 So I am telling you that I got this training from my colleague who was already
17 working and he taught me when I -- by the time I reported.

18 It also requires some, some talent, some, some skill, some talents that you have if you
19 can be able to do it. So in my organisation they found that I have this talent, being
20 able to listen to a voice, and I was given the job. (Redacted)
21 (Redacted).

22 In addition also of course with the education and the training I went through, plus the
23 experience I acquired during the job, you can be able to identify. Even you yourself,
24 you can be able to do it if you're committed to do it.

25 MR AYENA ODONGO: [10:43:01]

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1 Q. [10:43:01] Mr Witness, can you tell this honourable Court who actually trained
2 you, who was that person who trained you?

3 MR GUMPERT: [10:43:14] Well, your Honours --

4 PRESIDING JUDGE SCHMITT: [10:43:16] I think Mr Gumpert is rising. But
5 perhaps then we should also go again into private session. It's not nice, but this
6 happens. So still I want to alert everybody to the problem, so I think to protect the
7 witness it's better that he can answer this in private session, yes.

8 (Private session at 10.43 a.m.)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

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13 (Redacted)

14 (Redacted)

15 (Open session at 10.50 a.m.)

16 THE COURT OFFICER: [10:50:47] We're in open session.

17 MR AYENA ODONGO: [10:50:55]

18 Q. [10:50:57] Mr Witness, were you also taught -- or, rather, did you direct your

19 mind to the possibility of an imposter, to imitate the voice of another person, such as

20 normally happens with comedians with their commendable accomplishments?

21 These people can even imitate the voice of his excellency the president of Uganda and

22 mimic him with commendable closeness. Were you taught that that is possible?

23 A. [10:51:47] I don't think that's very true because that LRA net is not a place

24 where you can go and just play around. For these people, once somebody has

25 entered the net they know they have actually gone to work. And so, also they didn't

1 know that they were being followed, so how could we go and fail to work?

2 Q. [10:52:28] Mr Witness, I put it to you that, yes, people within the LRA or
3 whomsoever you think were serious, were guarded, but supposing there was
4 somebody out there who was also doing intercept the way you were doing, this is the
5 scenario I'm trying to bring out, is it possible, I'm just saying is it possible in your
6 training and experience, could it happen? It doesn't matter whether it happened or
7 not, but my question is is it possible? Could it happen?

8 A. [10:53:18] In line with the work that I do, it is not possible. Maybe if it is in
9 another place or outside our organisation but what I do, that is not possible. So if
10 you ask me what I was doing, then I will be able to tell you. But the others, I cannot
11 respond to you because I'm in here in line with what I'm doing. But where I am
12 working and what I do, that is not possible, it is not possible to imitate.

13 Q. [10:53:54] Mr Witness, I put it to you that you are living out of this world, but
14 that is for you.

15 I move to the next. Mr Witness, were you also taught that the voice of the person
16 can vary according to different situations; examples, when he is excited, when he is
17 under tension, when he is in a state of grief, et cetera, et cetera?

18 A. [10:54:32] When there's any voice change, the difference is not so much.
19 Maybe if somebody is happy maybe the voice can go up, or if the person is unhappy,
20 then the voice can go down. But the nature and the manner in which that voice or
21 the person speaks does not change. In English it's called mannerism, that particular
22 manner of that person when they are speaking will always be there and you can be
23 able to know this is so-and-so. Even when there is some interference after some
24 point when the signal gains, you know, you will be able to tell that this was so-and-so
25 speaking at this time.

1 Q. [10:55:27] Mr Witness, by the end of your course, did you consider yourself
2 sufficiently equipped to identify the voices of even people you had never closely
3 interacted with?

4 A. [10:56:03] When I start knowing the voices now, I start getting it from now,
5 immediately as I listen to it. But if the person repeats -- repeatedly comes back on air
6 and I know that yesterday he was on air, then today again he came, I am able to tell
7 that this was the person speaking. But at that time, when -- if it's the first time he is
8 coming on air, it is not possible to know. But as the person continues to speak on
9 radio and you listen, you will be able to tell that this is so-and-so speaking.

10 Q. [10:56:55] Mr Witness, to wind up on this area, I want to know from you
11 whether the investigators, the OTP investigators told you that you would be required
12 to talk about radio intercepts that you recorded, or did they tell you that your duty
13 would be merely to translate or interpret what was recorded by others?

14 A. [10:57:45] What the OTP told me, they brought for me the track, the audio, and
15 they play. And when they play, I listen and they ask me, "Have you understood the
16 recording? Were you able to identify the voices?" Then that's what -- exactly what
17 I do. And they ask me, "Do you agree that this was a person who was talking at this
18 time and can you annotate the script?" And that's what I would do. And then at
19 the end they would tell me that we are an independent institution and are you willing
20 or able to come and testify before the Court as a witness? Then I said "Yes, it's
21 possible I can come." And that's why I am here right now.

22 MR AYENA ODONGO: [10:58:51] Your Honours, I think this is a proper time to
23 have a break.

24 PRESIDING JUDGE SCHMITT: [10:58:58] Indeed. Yes, I pick this up of course,
25 this suggestion, so to speak. We have a break until 11.30.

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1 THE COURT USHER: [10:59:09] All rise.

2 (Recess taken at 10.59 a.m.)

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

4 THE COURT USHER: [11:31:29] All rise.

5 PRESIDING JUDGE SCHMITT: [11:31:47] Mr Odongo, you are still standing, so to
6 speak, and you have of course the floor.

7 MR AYENA ODONGO: [11:31:53] Your Honours, I insisted on standing because I
8 knew I would have to stand anyway.

9 Q. [11:32:06] Mr Witness, the last time we were here I was asking you to tell this
10 Court whether when the Prosecution, when the Prosecutor asked you to come and
11 testify, they told you that they were just coming to ask you to talk about radio
12 intercepts of, you know, intercepts that were recorded by some other persons and to
13 translate them.

14 A. [11:33:07] Can you repeat your question? I have not understood.

15 Q. [11:33:13] Mr Witness, I'm saying when you were told to come, were you told
16 that you would be required to talk about radio intercepts -- or, rather, that you might
17 be asked to talk about radio intercepts that you recorded, or was it the case that you
18 were told that your duty would be merely to translate or to interpret and annotate
19 what was recorded by others?

20 A. [11:33:55] My voice is a bit sore. I'm sorry. I was told that first when I come I
21 should listen to the audios that will be played in court, which is similar to what was
22 on the radio.

23 Secondly, I was told that I can correct what I heard, because the people who
24 transcribed are different, I was not the one who transcribed it, the people who
25 transcribed did not do a good transcription. I tried to do correction in some parts

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1 which were not clear.

2 I was also told that there were other parts which were inaudible. The transcribers
3 were not able to pick any message from it, and they asked me that if I could hear and
4 insert the message.

5 I was also told that if I identify a name or the speakers, I mark against the line of the
6 speaker.

7 That is what I was told. Thank you.

8 Q. [11:35:44] You know, Mr Witness, having acknowledged that I know you passed
9 through the very prestigious school, of course exactly ten years after I had left the
10 same school, I am tempted to suggest that maybe it was that intelligence of yours that,
11 because of that intelligence that you were picked to come and, you know, make sense
12 out of certain situations which may not be present.

13 PRESIDING JUDGE SCHMITT: [11:36:23] It's not easy to answer for the witness. It
14 calls a little bit for speculation. But I'll let -- I only want to indicate. I let it go, you
15 yourself suggests that he is a very intelligent witness, so he might have an answer.
16 But we are aware of the fact that you are calling a little bit for speculation. He might
17 not know what was the reason why he was chosen.

18 MR AYENA ODONGO: [11:36:49] Do I maybe phrase it differently?

19 PRESIDING JUDGE SCHMITT: [11:36:52] I just wanted to indicate there might be a
20 little problem.

21 MR AYENA ODONGO: [11:36:56] Yes.

22 PRESIDING JUDGE SCHMITT: [11:36:56] We listen to the answer of the witness.
23 Perhaps it might --

24 THE WITNESS: [11:37:13] (Interpretation) I am not understanding. I answered
25 the question which was posed to me. What I was told is what I have answered. I

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1 heard him speaking about the school I went to. He had not finished. I'm not stuck.

2 I don't know what to say.

3 PRESIDING JUDGE SCHMITT: [11:37:41] I think then of course my assumption was
4 correct.

5 MR AYENA ODONGO: [11:37:45] Might be.

6 PRESIDING JUDGE SCHMITT: [11:37:46] You would have to rephrase it or move to
7 another point.

8 MR AYENA ODONGO: [11:37:49]

9 Q. [11:37:49] Mr Witness, after applauding your level of intelligence, I want to ask
10 you did you use your intelligence to correct some of the things which were not
11 necessarily there?

12 A. [11:38:14] No, I did not use any intelligence just to correct it. I used my
13 intelligence to interpret it so that people understand the context, people understand
14 what has been recorded. There are things which are not -- which are hidden, which
15 are coded. Radio messages are not spoken plainly. It's coded, and the message is
16 hidden in that communication.

17 I was told to come and speak about it. I used my intelligence to interpret it.

18 Q. [11:39:07] Mr Witness, is it possible that that intelligence of yours could have
19 changed the context in which those statements were made?

20 A. [11:39:26] I don't think I can change it. Whatever I said is the truth.

21 Q. [11:39:47] But remember, Witness, that you've just told Court that coded
22 messages are not so plain. So it takes an intelligent person to make meaning out of
23 it.

24 A. [11:40:18] That is why I said I interpreted it. I do not change it. I interpret so
25 that people understand, so that the laypeople understand it, because they wouldn't

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1 understand it.

2 I am helping you, I am helping the Court to interpret it.

3 Q. [11:40:41] For which I'm so grateful for the parts that are correct, Mr Witness.

4 But anyway, that's not a big deal.

5 Mr Witness, is it the case that you actually made radio intercepts and records? Did
6 you record them?

7 A. [11:41:18] The LRA intercepts which I recorded, the ICC office went and got
8 these tapes. They brought it here and it's still being used now. I did not make it up.
9 It's the voices of the LRA that were intercepted.

10 PRESIDING JUDGE SCHMITT: [11:41:56] May I shortly, Mr Odongo?

11 MR AYENA ODONGO: [11:41:59] Yes.

12 PRESIDING JUDGE SCHMITT: [11:41:59] Mr Witness, when you said you
13 interpreted what has been said, we have different things you talked about. We have,
14 first of all, we have also these logbooks that you talked about that you wrote yourself
15 and you have the last days listened to intercepts played to you by the Prosecution.
16 And then you have been asked if the translation as it is reflected in the transcript
17 shown to you is exactly that, according to your knowledge and your intelligence,
18 what you have heard.

19 Is there a level of interpretation in that, too, or is it that you can say this translation
20 that you saw reflects exactly what you have heard? Do you understand the
21 difference?

22 MR AYENA ODONGO: [11:43:06] (Microphone not activated)

23 THE WITNESS: [11:43:14] (Interpretation) Your Honours, there is a difference.

24 Why I say there is a difference, interpreting the English language you can interpret
25 literally the way you heard it. But to understand the meaning it needs some expert

1 who can interpret to say that if this is said like this, what is the meaning. It would
2 therefore require an expert, a trained expert like me to interpret so that other people
3 can understand. That is what I mean by interpretation. There is a difference. The
4 translation from Acholi to English, that is the literal translation of what they heard or
5 what was written. But the hidden meaning, the actual meaning of the messages
6 needs an expert like me. They are the parts which needs an expert.

7 PRESIDING JUDGE SCHMITT: [11:44:25] Thank you.

8 Excuse me for interrupting. Please continue, Mr Odongo.

9 MR AYENA ODONGO: [11:44:29]

10 Q. [11:44:29] Mr Witness, did you have timelines on these tapes?

11 A. [11:44:49] The timeline on the tapes you can identify the way it is marked. You
12 see from the logbook it will show how it is marked. But a tape is just recorded. We
13 just note that on side A so and so started speaking. If you put in the logbook it will
14 show the time.

15 Q. [11:45:22] Very well. Let's go to your task of decoding TONFAS. Mr Witness,
16 when you decoded a TONFAS code, did you indicate the interpreted codes in the
17 logbook?

18 A. [11:46:14] The TONFAS is not relevant to the logbook. It is relevant to me, the
19 expert, because it helps me to find the hidden message and I write the message in the
20 logbook. The TONFAS is not relevant in the logbook. It only helps me.

21 Q. [11:46:28] Mr Witness, my question is simple. Did you indicate the TONFAS
22 codes in the logbooks? Did you indicate them?

23 A. [11:46:58] I still repeat that we do not record the TONFAS in the logbook. The
24 person who works on the radio is the one who needs the TONFAS. Whatever is
25 recorded in the logbook is for our superiors. The way our superior wants it, the

1 information that you got, is the one that our superiors need. But the TONFAS is
2 only required for the radio expert.

3 Q. [11:47:32] Mr Witness, would I be right to say that there was a possibility that
4 some of the things you allege to have come from those TONFAS may not necessarily
5 have come from those TONFAS? In fact, sending me back to the other question of
6 your special intelligence.

7 A. [11:48:16] It does not mean that whatever is written in the logbook is from the
8 TONFAS. There are others which are plain and not hidden in the TONFAS.
9 Somebody could have just twisted the message a bit. I interpret according to context.
10 If they use the TONFAS, I cracked the TONFAS and then I combine with the message
11 which I have heard. Then I give to my superiors so that they can use it.

12 Q. [11:48:58] Mr Witness, I want you to know that I'm acutely aware that, you
13 know, there was other sources as well, but there were sources from TONFAS, and
14 that is why I was just kindly asking you to tell Court whether you indicated those
15 which came from TONFAS, did you indicate the TONFAS, or we are left in the
16 balance?

17 A. [11:49:50] I did not indicate that these messages -- when I wrote my report, I do
18 not indicate that this message came from TONFAS. I write a complete report. But
19 in some situations when a message is sent in a coded message and I break it or I crack
20 the code, I explain the cracked message, and then I put together with the message
21 which I found and then I come up with a full report. But I do not indicate that this
22 came from TONFAS or this came from a plain message. I write a whole report.

23 Q. [11:50:41] Would it, therefore, be fair, Mr Witness, for me to say that these are
24 high-sounding words of TONFAS, are just romantic for purposes of impressing
25 people? Otherwise you just used your human intelligence.

1 A. [11:51:14] My human intelligence, I did not use my human intelligence.
2 TONFAS was used. The codes were used. Jargons were used. For me, I just write
3 a report. My human intelligence only helps me to interpret and crack the hidden
4 message. I do not use my human intelligence to twist the TONFAS.

5 Q. [11:51:46] Mr Witness, lest I forget, are you couth in the jargons, proverbs and
6 slangs of Acholi?

7 A. [11:52:01] In regard to Acholi proverbs, I do not pay attention to it. What I
8 know is the proverbs and the jargons of the LRA. But the Acholi proverbs, I do not
9 concentrate on it. And I cannot claim to have authority on Acholi proverbs. But I
10 can claim authority on LRA proverbs and jargons because it was my duty.

11 Q. [11:52:46] Mr Witness, now that you seem to ascribe proverbs, slangs -- I mean
12 proverbs, let's talk about proverbs to LRA only, can you shed light on whether those
13 things that you call proverbs are actually proverbs, or they could be slangs or, for that
14 matter, jargons? And you may want to help Court to understand what you mean by
15 proverbs as opposed to slangs or jargons.

16 A. [11:53:59] It's not easy to compare because the manner in which the LRA
17 communicate is different. If I give an example: If the LRA say "I am shaking my
18 head," imagine if you are walking, is your head still? Does your head stand still?
19 When you are moving your head keeps shaking. The LRA can say "I crossed the
20 thread" and it can mean I crossed the road. Based on my experience, I know what
21 they mean when they say something.
22 And that is how I build on the way they speak. I would know if they said this, they
23 would mean that.

24 Q. [11:55:02] So can we settle, therefore, that what you call proverbs were just
25 manner of speech by the LRA because proverbs are ingrained in cultures? For

1 instance, I'll give you one example; there was one which was quoted here when Kony
2 said, "Lalur mwodo cogo kun geno dude." That's obviously a proverb; am I right?

3 PRESIDING JUDGE SCHMITT: [11:55:50] This could be shortly translated by the
4 Acholi interpreters so that we know --

5 MR AYENA ODONGO: Yes.

6 PRESIDING JUDGE SCHMITT: -- what it means so that we can follow, otherwise
7 we cannot follow the question, neither the answer of course.

8 THE INTERPRETER: [11:56:04] Yes, your Honour. The counsel gave a proverb in
9 Acholi: The hyena eats bones while trusting its bottom.

10 PRESIDING JUDGE SCHMITT: [11:56:18] Thank you very much.
11 Please, Mr Witness.

12 THE WITNESS: [11:56:22] (Interpretation) The hyena eats the bones and -- while
13 trusting its bottom is an Acholi proverb. I also know it. If he says something and
14 then uses a proverb, you would know. But I did not hear the portion you talked
15 about. But if you say that Kony said the hyena eats the bones while trusting its
16 bottom it's a proverb. As a Luo speaker you would know what it means. There are
17 certain proverbs which are obvious, but the one of the LRA is different.

18 MR AYENA ODONGO: [11:57:12]

19 Q. [11:57:12] Last but by no means least for this particular subject, were some of
20 those slangs or what you called proverbs, or jargons for that matter, by the LRA,
21 susceptible to multiple interpretations?

22 A. [11:57:37] The way the LRA interpret their communication, when they say this,
23 they will mean that. But you, an ordinary person, would understand the way it is
24 said, but whatever they say is always twisted. So I know that when they say this,
25 they mean that. It's just one meaning.

1 Q. [11:58:20] Mr Witness, did you note down some of these jargons, proverbs in
2 your notebooks?

3 A. [11:58:30] The notebook, not for writing the proverbs of the LRA. The
4 notebook that I used is for writing the report, the report that you have derived from
5 the LRA communication so that your superiors use it. You do not write proverbs in
6 the logbook. And our superiors do not want to know about the proverbs. It's for
7 my consumption as a radio operator. I know that when they say this, I use it to
8 interpret and write a report.

9 Q. [11:59:22] Mr Witness, from the way you are answering these questions, may I
10 suggest that your purported interpretation of LRA proverbs, jargons, slangs and
11 alleged Acholi or Swahili proverbs was predicated on speculative circumstantial or
12 contextual analysis which might or might not be correct even to people who received
13 your information and report?

14 A. [12:00:12] There is no speculation. Whatever is said is the truth. What they
15 say -- when I write my report, you investigate and find that it is true, my superiors
16 then say that I'm the one who could manage. (Redacted)
17 (Redacted) That's why they used my report, when they go to the field they find
18 that what I wrote is true, there is no lie there.

19 Q. [12:00:40] Mr Witness, lest I forget again, there is a lot of I, I, I in your report and
20 yet there are people you were working with. And you also say that you have all
21 along had supervisors, but everywhere you're saying "I wrote" and "I reported to the
22 division commander. I reported to the desk officer." Did your colleagues, and
23 particularly your supervisors, have a hand in these reports?

24 A. [12:01:34] That's a good question. The LRA operation normally they speak in
25 Acholi. My supervisor does not know Acholi. In that regard, I'm the one who is

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1 always sitting by the radio. When I hear, I write and tell him this is what they spoke.
2 He is my supervisor all right. He helps me to -- as a link between me and the UPDF,
3 that is the Ugandan army, and my supervisors in Kampala. When I say I, I, it's true
4 because I was the one sitting by the radio.

5 Q. [12:02:32] Would I, therefore, be correct to say that, indeed, all your reports were
6 passed through your supervisors?

7 A. [12:02:56] Which report? Could you please repeat your question, which report
8 are you referring to?

9 Q. [12:03:19] Mr Witness, did you write reports gathered from intercepts, LRA -- I
10 mean, reports gathered from your interception of LRA communications, did you?

11 A. [12:03:41] Yes, that's correct.

12 Q. [12:03:48] They are the reports I'm talking about, and I'm sure you know it.

13 A. [12:04:02] Yes, I responded. I did.

14 Q. [12:04:07] Very good. So, Mr Witness, we saw a very beautifully drawn
15 diagram sketching out your offices where you -- the intercept office in Gulu. Was it
16 done by you?

17 A. [12:04:36] Yes, I produced those sketches upon the request of the ICC because
18 they told me that this information was being brought before the Court, and they
19 needed to have an idea of where the work was carried out, and it was on this basis
20 that I drew the map. I drew the compound and the building in which we conducted
21 our work. And I did, yes, I drew that.

22 MR AYENA ODONGO: [12:05:27] Your Honours, I request that we go to private
23 session, because some of the next questions might, yes.

24 PRESIDING JUDGE SCHMITT: [12:05:35] Private session, please.

25 (Private session at 12.05 p.m.)

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1 (Open session at 12.26 p.m.)

2 THE COURT OFFICER: [12:26:52] We're in open session.

3 MR AYENA ODONGO: [12:26:55]

4 Q. [12:26:55] Witness, in your testimony you talked about multiple problems at
5 your common workplace ranging from human witnesses such as drunkenness and
6 conflicts, including tearing of documents, dampness of the room which damaged
7 some document et cetera, et cetera, et cetera; is that correct?

8 A. [12:27:24] No, I do not recall talking about any torn documents. I do not recall
9 saying anybody tore documents. Yes, disagreements were there, conflict was there.
10 There is a document attached relating to this information. I did explain that conflicts
11 arise in a workplace. I said even you may have conflicts. So conflicts are common
12 in workplaces.

13 PRESIDING JUDGE SCHMITT: [12:28:24] So when we refer to citations and things
14 the witness has said, either in a former statement or in this Court, we would
15 appreciate it if we can refer exactly to the passage.

16 MR AYENA ODONGO: [12:29:07]

17 Q. [12:29:08] Of course, Mr Witness, in the Court transcript of 27 January 2017 you
18 listed a catalogue of logistical, professional and technical problems you encountered.
19 For example, you testified about these at paragraph 20 of your statement in tab 2 that
20 some of your colleagues did not speak Luo or Acholi, and at lines 7 to 9 of page
21 17 -- 19, rather, of the Court transcript you said that the work environment which
22 doubled at your residence for you and your colleagues were not particularly
23 palatable.

24 And I want to refer you particularly to tab 30 of the Prosecution binder. Tab 30 of
25 the Prosecution binder. Are you there? That is your handwriting; am I right?

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- 1 A. [12:30:52] Yeah, correct.
- 2 Q. [12:30:53] Yes. Can you read paragraph 11.
- 3 THE COURT OFFICER: [12:30:57] Excuse me. Counsel, excuse me. Could you
- 4 please indicate if it's public or not.
- 5 MR OBHOF: [12:31:01] Confidential.
- 6 MR AYENA ODONGO: [12:31:03] Sorry, this is confidential.
- 7 PRESIDING JUDGE SCHMITT: [12:31:10] Can this be displayed or we have to go
- 8 into --
- 9 MR AYENA ODONGO: Private session, yes.
- 10 PRESIDING JUDGE SCHMITT: -- private session?
- 11 MR AYENA ODONGO: Yes.
- 12 PRESIDING JUDGE SCHMITT: [12:31:17] Then we go into private session.
- 13 (Private session at 12.31 p.m.)
- 14 (Redacted)
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19 (Open session at 12.40 p.m.)

20 THE COURT OFFICER: [12:40:16] We're in open session, your Honour.

21 MR AYENA ODONGO: [12:40:23]

22 Q. [12:40:23] Mr Witness, could you tell Court for how long this mess continued, if
23 it has stopped? Is it still continuing?

24 PRESIDING JUDGE SCHMITT: [12:40:36] You know this, you know yourself this
25 was of course a very dense subjective interpretation of what the witness has said. I

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1 would prefer if you word your questions in a way that -- for example, you say the
2 difficulties that you described, for how long did they exist? "Mess" is of course very
3 subjective, as I said, and dense, condensed, so to speak, interpretation of what has
4 been said.

5 MR AYENA ODONGO: [12:41:05] I'm much obliged, your Honour.

6 Q. [12:41:08] You've heard it. Court has, his Lordship has dutifully reminded me
7 on the way I should have phrased the -- for how long did this damage continue,
8 damage and problems, conflicts and things that have a tendency of impacting on
9 human activities and production?

10 A. [12:41:44] The conflict between me and my colleague did not take long. When I
11 wrote this letter the concerned office acted upon it. We sat down and we sat at a
12 round table and talked about it. Within one week it had been resolved. (Redacted)
13 (Redacted).

14 Q. [12:42:30] Thank you very much.

15 Your Honour, allow me to just go back briefly about the positioning in the room.

16 Now, Mr Witness, who sits on that tree which you described as P-3?

17 PRESIDING JUDGE SCHMITT: [12:42:58] Could we display it again so that -- we
18 need this because --

19 MR AYENA ODONGO: [12:43:02] Yes.

20 PRESIDING JUDGE SCHMITT: [12:43:03] -- we are talking about visual
21 impressions --

22 MR AYENA ODONGO: [12:43:06] Yes.

23 PRESIDING JUDGE SCHMITT: [12:43:06] -- and it's description of that --

24 MR AYENA ODONGO: Yes.

25 PRESIDING JUDGE SCHMITT: -- and it's because then we have to have it before

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1 our eyes.

2 MR ELDERFIELD: [12:43:13] And perhaps move back into private session as well,
3 your Honour.

4 PRESIDING JUDGE SCHMITT: [12:43:16] Yes, we will do that.

5 MR AYENA ODONGO: Thank you.

6 PRESIDING JUDGE SCHMITT: This would be consistent of course.

7 MR AYENA ODONGO: Yes.

8 PRESIDING JUDGE SCHMITT: Thank you for the recommendation. And I have
9 forgotten the tab now, Prosecution tab number.

10 MR AYENA ODONGO: [12:43:28] It is Prosecution tab number 9, number 9.

11 (Private session at 12.43 p.m.)

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18 (Open session at 12.46 p.m.)
19 MR AYENA ODONGO: [12:47:06]
20 Q. [12:47:06] Mr Witness UGA-OTP-0150-0022, at page 0024, paragraph 12, you
21 stated and I quote:
22 "Recently they found that they lacked ammunition, the LRA planned attacks on small
23 detachments of the LDUs where they feel they can overrun them for weapons. They
24 attacked one in Kitgum, and one in Longo in Pader district three months ago. There
25 have been no recent attacks on camps, as the LRA have the fear that the camp is

1 properly guarded, so they attack the people in the fields instead."

2 Now, Mr Witness, can you explain what you mean by detachments of the LDU?

3 And what is this thing called LDU?

4 A. [12:48:42] LDU is part of the army. They are in every district. They were
5 recruited separately and locally recruited in a district. The acronym LDU means
6 Local Defence Unit. You asked me to interpret that. I have interpreted it.

7 Q. [12:49:28] Yes. Are they armed?

8 A. [12:49:37] Yes, they have weapons, but their weapons are not heavy gunships
9 like the ones of the UPDF, they have smaller arms like SMG. They do not have
10 support weapons.

11 Q. [12:50:01] Are they established under any law or can I put it maybe more
12 succinctly, are they part of the armed forces of Uganda?

13 A. [12:50:24] The Local Defence Unit is part of the army of -- the army of Uganda.
14 I am not familiar with the army laws, but they are part of the army. I know you are
15 also from my area and they are also in your area. To ask me if these are established
16 armed forces, you should ask the government of Uganda.

17 I see them there. That's why I wrote it and put it here.

18 Your Honours, I request that this question be directed to the government of Uganda if
19 this is established under law. But I know it exists.

20 Q. [12:51:19] I mean, you didn't have to get permission from Court, but I think I
21 appreciate your predicament. All I wanted to know is whether you know who arms
22 them, who gives them the arms? Is it the government or they buy their own arms
23 and ammunitions?

24 A. [12:51:57] I said that they work together with the army of the country. That
25 means that the UPDF, the army of Uganda is the one that supervises them. So things

1 about weapons and ammunitions comes from the UPDF who supervised them.

2 Q. [12:52:13] Thank you. Now, Mr Witness, it has been variously stated both here
3 and common knowledge in Uganda, especially where we come from, you and me,
4 that Kony was omnipresent in the minds of people during the war and an imminent
5 source of danger to people generally; is that correct?

6 A. [12:52:53] That is what the government says. The government doesn't say
7 Kony is spiritual. If individuals are saying he's spiritual, then that is it, but he is the
8 one who named his rebel group the Lord's Resistance Army. He knows how I
9 started it, but the government knows that he is not spiritual.

10 Q. [12:53:41] Yeah, I couldn't agree with you any more, Mr Witness.
11 But since it was your duty to listen to the radio transmissions, I would like to ask you
12 a few general questions to paint a picture of those commanders who were listening
13 into the radio. Number one, did you ever hear Kony issue an order to kill a member
14 of the LRA on the radio?

15 A. [12:54:31] Yes, I heard, but I'm not sure of the exact part where I heard it.

16 Q. [12:54:57] Did you get the reason? Why would Kony -- what was the no-go
17 area for Kony where, you know, you would issue orders for killing somebody?

18 A. [12:55:19] That depends on his mode of operation, how he has planned it. He
19 will -- the way he wants his soldiers to work, if they fail to work the way he wants
20 them, he will consider that soldier a rebel. Even if he does something or says
21 something bad, like if he orders a soldier to do something and the soldier fails to do,
22 according to Kony he will have broken the law and he should be killed.
23 To say why does he order, he orders because he has -- he orders for the killing
24 because the soldier could have failed to follow his rules.

25 Q. [12:56:29] Mr Witness, I really want to beg you not to be more guarded than is

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1 necessary, you know. These are common, you know, knowledge things known
2 throughout the world. So it's just simple questions, and you have answered. I
3 thank you for that.

4 Mr Witness, could you in your experience have heard about LRA collaborators on the
5 radio and in your day to day interactions with the people of northern Uganda?

6 A. [12:57:29] Yes, I have heard.

7 MR AYENA ODONGO: [12:57:47] My lord, it would appear time might be up for
8 lunch.

9 PRESIDING JUDGE SCHMITT: [12:57:54] I would assume that you have follow-up
10 questions to that and perhaps we can --

11 MR AYENA ODONGO: [12:58:00] We can, yes.

12 PRESIDING JUDGE SCHMITT: [12:58:02] -- put them to him after the lunch break.

13 MR AYENA ODONGO: [12:58:05] Yes.

14 PRESIDING JUDGE SCHMITT: [12:58:06] Because I don't want to put you under
15 pressure that you think you have to hurry up, so to speak.

16 MR AYENA ODONGO: [12:58:13] I'm much obliged.

17 PRESIDING JUDGE SCHMITT: [12:58:15] So we'll have lunch break then until 2.30.

18 THE COURT USHER: [12:58:24] All rise.

19 (Recess taken at 12.58 p.m.)

20 (Upon resuming in open session at 2.30 p.m.)

21 THE COURT USHER: [14:30:52] All rise.

22 PRESIDING JUDGE SCHMITT: [14:31:18] Mr Odongo, you still have the floor.

23 And I wanted to ask you something, is your name, you would want to be addressed
24 Ayena or Odongo?

25 MR AYENA ODONGO: [14:31:32] (Microphone not activated)

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1 PRESIDING JUDGE SCHMITT: [14:31:33] So from now on -- this is my mistake.

2 So it's --

3 MR AYENA ODONGO: [14:31:37] No, no, no. Yes, Ayena Odongo, yes.

4 PRESIDING JUDGE SCHMITT: [14:31:40] From now on, Mr Ayena. You have
5 the floor. I just wanted to inquire. This, I didn't know that. Please continue,
6 Mr Ayena.

7 MR AYENA ODONGO: [14:32:36] Yes, good afternoon, your Honours.

8 Q. [14:32:40] Hello, Mr Witness. You're welcomed back. I hope you enjoyed
9 your lunch.

10 A. [14:32:49] Thank you.

11 Q. [14:32:57] Mr Witness, this morning before we went -- we broke out for lunch,
12 we were talking about your -- let me just see -- whether you had any communications
13 about the violence meted to the people of northern Uganda and of course the Great
14 Lakes region by the LRA.

15 We are now moving to a document, UGA-OTP-0242-1005, that is at tab 41, which you
16 were shown and you commented on in the official court transcript, that is.

17 But before we do that, your Honours, I would seek that we go into private session.

18 PRESIDING JUDGE SCHMITT: [14:34:21] Private session, please.

19 (Private session at 2.34 p.m.)

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- 13 (Open session at 2.40 p.m.)
- 14 MR AYENA ODONGO: [14:41:00]
- 15 Q. [14:41:10] And, Mr Witness -- sorry.
- 16 THE COURT OFFICER: [14:41:11] We're in open session.
- 17 MR AYENA ODONGO: [14:41:14]
- 18 Q. [14:41:16] And, Mr Witness, you told this Court that you were all the time on
- 19 radio?
- 20 A. [14:41:37] Yes, that's what I said.
- 21 Q. [14:41:46] If that is true, Mr Witness, would anybody in Uganda believe that
- 22 you did not hear this?
- 23 PRESIDING JUDGE SCHMITT: [14:42:01] I think you would have to rephrase the
- 24 question because this is --
- 25 MR AYENA ODONGO: Much obliged.

1 PRESIDING JUDGE SCHMITT: [14:42:06] -- something we would not want to
2 have put to the witness like it stands at the moment.

3 MR AYENA ODONGO: [14:42:14] Yes, much obliged.

4 Q. [14:42:25] Mr Witness, didn't it ever come to your attention that Dominic
5 Ongwen was one of those who had all along been trying to escape?

6 A. [14:42:59] Between 2003 and 2004, I had not heard any information with
7 respect to this matter. I had not yet heard this information.

8 PRESIDING JUDGE SCHMITT: [14:43:18] Mr Witness, you said that you do not
9 see the name of Mr Ongwen on this list. Do you have an explanation for that?

10 THE WITNESS: [14:43:44] (Interpretation) Your Honour, well, I was -- whatever
11 I wrote down was what the LRA sent. I do not know, perhaps they removed his
12 name. They did not discuss it. So it's really difficult for me to respond to that
13 question or give an explanation as to why.

14 PRESIDING JUDGE SCHMITT: [14:44:05] And I did not fully understand your
15 answer. Who might have removed something from this list?

16 THE WITNESS: [14:44:29] (Interpretation) This structure, this is not the only
17 structure, there are several of these kinds of structures, but presented to this Court is
18 only one structure. Well, sometimes if you continue, there may be other lists or
19 other structures. Perhaps at the bottom of the list, Dominic's name may have been
20 included. And the way I look at the list, the list is not definitive.

21 PRESIDING JUDGE SCHMITT: [14:45:01] Mr Ayena, please continue.

22 MR AYENA ODONGO: [14:45:37]

23 Q. [14:45:41] Mr Witness, yesterday you told this honourable Court that there
24 was a discussion between Labongo and Dominic Ongwen in reference to a Mega FM
25 broadcast where one of the defected LRA commanders was encouraging them to

1 defect, and you told this honourable Court that -- I mean, this was a subject, in fact
2 the Judge helped me to draw your attention to it where Dominic Ongwen was
3 reported to have consistently said he had assembled some people to -- to escape; do
4 you remember that?

5 PRESIDING JUDGE SCHMITT: [14:46:55] Mr Elderfield.

6 MR ELDERFIELD: [14:46:56] Your Honour, I think a citation would be helpful.

7 PRESIDING JUDGE SCHMITT: [14:46:59] Yes.

8 MR AYENA ODONGO: [14:46:59] Yes.

9 PRESIDING JUDGE SCHMITT: [14:47:00] I agree.

10 MR AYENA ODONGO: [14:47:45] Your Honours, if you would move to page 33
11 of the transcript.

12 PRESIDING JUDGE SCHMITT: [14:47:54] Which one, please?

13 MR AYENA ODONGO: [14:47:57] Of the edited transcript of yesterday.

14 PRESIDING JUDGE SCHMITT: [14:48:33] Okay, 33. We are there.

15 MR AYENA ODONGO: [14:48:36] No, no. Your Honours, it is at tab -- first of all
16 we go to tab 57 of the Prosecution binder, UGA-OTP-0266-046 -- 0146 at --

17 PRESIDING JUDGE SCHMITT: [14:50:03] Line 191, I think.

18 MR AYENA ODONGO: 191, yes.

19 PRESIDING JUDGE SCHMITT: [14:50:06] 191 on page 0155.

20 MR AYENA ODONGO: [14:50:10] Yes.

21 Q. [14:50:18] Are you there, Mr Witness?

22 A. [14:50:29] Yes, I am.

23 Q. [14:50:36] So what would you say about that in relation to the answer you've
24 just given? Did you ever know or get to know that Dominic Ongwen had discussed
25 possibilities of defecting?

1 A. [14:51:13] No. As I responded earlier, I did not, I did not hear this, I was not
2 aware of this information.

3 With respect to this answer, on line 191, in this conversation Dominic is responding,
4 he's saying "I want to wait for people and also give death, kill people." He wasn't
5 intending to escape; he was -- his intention was to create more problems.

6 Q. [14:52:19] Mr Witness, I want you to further -- I wish to further refer you to
7 line 184 of the same document. Can you see that, Mr Witness?

8 A. [14:52:56] Yes, I am. Do you want me to respond, to give you information?

9 Q. [14:53:10] First of all, first of all, can you read?

10 A. [14:53:22] "He did it the way that I did; the way I assembled my people and
11 dispersed them, I told them each and every one of my people should find their own
12 way. Over." And he was continuing with his conversation.

13 Q. [14:53:47] Mr Witness, in view of that, would you still say that it had never
14 occurred to you that Dominic Ongwen had intended to, I mean, to escape or at least
15 to cause defection within the LRA?

16 A. [14:54:14] I'm continuing. I haven't found that. To -- in order for you to -- to
17 enable you to understand fully, this was something that was being discussed over
18 radio Mega. They were told that each and every person should be told to try and
19 escape. And he is repeating the information that was said over Mega radio. He is
20 repeating what was said on the radio. These are not his thoughts. He is repeating
21 what was said on the radio, it was said on Mega FM.

22 Q. [14:54:56] Mr Witness, I want to put it to you that you are avoiding certain
23 things. And yesterday, even the Presiding Judge unsuccessfully tried to draw your
24 attention to this. But if you stick to picking from what you have read rather than,
25 you know, putting your own words into what you have read you will discover

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1 otherwise.

2 PRESIDING JUDGE SCHMITT: [14:55:35] I think we move on to the next point.

3 We cannot -- it quite often happens that a witness does not answer as we expected or
4 want it or whatsoever and we have to accept this in the courtroom at some point in
5 time.

6 MR AYENA ODONGO: [14:55:51] Yes.

7 PRESIDING JUDGE SCHMITT: [14:55:51] And please continue.

8 MR AYENA ODONGO: [14:55:54] I'm much obliged.

9 Q. [14:55:57] Mr Witness, if you were to be -- did you ever get to know that at one
10 point Vincent Otti arrested Dominic Ongwen for possessing a telephone?

11 A. [14:56:32] If that happened it happened a long time ago, not -- not within that
12 period. That must have been earlier on. The only thing that perhaps may help me
13 to discuss it, if you can actually bring it before the Court here so that I can have a look
14 at it and then I will be able to -- we will be able to discuss it fully.

15 Q. [14:57:02] You don't remember that. I'll move to the next one.

16 Did you, Mr Witness, get to know that Dominic Ongwen was injured several times
17 around this time?

18 PRESIDING JUDGE SCHMITT: [14:57:25] Mr Ayena, perhaps a little bit more
19 clarification on the time period you are asking the witness on, because "that time,"
20 perhaps a little bit more clear so also that we understand what you are talking about.

21 MR AYENA ODONGO: [14:57:41] Yes.

22 Q. Did you get to know, Mr Witness, that between November 2002 and well
23 into 2003, Dominic Ongwen was injured and was reported to be in the sickbay at the
24 foothills of Got Atoo.

25 A. [14:58:12] Yes, Dominic did sustain some injuries, but eventually he recovered

1 and he resumed duty.

2 Q. [14:58:31] If, Mr Witness, we were to agree that he got injured anyway and
3 would it make -- and for the reasons that I have given you and you seem not to agree
4 with, supposing it was true, the reasons I have given you, would it be fair to say that
5 Dominic Ongwen remained actually a nominal commander of the LRA around this
6 time, and that is why perhaps his name was missed out from the list of commanders
7 as of 21 September 2003?

8 A. [14:59:24] This is my response: If Dominic had been injured and he was
9 unable to work, he would not have been -- he would have not come over the radio to
10 explain his operations. According to the reports, he said that he, himself, attacked
11 these places, he burnt these places and he did whatever he was supposed to do. If
12 he was actually injured, he wouldn't have come over the radio to report those things.

13 Q. [15:00:03] Mr Witness, I think you're putting the horse -- I mean the cart before
14 the horse. We are not yet there. If it please you, we are building a case to tell you
15 that, in fact, Dominic Ongwen was not there.

16 A. [15:00:37] Well, as far as I'm concerned, the messages that were received
17 indicated that Dominic was active. All the LRA commanders did sustain injuries at
18 some point, but that did not deter them from active duty. Most of them kept on
19 working.

20 PRESIDING JUDGE SCHMITT: [15:01:03] I think the witness cannot say more as
21 what he has told us he has heard on the radio. And everything else would have to
22 be --

23 MR AYENA ODONGO: [15:01:17] Yes.

24 PRESIDING JUDGE SCHMITT: [15:01:19] -- elicited from him or not. So please
25 move on.

1 MR AYENA ODONGO: [15:01:22] I'm much obliged, your Honour.

2 Q. [15:01:26] Mr Witness, on Friday you said that you might be able to tell what
3 radio was being used based upon the sounds, that is the intercept,
4 ICC-02/04-01/15-T-36, at page 47, lines 2 to 9. Did you know with certainty the kind
5 of radio or just that it was a different kind of radio?

6 A. [15:02:29] Some radios are easy to identify, some are not.

7 Q. [15:02:37] Even by just listening to the sound being emitted you would know
8 that this is this model of radio or the other model, is this what you want Court to
9 believe?

10 A. [15:03:03] It's about type, not the model. Model would be too detailed. The
11 type of radio that can be identified, I can give an example. The Codan radio, the
12 type of radio that these people use when it is released it released a sound, a clicking
13 sound, then you would know that is a Codan radio.

14 We knew it more when they continuously used this radio, a radio that produces a
15 beeping sound. That radio was captured and it is in the store of the UPDF, the
16 Codan radio.

17 Q. [15:04:02] So is it the case, therefore, that you only got to know about -- I mean,
18 that this was the beeping type after you captured it; is that correct? But before that
19 you did not know that it was the Codan radio?

20 A. [15:04:31] That is how you learn from experience. Like I said, how you learn
21 on experience or build on experience from there, you then realise that the sound
22 that -- the beeping sound comes from a Codan radio.

23 Q. [15:04:49] Mr Witness, was this experience or discovery after the radio was
24 captured?

25 A. [15:05:06] Those are all skills. If not, you would see as if it is an ordinary

1 radio, you wouldn't imagine what kind of radio it is until you test it and then you
2 find what you are looking for.

3 Q. [15:05:28] Now, Mr Witness, in the case of the Codan radio, you would detect
4 that it was a Codan radio because of the beeping sound. How about for other types
5 of radios?

6 A. [15:05:57] There were many radios that were captured. Beside that, they also
7 escape, and part of my work, I had the task of interviewing those who escaped.
8 Some of them were signallers, those who escaped were signallers. So they come and
9 tell us the type of radios that the LRA were using. That also happens. That is how
10 you widen the scope of your work. For us it was not a court setting like this, it was
11 real work.

12 Q. [15:06:43] That seems to suggest that we are not working here. In court we
13 don't work?

14 MR ELDERFIELD: [15:06:51] Your Honour --

15 PRESIDING JUDGE SCHMITT: [15:06:52] It is a comment, of course. It does not
16 help the case.

17 MR AYENA ODONGO: [15:06:57] Yes.

18 PRESIDING JUDGE SCHMITT: [15:06:57] But I appreciate of course that you insist
19 that what we are doing now since two weeks and a couple of days from the morning
20 until the late afternoon is also real work. So please continue, Mr Ayena.

21 MR AYENA ODONGO: [15:07:12] Much obliged, your Honour.

22 Q. [15:07:16] Now, Mr Witness, when you now say your finding was buttressed
23 by, you know, receiving information from those who had defected, especially those
24 who were signallers, am I to understand that this is what we now refer to as human
25 intelligence? You got it from human beings, you got the information from human

1 beings?

2 A. [15:08:03] What I heard from radio is not what I got from civilians. The
3 knowledge I used on radio is because of experience which I had. But like the Judge
4 has said, the knowledge I used on radio is what I heard before, but not what I asked
5 from the escapees. Those who escaped supplement our work, but you still have to
6 use your skill and knowledge to do your work.

7 Q. [15:08:43] But, Mr Witness, can I put it to you that you are a very slippery
8 person and you cut sharp corners, even where you have made very clear statements.
9 You've just told Court that you see some of these informations were confirmed by
10 those who defected, and particularly those who were signallers; am I wrong?

11 PRESIDING JUDGE SCHMITT: [15:09:09] Mr Ayena, it's of course we accept on
12 your examination that you are sharp, that you have strong -- that you try to elicit
13 contradictions, everything. But we would, and this would also apply later on to
14 witnesses by the Defence when the Prosecution questions or the LRVs, we would find
15 it better if you would not use such words as "slippery" or something like that. If
16 there are contradictions, be assured that the Court is able to assess it and if you have
17 elicited, but we would really appreciate it not to attack via words, so to speak, via the
18 wording witnesses. Thank you.

19 MR AYENA ODONGO: [15:09:57] I do appreciate that, your Honour, but I have a
20 very special relationship with this witness and I -- I suppose that he would -- when I
21 say "slippery" in our slang, he understands.

22 PRESIDING JUDGE SCHMITT: [15:10:10] It might be that it has a more negative
23 connotation for me than it might have for you, but I just wanted to address it so also
24 for the future and for everybody in the courtroom. I think it's really better if
25 we -- even if we are strong in our questioning, even if we are tough in our questioning,

1 but always, I think, try to really accept that we have a witness who is here for a couple
2 of days and it's also not easy to sit here from the morning into the afternoon,
3 sometimes nearly into the evening and to answer our questions. So, yes, I just
4 wanted to address that as a matter of principle and this was, I think, the right moment
5 to do it.

6 MR AYENA ODONGO: [15:10:58] Much obliged.

7 Q. [15:11:00] Mr Witness, I will now move on to the matter of attack on Lukodi.

8 Witness, you testified that one of the call signs of Dominic Ongwen was Tem Wek
9 Ibong and that he also used 55 as his call sign; is that correct?

10 A. [15:11:46] Let them display the documents on what I said so that I can confirm
11 it.

12 Q. [15:11:57] Can we go to Friday's Court transcript, on page 54, line 21?

13 PRESIDING JUDGE SCHMITT: [15:12:36] I'm informed that it would take a little
14 bit of time, but we try it, to have it on the monitor. And if possible, perhaps we can
15 give the court officer notice in advance if we want to have something like that.

16 MR AYENA ODONGO: [15:13:32] I could put it differently, your Honour.

17 PRESIDING JUDGE SCHMITT: Give it a try, but if you refer, of course, to the exact
18 wording of the transcript, it would be -- I would prefer if we really had it in front of
19 us.

20 MR AYENA ODONGO: [15:13:44] While they are looking for that, your Honours,
21 I want to find out from him whether he remembers mentioning any call signs for
22 Dominic Ongwen to Court.

23 Q. [15:13:55] Mr Witness, do you remember mentioning any call signs by which
24 Dominic Ongwen was called?

25 A. [15:14:15] The call signs that I remember are the one for attacking Lukodi was

1 Tem Wek Ibong.

2 Q. [15:14:28] In other words then you only have problems with 55?

3 A. [15:14:42] I don't remember everything. The one that was regularly used,
4 especially about the Lukodi attack, was Tem Wek Ibong. If there was also 55, I don't
5 deny it, it could be true. Let me see the documents, then I can recall.

6 PRESIDING JUDGE SCHMITT: [15:15:13] We are not sure, but my colleague just
7 gives me a sign here, what about Lima Charlie, does that trigger anything with you?

8 THE WITNESS: [15:15:31] (Interpretation) Oh, yes, Lima Charlie triggers
9 memories. That was a call sign. A list of call signs that we had, Lima Charlie was
10 included in it.

11 PRESIDING JUDGE SCHMITT: [15:15:46] And do you recall which call -- for
12 whom this was the call sign, Lima Charlie, for which person?

13 THE WITNESS: [15:16:01] (Interpretation) Lima Charlie was the call sign for
14 Dominic Ongwen.

15 MR AYENA ODONGO: [15:16:13]

16 Q. [15:16:13] We shall come to that maybe slightly later. Mr Witness, is it true
17 that it was the policy of the LRA to change call signs assigned to its commanders very
18 often?

19 A. [15:16:39] It may not be a rule, but for them they assess how the call sign is
20 helping them, how long has it taken. They probably think it has been compromised
21 or it's obvious and it's been broken.

22 It could also be that, like I said earlier, if a signaller escapes they would suspect that
23 he probably has TONFAS with him so they would change TONFAS. Even if they
24 have just released it like a day before, if a signaller escapes, they would change it.

25 It's difficult to say how long the LRA takes before they can change their TONFAS. I

1 cannot say that. Whenever they come up with new TONFAS, then I would know
2 they have changed.

3 Q. [15:17:43] Mr Witness, my question was simpler than that. My question
4 was -- or, maybe I can rephrase it. In your experience as somebody who was
5 constantly on radio, did you notice that LRA commanders would change their call
6 signs very often?

7 A. [15:18:15] That is what I answered. I said the LRA can stay with -- for long
8 using the same call sign, or they can change after a day, depending on the situation.
9 They don't -- they don't have a particular schedule on which to change the -- the
10 assign -- the call sign.

11 PRESIDING JUDGE SCHMITT: [15:18:40] What happens to a call sign that has
12 been abandoned, so to speak? Is this lost forever, or is it given to another person?
13 Can you say something, do you have any knowledge about that?

14 THE WITNESS: [15:19:06] A call sign that has been abandoned -- let me talk about
15 the TONFAS, the book that they use, that is the book that they use to send and receive
16 messages.

17 If the book gets lost, the call sign that was used in that book is abandoned, they now
18 start using another call sign because they would imagine that the call sign was
19 already known to the public.

20 MR AYENA ODONGO: [15:19:44]

21 Q. [15:19:44] Mr Witness, I want to seek the indulgence of court officials to -- I
22 mean, court officer, to take us to lines 21 and 22, page 32 of the draft transcript of 30
23 January 2017.

24 PRESIDING JUDGE SCHMITT: [15:20:53] I think we are there now, so please
25 continue.

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1 MR AYENA ODONGO: [15:20:56] Yes.

2 And I want to quote, your Honours, page 32, 21 -- I think it is in the edited transcript.

3 Sorry, pardon my --

4 PRESIDING JUDGE SCHMITT: [15:22:03] Now there seems to be a little bit of
5 confusion because it is not the same. So we are now at the edited transcript, at
6 which page and which line please? So that we can continue.

7 MR AYENA ODONGO: [15:22:24] Maybe I can come back to that, your Honour, to
8 save time.

9 PRESIDING JUDGE SCHMITT: [15:22:28] Yes, but perhaps we can continue now
10 because now we have it on the screen, everybody is at least trying to focus on it and
11 then I would prefer if we just do away with this point.

12 May I perhaps. If you want to quote what has before been shown from the
13 non-edited transcript --

14 MR AYENA ODONGO: [15:23:31] Yes.

15 PRESIDING JUDGE SCHMITT: [15:23:32] -- it might be that it is on the edited
16 transcript on page 26, line 23, if this was the case.

17 MR AYENA ODONGO: [15:23:44] Page 26, line 23.

18 PRESIDING JUDGE SCHMITT: [15:23:51] I could imagine that this is the portion
19 you would want to quote. 26, 23. Page 26, line 23.

20 MR AYENA ODONGO: [15:24:09] No, no. I'm talking about where he was
21 talking about Labalpiny.

22 PRESIDING JUDGE SCHMITT: [15:24:19] (Microphone not activated)

23 MR AYENA ODONGO: [15:24:20] I think we shall leave that for the time being.

24 PRESIDING JUDGE SCHMITT: [15:24:24] But we keep it in mind --

25 MR AYENA ODONGO: [15:24:28] We keep it in mind.

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1 PRESIDING JUDGE SCHMITT: [15:24:30] -- that this was the respective quotation.

2 MR AYENA ODONGO: [15:24:33]

3 Q. [15:24:33] Mr Witness, had you ever met Dominic Ongwen before you came to
4 this Court and did you ever interact with him personally before?

5 PRESIDING JUDGE SCHMITT: [15:24:48] I think he has answered that question
6 already, if I recall it correctly.

7 MR AYENA ODONGO: [15:24:55] Okay, thank you.

8 PRESIDING JUDGE SCHMITT: [15:24:56] And the answer was no, I think.

9 MR AYENA ODONGO: [15:24:58] No. Yes.

10 PRESIDING JUDGE SCHMITT: [15:25:00] I think you can move on.

11 MR AYENA ODONGO: [15:25:15]

12 Q. [15:25:15] Mr Witness, in the official transcript again, page 15, lines 2 and 3,
13 you said that from 2000 --

14 MR GUMPERT: [15:25:33] Your Honour, I'm really sorry, this is the third
15 transcript which is open, if I can put it that way, open and unresolved. We don't yet
16 know which one this one is. I respectfully submit there must be some more
17 discipline to my learned friend's questioning.

18 PRESIDING JUDGE SCHMITT: [15:25:49] As I said, I think it would be a good
19 idea now to do away consecutively with all the transcript which have been mentioned,
20 and we can take our time for that, but it would be really better so we really have some
21 consistency in it.

22 So what I would suggest is perhaps are you prepared to go to the first transcript you
23 mentioned? Would that be possible?

24 MR AYENA ODONGO: [15:26:23] Your Honour, I think I will for the time being
25 suspend that and come back to it later after my colleagues.

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- 1 PRESIDING JUDGE SCHMITT: [15:26:33] So completely for the moment?
- 2 MR AYENA ODONGO: [15:26:34] Yes, for the moment, yes.
- 3 PRESIDING JUDGE SCHMITT: [15:26:38] With the transcripts, okay.
- 4 Perhaps I can use the time to inquire something.
- 5 MR AYENA ODONGO: [15:27:08] Yes.
- 6 PRESIDING JUDGE SCHMITT: [15:27:09] This is like always not to push, but just
- 7 for us to plan, if we need and how far we would eventually need extended hours.
- 8 Do you have an idea how long your questioning would be of this witness, how long
- 9 you would continue the questioning, so that we can have an idea for the need of
- 10 extended hours, for example?
- 11 MR AYENA ODONGO: [15:27:34] Your Honour, I think I would be done by
- 12 1 o'clock tomorrow.
- 13 PRESIDING JUDGE SCHMITT: [15:27:38] Tomorrow?
- 14 MR AYENA ODONGO: [15:27:39] Yes.
- 15 PRESIDING JUDGE SCHMITT: [15:27:41] Mr Gumpert.
- 16 MR GUMPERT: [15:27:42] It may be on the tip of your Honour's tongue to inquire
- 17 how long I may be with the next witness with the same matter in mind.
- 18 PRESIDING JUDGE SCHMITT: [15:27:51] Yes, yes.
- 19 MR GUMPERT: [15:27:55] Sorry, I thought someone was whispering the answer in
- 20 my ear, which would have been very helpful.
- 21 PRESIDING JUDGE SCHMITT: [15:28:02] The microphone is still on.
- 22 MR GUMPERT: [15:28:05] But I think I must come up with my own ideas. I am
- 23 confident that I will be able to deal with my questioning of P-19 in two sessions, three
- 24 hours. So if we were ready to start at lunch time -- sorry, in the second session,
- 25 what's that, 11.30 session, we should be done with my questioning by the end of the

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1 day.

2 PRESIDING JUDGE SCHMITT: [15:28:29] But I understand that Mr Ayena needs
3 two sessions tomorrow, you would say?

4 MR AYENA ODONGO: [15:28:36] Yes, your Honour.

5 MR GUMPERT: [15:28:38] Sorry, I misheard that. But we'd simply transport it
6 forward, so I would need the last session of tomorrow and the first of the Thursday.

7 PRESIDING JUDGE SCHMITT: [15:28:47] Okay. So let me put it this way: This
8 should really enable us to finish P-19, and I think we all should aspire that before our
9 break so that this witness would not have to come back for one or two sessions after
10 three weeks. If we and how far we would need extended hours will be decided then
11 tomorrow. I don't have an idea at the moment, I have to think about it and to
12 discuss it with my colleagues.

13 So, Mr Ayena, thank you very much for the information and please continue.

14 MR AYENA ODONGO: [15:29:22] Yes.

15 Q. [15:29:30] Mr Witness, you testified that you recognized Mr Ongwen's voice
16 after the Lukodi attack reporting that he had carried out an attack on Lukodi; is that
17 correct?

18 A. [15:29:47] Yes, that is correct.

19 Q. [15:29:56] Could you repeat to Court if you heard his own voice, or if you just
20 heard his call sign, or could it be that you picked it from what others were saying?

21 A. [15:30:23] I heard his voice.

22 Q. [15:30:28] Now, Mr Witness, did Dominic Ongwen report the attack himself,
23 or did he use his signaller?

24 A. [15:30:52] I reiterate, he himself because Otti asked "Who shot -- who attacked
25 Lukodi?" And he said, "That was me." Not his signaller, he himself.

1 Q. [15:31:13] Now, Mr Witness, since it is your testimony before this Court that it
2 was your duty to intercept LRA radio communication, record and pass them over to
3 your superiors and keep records of them, could you show to Court a record of this
4 important message which is central to one of the crime bases charged before this
5 Court?

6 PRESIDING JUDGE SCHMITT: [15:31:43] Mr Elderfield.

7 MR ELDERFIELD: [15:31:45] Your Honour, I fail to understand how the witness
8 can show this Court anything, perhaps describe to the Court, and also the witness
9 doesn't know what crime bases are charged before this Court.

10 PRESIDING JUDGE SCHMITT: [15:31:58] That is sustained, of course.

11 You have to rephrase it or try to get some report or some -- via disclosure or
12 whatsoever that you could then put forward yourself. This would be, but this is
13 not -- this would be your idea how to do it. The witness cannot sensibly answer this
14 question.

15 MR AYENA ODONGO: [15:32:28] Maybe I rephrase it, your Honour.

16 Q. [15:32:32] Witness, did you make a recording of this attack and report?

17 PRESIDING JUDGE SCHMITT: [15:32:44] Mr Elderfield.

18 MR ELDERFIELD: [15:32:45] Your Honour, please, perhaps some more precision,
19 which attack?

20 PRESIDING JUDGE SCHMITT: [15:32:53] I think we know what we are talking of,
21 we are talking of Lukodi, yes? This is correct. But perhaps we put the question a
22 little bit simpler, just did you make a recording? And then if yes or no, reports, so
23 that things do not get confused.

24 MR AYENA ODONGO: [15:33:17]

25 Q. [15:33:17] Mr Witness, did you make a recording of that attack?

1 A. [15:33:30] Yes, I did. And these are recordings that we heard in Court.

2 Q. [15:33:48] Could you tell Court, Mr Witness, when that report was made, the
3 date, month and year?

4 PRESIDING JUDGE SCHMITT: [15:34:07] We have only established until now the
5 recording. The question would now be: Did he make also a report, because I
6 would, for me in my understanding it would be a difference, the recording and a
7 report, a report -- a recording is something that you passively receive and a report is
8 something that you actively create possibly. And then you can ask when this report,
9 if any, was created by or was made by the witness.

10 MR AYENA ODONGO: [15:34:43] Much obliged, your Honour.

11 Q. [15:34:48] Mr Witness, did you make a report of this incident?

12 A. [15:35:07] Yes, I did. On the exact same day, when I heard the conversation
13 over the radio, I recorded it on the tapes and then I immediately wrote a report as
14 well. It's on that same day.

15 Q. [15:35:33] Now, Mr Witness, you testified that your colleagues and you copied
16 the notebook entry to another piece of paper and faxed them to the ISO headquarters
17 in Kampala; is that correct?

18 A. [15:36:05] Well, the paper that was sent to Kampala is an accurate fact of what
19 was written in the notebook. That was exactly the copy. So the exact same thing
20 that was on the piece of paper was the exact same thing that was in the notebook.

21 Q. [15:36:30] Very well. Now, Mr Witness, are you aware that other government
22 security services based in northern Uganda at that time such as UPDF (CMI, ISO and
23 CID) also sent intercepted information to Kampala?

24 A. [15:37:07] All the headquarters are in Kampala. So, yeah, if the information is
25 sent to Kampala, then they're sending it to their headquarters.

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1 I sent it to my headquarters, to ISO headquarters in Kampala. CMI send it to their
2 headquarters in Kampala. CID send it to their headquarters in Kampala. But all
3 these are different offices. So if they submit their reports, they submit it to their
4 headquarters. They do not submit it to the exact same office.

5 Q. [15:37:48] Ultimately, was there an intelligence report that was generated to
6 help the field commanders in their operations against the LRA?

7 A. [15:38:19] If there is a report -- well, in my position I wouldn't be able to
8 respond to that question. But if there is a report, then the commanders would be
9 better suited to answer your question. But if there is a report that you know, then
10 perhaps you can inform the Court. My duty was to record what was being said.

11 Q. [15:38:40] Mr Witness, I want to refer you to tab 30, that is --

12 PRESIDING JUDGE SCHMITT: [15:38:54] Which binder, Defence binder?

13 MR AYENA ODONGO: [15:38:57] This is Defence binder.

14 PRESIDING JUDGE SCHMITT: [15:38:59] Thank you.

15 MR AYENA ODONGO: [15:39:29]

16 Q. [15:39:29] Have you got it, Mr Witness?

17 A. [15:39:40] Could you please tell me what the reference number is?

18 Q. [15:39:44] This is tab 30, OTP-0017-0268.

19 A. [15:40:44] Yeah, I'm looking at the document.

20 Q. [15:40:48] Please, I want you to go through the entire document, looking first
21 at the first column where names of people who are reported to have been on air
22 appear.

23 A. [15:41:19] Yeah, I see the names.

24 Q. [15:41:29] If you have seen, Mr Witness, could you tell Court if the name of
25 Dominic Ongwen is among them?

1 A. [15:41:49] Well, you've only got six names. I would like to inform the Court
2 that this document is not from my office. I do not know how the paper is in court.
3 It has direction of findings. That's not my job. I did not create it. So I do not
4 know. Perhaps it was misplaced by the -- by the higher officials. Perhaps they
5 placed it in a -- in a book and then it came to be in this binder. I do not work on
6 direction of findings, so I do not know anything about this document.
7 My job is to listen to the intercepts and make a recording and a report. So I cannot
8 respond to anything with respect to this document.

9 PRESIDING JUDGE SCHMITT: [15:42:43] This is fair, I think, by the witness.

10 MR AYENA ODONGO: [15:42:45] Yes.

11 PRESIDING JUDGE SCHMITT: [15:42:46] It is hard for him to now, out of thin air,
12 so to speak, when he has not created it, has not been involved in it, to say something
13 meaningful.

14 MR AYENA ODONGO: [15:43:08]

15 Q. [15:43:10] Whatever the case, I want you to look at page 6 of that document.

16 PRESIDING JUDGE SCHMITT: [15:43:53] You can put this to the witness, you can
17 use this, so to speak, as an anchor to put a question to the witness which addresses
18 his --

19 MR AYENA ODONGO: [15:44:07] (Overlapping speakers)

20 PRESIDING JUDGE SCHMITT: [15:44:08] -- his possible knowledge, yes.

21 MR AYENA ODONGO: [15:44:11]

22 Q. [15:44:12] Have you seen this part saying "En" E-N "attacked Lukodi
23 settlement 18:00 hrs ... 25 civilians killed ... Enemy group had 30 fighters" up to this
24 part where they say "Enemy withdrew north northeast towards Latong Forest." But
25 in particular, I want you to take note of this report: "The group was under command

1 of sergeant JJ Ocaya who had been tasked by Major Tulu (commander of sickbay
2 located east of Atoo Hills along Lagude stream)."

3 And this is Prosecution document.

4 A. [15:45:28] I'm looking at the document. On the left-hand side you've got "4
5 Div". Is that where you have a star?

6 Q. [15:45:39] Yes, please.

7 A. [15:45:47] Yeah. Well, I would like to inform the Court that if you look at the
8 way that I was writing my reports, then you cannot -- this document is not something
9 that I, myself, created. So it's really difficult for me to comment on this document or
10 explain anything that is in this document because I did not create it, I did not write it.

11 PRESIDING JUDGE SCHMITT: [15:46:19] Perhaps you could relay the
12 information contained in this document --

13 MR AYENA ODONGO: [15:46:23] Yes.

14 PRESIDING JUDGE SCHMITT: [15:46:24] -- to what the witness himself has
15 testified already. This would be --

16 MR AYENA ODONGO: [15:46:28] Yes, that's what I'm coming to.

17 PRESIDING JUDGE SCHMITT: [15:46:30] -- what I think what we can expect from
18 the witness, but not more.

19 MR AYENA ODONGO: [15:46:34] Yeah.

20 PRESIDING JUDGE SCHMITT: [15:46:35] He cannot comment directly on this
21 document, of course, because he was not involved in producing it.

22 MR AYENA ODONGO: [15:46:43] Much obliged, your Honour.

23 Q. [15:46:44] Mr Witness, I want you to refer to your own statement, which is
24 contained in tab 6, UGA-OTP-0150-0022, page 26, paragraph 24. And on -- I mean
25 paragraph -- on page 26, paragraph 27, where you said, and I quote:

1 "For example the commander who killed the people in Lukodi last year was Tulu
2 (late), as he actually came from there."

3 Is that your statement, Mr Witness?

4 A. [15:47:55] Yes, I see that I signed it.

5 Q. [15:48:01] And is it true, Mr Witness, that that statement which I've just quoted
6 was recorded by you on 24 June 2005 and signed the next day?

7 A. [15:48:32] 2000 what? On 26 June -- 25th -- 25 May?

8 Q. [15:48:55] Of June. Can you check on your statement, Witness.

9 A. [15:49:03] Yes. I see the statement, it's on paragraph 27.

10 A brief response: He went to -- he participated -- he actively participated in the
11 battle. The person who was at the front was Tulu. So if you see on the report
12 they're saying Tulu, then it was Tulu. He was the one who went to the front and he
13 was the one who made the report. Tulu did not speak, but he spoke.

14 Q. [15:50:12] My simple question was: Did Dominic Ongwen kill people in
15 Lukodi?

16 A. [15:50:28] According to the report in my notebook, yes, he did.

17 Q. [15:50:36] Can you tell this Court where this report is?

18 A. [15:50:52] I would like the Prosecution to help me and show the excerpt of the
19 report that I wrote with respect to this matter regarding the attack on Lukodi. Could
20 you please help me show the excerpt of the report?

21 PRESIDING JUDGE SCHMITT: [15:51:09] I think this would be useful if you -- but
22 if you are quick, if you are quick in finding it.

23 MR ELDERFIELD: [15:51:16] Your Honour, it will take about four to five minutes
24 to dig up the particular logbook for 21 May and the entry, but we can do it and have it
25 ready in about five minutes.

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1 PRESIDING JUDGE SCHMITT: [15:51:28] Or should we do this tomorrow
2 morning? What do you think? It might be the better idea so nobody is under too
3 much pressure with this one. I think I would suggest that.

4 MR TAKU: [15:51:41] Your Honour, we also want the reports on the audio
5 intercept on Tulu where he got this, all the CDs in his statement, we also want to see
6 the radio intercept which is recorded about Tulu on the report that you read about
7 Tulu apart from his statement.

8 PRESIDING JUDGE SCHMITT: [15:51:59] Yes.
9 Mr Elderfield.

10 MR ELDERFIELD: [15:52:01] Your Honour, with all due respect, we've disclosed
11 all the material in our possession relevant to this case.

12 PRESIDING JUDGE SCHMITT: [15:52:06] Yes.

13 MR ELDERFIELD: [15:52:06] And the Defence I submit have an obligation to
14 support their own line of questioning with the material --

15 PRESIDING JUDGE SCHMITT: [15:52:12] Yes.

16 MR ELDERFIELD: [15:52:13] -- that they have at their disposal.

17 PRESIDING JUDGE SCHMITT: This is, of course, correct, but we split it a little bit.
18 Since the witness was addressed and he asked you, you produce please for tomorrow
19 morning this report.

20 And you have -- and you have the time until tomorrow you can -- it has been
21 disclosed to you, so you can put it forward if you want to in your line of questioning.

22 MR TAKU: [15:52:36] This is what we have about Tulu and what we're asking
23 ourselves, we ask for -- we request for assistance since you made the ruling in the
24 status conference, we've been insisting that we want all this material. We have a
25 reply from the Prosecutor to that effect that they have given us what they have. We

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1 don't have any of these materials relating to Tulu. They should produce it if they
2 have it. If the witness -- they have the statement, the witness said that Tulu led
3 attack in his own home when he was talking about security concern. And if they
4 have it, we would be glad to have it, your Honours. And again we took the
5 opportunity that all our requests for -- the request relating to for request for assistance
6 should be responded to.

7 PRESIDING JUDGE SCHMITT: [15:53:16] So it's not so complicated as it seems
8 now. Since we have a two-party system, I would really urge the two parties to solve
9 this problem amongst each other until tomorrow so that we can continue with the
10 questioning and finish the questioning of this witness tomorrow.

11 And I think this would be a good time now to interrupt and continue until tomorrow
12 at 9.30. And I expect, so to speak, from the side of the Chamber that everybody is
13 prepared.

14 THE COURT USHER: [15:53:49] All rise.

15 (The hearing ends in open session at 3.53 p.m.)