

Trial Hearing
WITNESS: UGA-OTP-P-0038

(Open Session)

ICC-02/04-01/15

1 International Criminal Court
2 Trial Chamber IX
3 Situation: Republic of Uganda
4 In the case of The Prosecutor v. Dominic Ongwen - ICC-02/04-01/15
5 Presiding Judge Bertram Schmitt, Judge Péter Kovács and
6 Judge Raul Cano Pangalangan
7 Trial Hearing - Courtroom 3
8 Monday, 2 October 2017
9 (The hearing starts in open session at 9.30 a.m.)
10 THE COURT USHER: [9:30:03] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE SCHMITT: [9:30:25] Good morning, everyone.
14 Could the court officer please call the case.
15 THE COURT OFFICER: [9:30:30] Good morning, Mr President, your Honours.
16 The situation in the Republic of Uganda, in the case of The Prosecutor versus Dominic
17 Ongwen, case reference ICC-02/04-01/15.
18 And for the record, we're in open session.
19 PRESIDING JUDGE SCHMITT: [9:30:46] Thank you very much.
20 I ask for the appearances of the parties.
21 MR BLACK: [9:30:50] Good morning, your Honours.
22 Colin Black for the Office of the Prosecutor, together with Benjamin Gumpert,
23 Julian Elderfield, Paul Bradfield, Yeasin Khan, Adesola Adeboyejo and Ramu Bittaye.
24 PRESIDING JUDGE SCHMITT: [9:31:06] Thank you very much.
25 And for the Legal Representatives of Victims.

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1 MR MANOBA: [9:31:11] Good morning, your Honours.

2 Joseph Manoba and James Mawira.

3 PRESIDING JUDGE SCHMITT: [9:31:16] And for the Defence, Mr Taku, please.

4 I have forgotten Mr Narantsetseg. Yes.

5 MR NARANTSETSEG: [9:31:21] Good morning, Mr President, your Honours. For

6 the Common Legal Representative myself, Orchlon Narantsetseg, and

7 Ms Caroline Walter.

8 PRESIDING JUDGE SCHMITT: [9:31:32] Thank you.

9 Now Mr Taku or Mr Ayena, whoever.

10 MR AYENA ODONGO: [9:31:35] Good morning, Mr President and your Honours.

11 Today I am assisted by Chief Charles Taku Achaleke, Mr Michael Rowse, Tom Obhof.

12 And our client, Mr Dominic Ongwen, is in Court.

13 PRESIDING JUDGE SCHMITT: [9:31:53] Thank you very much.

14 The Prosecution is calling now P-38 as its next witness and we turn now to his

15 testimony.

16 First of all, Mr Kanyogonya, good day. I am the Presiding Judge of this Chamber of

17 the International Criminal Court and on behalf of the Chamber I would like to

18 welcome you at the video-link location. Good morning.

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20 (The witness speaks English)

21 (The witness gives evidence via video link)

22 MR AYENA ODONGO: Good morning, Mr President and Honourable Judges.

23 PRESIDING JUDGE SCHMITT: [9:32:26] Thank you.

24 Mr Kanyogonya, you have a card with the oath in front of you. Would you please be

25 so kind to read this out loud.

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1 THE WITNESS: [9:32:36] Yes, your Honour. This is a solemn undertaking.

2 PRESIDING JUDGE SCHMITT: [9:32:42] Exactly.

3 THE WITNESS: [9:32:44] I solemnly declare that I will speak the truth, the whole
4 truth and nothing but the truth.

5 PRESIDING JUDGE SCHMITT: [9:32:55] Thank you. You have now been sworn in.
6 And before we turn to your testimony I would like to explain some practical matters
7 to you.

8 You are aware of the fact that everything we are saying here and especially also what
9 you are saying is written down and interpreted. It is therefore important that we all
10 speak clearly and at a slow pace, and everybody here in the courtroom every once in
11 a while does not obey to this, to this, so to speak, rule, but it is important so that
12 everybody can follow.

13 If you have any questions yourself, Mr Kanyogonya, then raise your hand and we
14 know that you want to address the Court.

15 Thank you. We will then start your testimony.

16 Mr Black.

17 MR BLACK: [9:33:43] Thank you, your Honour.

18 QUESTIONED BY MR BLACK:

19 Q. [9:33:46] Good morning, sir. Can you hear me okay?

20 A. [9:33:51] Good morning. I can hear you loud and clear.

21 Q. [9:33:56] Thank you. And just a reminder of what the Presiding Judge just said.
22 To make life easier for the interpreters, I am going to try to pause sometimes while I
23 speak. And if you could listen to my question and maybe pause for a second or two
24 before you answer, that would be very helpful. Do you understand that?

25 A. [9:34:21] Yes, I do.

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1 MR BLACK: [9:34:24] Your Honours, this will be a Rule 68(3) witness and so my
2 questions will be fairly brief.

3 PRESIDING JUDGE SCHMITT: [9:34:31] We assumed that, yes, indeed.

4 MR BLACK: [9:34:33] My plan, just so you know, is to ask five or six questions
5 about his background, then go to the procedural questions, and then I have a very,
6 very short follow-up, a couple of questions after that.

7 PRESIDING JUDGE SCHMITT: [9:34:46] Please proceed.

8 MR BLACK: [9:34:46] Thank you, your Honour.

9 Q. [9:34:50] Sir, what is your name?

10 A. [9:34:54] My name is Lieutenant Colonel Timothy Nabaasa Kanyogonya.

11 Q. [9:35:05] And you are a member of the Ugandan armed forces, the UPDF; is that
12 correct?

13 A. [9:35:15] That is correct.

14 Q. [9:35:18] When did you first join the UPDF?

15 A. [9:35:26] That was in 1986.

16 Q. [9:35:31] And I think you mentioned this, but what is your current rank?

17 A. [9:35:37] I am a lieutenant colonel.

18 Q. [9:35:44] And what is your current position in the UPDF?

19 A. [9:35:52] I am the director of legal services, based in Mbuya, and this is the
20 intelligence branch of the UPDF.

21 Q. [9:36:07] How long have you held that position?

22 A. [9:36:14] From 19 -- from 2000 up to now, but with some other appointments in
23 between.

24 Q. [9:36:31] Sir, I hope that you have a binder of documents there with you. If you
25 do, could you please grab that and turn to tab 6.

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1 A. [9:36:56] I have tab 6 in front of me, your Honour.

2 Q. [9:37:01] Thank you. And do you recognise that document?

3 A. [9:37:06] Yes, I do. This is my curriculum vitae.

4 Q. [9:37:13] And does it accurately reflect your professional experience?

5 A. [9:37:18] Yes, it does.

6 Q. [9:37:22] Thank you. I think that will be sufficient for the Judges and counsel to
7 refer to. You can put that aside for a second.

8 One further question about your background. Am I correct that you are the
9 designated focal point or liaison between the UPDF and the Office of the Prosecutor
10 of the International Criminal Court?

11 A. [9:37:57] That is correct. And that was from March 2004 up to now.

12 Q. [9:38:07] Have you served as the focal point continuously from March 2004 until
13 now?

14 A. [9:38:15] Yes, I have, except for one year when I was abroad doing my master of
15 laws, the rest of the time I have been the focal point.

16 Q. [9:38:32] And just for the record, which year was it that you were abroad
17 studying?

18 A. [9:38:39] That was 2014, August 2014 to July 2015.

19 Q. [9:38:48] Thank you, sir. I am going to turn now to your statements. Do you
20 recall giving two witness statements to OTP investigators, one of which you signed in
21 March 2005 and the other in September of 2015?

22 A. [9:39:07] Yes, I do recall doing that.

23 Q. [9:39:13] Please turn to tab 1 of the binder that you have there.

24 Your Honours, for the record this is UGA-OTP-0069-0784. It's the old-style ERNs,
25 but that's the ERN number.

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1 Sir, do you recognise this document?

2 A. [9:39:37] I do, and I did, I signed it.

3 Q. [9:39:47] When did you sign it? And you can look at the last page of the tab,
4 page 0794 may assist you.

5 A. [9:40:12] (Inaudible) on 18 March 2005.

6 Q. [9:40:22] And whose signature -- or I guess I should say does your signature --

7 PRESIDING JUDGE SCHMITT: [9:40:25] I think he has already said that he signed it,
8 so I think we -- I know we have normal -- but this is, let me put it this way, seems to
9 be a quick witness. So he has already said he has signed it, so we can assume that it
10 is really his signature.

11 MR BLACK: [9:40:41] Thank you, your Honour. I appreciate that.

12 Q. Sir, have you had a chance to review this statement before coming to court
13 today?

14 A. [9:40:52] Yes, your Honours, I have.

15 Q. [9:40:57] As I think you may know, under the Court's Rules, if you don't object,
16 the Judges can rely upon this statement when they come to a decision in this case.
17 Do you object to this witness statement being submitted as evidence in this case?

18 A. [9:41:16] Your Honours, I do not object.

19 Q. [9:41:21] Thank you. Then please turn to tab 3 of the same binder. This is
20 UGA-OTP-0244-0912.

21 And, sir, do you recognise that document?

22 A. [9:41:48] Your Honour, this is my witness statement of 2017 -- 2015.

23 Q. [9:42:00] And if you turn to the last page of that statement, 0244-0919, you will
24 see at the bottom of the page a witness acknowledgment, and whose signature
25 appears below that?

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1 A. [9:42:17] That's my signature. And it was dated 18 September 2015.

2 Q. [9:42:27] Thank you, sir. On that same page at the top of the page you see
3 a heading "Annexes" and it refers to 27 PRF documents. Now, could you please turn
4 to paragraphs 19 to 49 of this statement and look those over for a moment.

5 A. [9:43:13] Your Honours, paragraph 19 to?

6 Q. [9:43:15] To 49. And you don't need to read each one closely, but just notice
7 that they all refer to preregistration forms, do you see that?

8 A. [9:43:25] Yes, I do.

9 Q. [9:43:28] Now, if you could please turn to tab 5 of the binder.
10 Your Honour, the ERN here UGA-OTP-0244-0920.

11 And, Mr Witness, could you look at those forms and just confirm for the Judges that
12 those are the forms referred to in your 2015 statement.

13 A. [9:44:28] Mr President and your Honourable Judges, I can confirm that these are
14 my statements -- these are the registration forms.

15 Q. [9:44:40] And, sir, do you have any objection to this 2015 witness statement and
16 the materials annexed at tab 5 being submitted into evidence in this case?

17 A. [9:44:58] Your Honours, I have no objection.

18 Q. [9:45:04] Thank you very much.

19 MR BLACK: [9:45:05] Your Honour, that is the end of the procedural questions.

20 PRESIDING JUDGE SCHMITT: [9:45:07] Yes, absolutely.

21 MR BLACK: [9:45:08] I just have two or three points for clarification.

22 PRESIDING JUDGE SCHMITT: [9:45:10] And perhaps a short remark. Since we
23 have to go obviously through a lot of documents in binders, we have to simply
24 endure a little bit of noise, I think, in the upcoming testimony. I think we won't stop
25 it completely.

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1 Please continue, Mr Black.

2 MR BLACK: [9:45:31] Thank you, your Honour.

3 Q. [9:45:32] Sir, you can put the binders aside for the moment and I am just going
4 to ask you a couple of questions to clarify points that maybe are not entirely clear in
5 the witness statements.

6 First, let me ask you a question about the scope of your role as focal point. You've
7 said that you work for the UPDF, but your 2015 statement states that you were also
8 involved in responding to OTP requests for assistance, or RFAs, directed to the
9 Internal Security Organisation, ISO. And first, so that we are clear, the ISO, is that
10 a separate agency of the Ugandan government from the UPDF?

11 A. [9:46:27] Your Honours, the ISO is the Internal Security Organisation, which is
12 entirely different from the UPDF. And it is the civilian intelligence service of
13 Uganda.

14 Q. [9:46:51] Thank you, sir. And given that, could you just very briefly explain
15 how you assisted with requests for assistance directed to the ISO?

16 A. [9:47:06] Your Honours, the UPDF works closely with its sister agencies, and
17 these include the ISO, that's the internal security. We also work closely with the
18 external security, ESO, the police, and we work together in solving the national
19 problems and also tackling issues of investigations.

20 So in this regard, we work together under what we call the joint intelligence
21 committee to respond to the various RFAs that the ICC wanted us to respond to.

22 Q. [9:48:12] And what was your role specifically with requests to the ISO? What
23 was your role in seeing that those were processed?

24 A. [9:48:27] My main role was coordinating the collection of evidence, especially
25 the intercepts that the ISO had collected. So I collected both the UPDF intercepts of

1 the LRA communication and the ISO tapes and subsequently handed them over to
2 the ICC.

3 Q. [9:49:08] Thank you, sir. And then let me ask you a couple of questions about
4 your role in providing evidence to the Court which you have just touched on.

5 At paragraph 11 of your first witness statement, which is at tab 1 - you don't need to
6 read it, I'll tell you what it says - you explained that radio intercepts were sent to you
7 after they had been through the analysis departments at the CMI and the UPDF
8 command. Was that the first point in the intercept process in which you came into
9 possession of or control of intercepted materials?

10 A. [9:50:00] Indeed, your Honours, that was my first role, my first level of
11 obtaining the intercepts, after the analysis department of the UPDF and signal
12 intelligence of the CMI had looked at them.

13 Q. [9:50:23] Did you yourself have any direct role in the interception operation
14 itself?

15 A. [9:50:33] Your Honours, I did not.

16 Q. [9:50:42] And finally a question specifically about how information was
17 provided to the Office of the Prosecutor. Again at paragraph 11 of your first
18 statement you stated, and I quote:

19 "As the Head of the Legal department of the CMI of the UPDF, I look through the
20 product and establish" -- is it -- "relevant to the request made by the ICC."

21 In the next paragraph, paragraph 12, you state, and I quote:

22 "All of the intercepts that I have received have been passed over to the ICC in
23 accordance with that system. It is then for the ICC to decide whether an intercept is
24 relevant or not."

25 And finally at paragraph 17 of your 2015 statement, I just want to read you what you

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1 said. Sorry, your Honour, while I find it.

2 And perhaps actually, Mr Witness, could you turn to tab 3 in the binder.

3 A. [9:52:08] Yes, your Honours.

4 Q. [9:52:09] And please look at paragraph 17. It's on page 3. It's a little long so
5 rather than me read it out loud, if you could just read it to yourself.

6 A. [9:52:37] Yes, I have.

7 Q. [9:52:39] And my question for you, sir, is: In light of these different references
8 to relevance of documents or how you determined which documents would be
9 provided, can you help the Trial Chamber understand first whether you did make
10 a relevance determination as to which documents should be sent to the OTP and, if so,
11 what criteria did you use to determine that?

12 A. [9:53:14] Your Honours, the relevance is about, first of all, the jurisdiction of the
13 ICC. If there were, if there were intercepts that preceded 2002 in terms of the ICC
14 jurisdiction, those were irrelevant as far as I'm concerned, or if they did not have
15 anything to do with the request for assistance.

16 So the main criteria would be what is the content of the intercept, if it's -- if you asked
17 me, for instance, for an RFA on Aboke, I would not give you an RFA on Barlonyo.

18 So the criteria was what did the ICC want and also in terms of whether there was
19 jurisdiction at the time. I wouldn't give you, for instance, an intercept of 2001.

20 Otherwise, the rest, I would give them to the OTP.

21 Q. [9:54:47] Thank you, sir, for that explanation.

22 Your Honours, I realised, for the record, I forgot to give the ERN of tab 6. So let me
23 do that very quickly. It is UGA-OTP-0279-0294.

24 And, Colonel Kanyogonya, thank you very much for answering my questions. Your
25 statements will be submitted in writing and so I don't have any further questions for

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1 you at this time. Thank you.

2 A. [9:55:16] Thank you, your Honours.

3 PRESIDING JUDGE SCHMITT: [9:55:18] Thank you, Mr Black.

4 And it's already the turn of the Defence, but this is in the nature of events when we
5 have a Rule 68 procedure.

6 I simply assume that the Legal Representatives of Victims don't have questions.

7 MR MANOBA: [9:55:35] Mr President, on our part, you assume correctly.

8 PRESIDING JUDGE SCHMITT: [9:55:40] Mr Narantsetseg.

9 MR NARANTSETSEG: [9:55:42] Yes, we have no further questions. Thank you.

10 PRESIDING JUDGE SCHMITT: [9:55:44] So my assumption was -- for this time was
11 obviously correct. Then I give Mr Taku the floor, please.

12 QUESTIONED BY MR TAKU:

13 Q. [9:56:21] Good morning, sir. Good morning, Witness.

14 A. [9:56:29] Good morning, your Honours.

15 Q. [9:56:37] I will be asking you some questions and where relevant refer to the
16 material submitted by the Prosecutor, but also some material contained in the
17 documents you just -- you handed over to the Prosecutor and other matters that may
18 be relevant to your testimony.

19 But first question: When you were first contacted by the Prosecutor, when they took
20 that statement from you in 2004, the Prosecutor informed you that although the
21 referral -- the case had been referred to the ICC by the government of Uganda, the
22 ICC was completely independent, correct?

23 A. [9:57:49] That is correct, your Honours.

24 Q. [9:57:54] In your first statement, which the Prosecutor has already referred to, at
25 paragraph 8 you stated that you were -- you started work as a liaison for the

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1 Ministry of Defence and OTP in March 2004, correct?

2 A. [9:58:22] That is correct.

3 Q. [9:58:28] In the same paragraph, prior to that you were involved in the collection
4 of information and analysis of crimes, of alleged crimes, committed by the LRA, but
5 not in dealing with intercepts or captured documents, correct?

6 A. [9:58:49] That is correct.

7 PRESIDING JUDGE SCHMITT: [9:58:50] Mr Taku.

8 MR TAKU: [9:58:52] Did you --

9 PRESIDING JUDGE SCHMITT: [9:58:53] Mr Taku, I would even say like always
10 when we have such procedure, the witness has already stated on questioning by
11 the Prosecution that he does not object to introduce these former two statements into
12 evidence. So you don't have him -- to ask if it is correct because he has already said
13 this is his statement. So again we assume that this is part of the live testimony. So
14 simply start from there and put your question to the witness.

15 MR TAKU: [9:59:25] Yes, but we have to lay a foundation, your Honours, clearly.

16 PRESIDING JUDGE SCHMITT: [9:59:27] But the foundation -- you don't have to lay
17 the foundation in that respect because it is already there, you see? This is my point.
18 It is already there. Paragraph 8 is part of the testimony of this witness. So what
19 you -- for example, you could, you could read this, if you think it's necessary, read it
20 out, say, "You have said this in your statement", and then put your question. You
21 don't have to ask him correct, because he has already said. You see what I mean.
22 You can spare us this step, asking him if it is correct.

23 MR TAKU: [9:59:59] If I do not do it the way I am doing, your Honours, it would
24 presuppose that I am confirming that what he said is sacrosanct, that he cannot
25 change, he cannot contradict himself under cross-examination.

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1 PRESIDING JUDGE SCHMITT: No --

2 MR TAKU: He cannot move away from what you said.

3 PRESIDING JUDGE SCHMITT: [10:00:14] I respectfully disagree, you know,
4 because if the witness would have said this today live already in the courtroom and
5 then it would be strange to ask him again: Did you say this; is this correct? You
6 simply have to assume he has said this. It's the same when it comes to the procedure
7 which we have quite often transcripts from another, from another hearing day. I
8 also intervene always and say the witness has said this and we cannot assume that
9 what he has said yesterday has changed until today unless we have clear indicia for
10 that. So the foundation is there and you can simply assume that it is there.

11 Otherwise we would have to go through the whole, whole statement again.

12 So I would -- it's also easier for you I would assume. So please continue in that
13 respect and simply from there continue questioning.

14 MR TAKU: [10:01:20]

15 Q. [10:01:21] In respect of your involvement with the Office of the Prosecutor
16 relating to this case, did you perform five roles relating to five different departments
17 of the Ugandan government, most of them in the military and intelligence services?

18 A. [10:01:47] Your Honour, I do not understand your question, because what five
19 roles are you talking about?

20 Q. [10:01:55] Witness, you were a liaison for the ministry of defence. As you said
21 today, you were also the focal point for the UPDF. Then your statement, Witness,
22 you were the intermediary with the ISO, ISO, internal intelligence, and you were also
23 in the subcommittee established by the national security organisation, the national
24 commission, correct?

25 A. [10:02:54] And which is the fourth -- the fifth?

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1 Q. [10:02:57] And of course prior to this you gathered, you collected information
2 analysis of alleged crimes committed by the LRA; we are now dealing with intercepts.
3 And if I may go further, as I will prove from the forms that are in evidence that
4 the Prosecutor submitted some minutes ago, you personally went to the 4th division
5 and collected the intercepts. P-3 was holding the keys, you collected the intercepts,
6 contrary to what you've stated here today that the information you collected was after
7 the information had been submitted to the higher command and the chieftaincy of
8 military intelligence. These are the rules I am trying to describe. I will go one by
9 one if you want.

10 A. [10:04:03] Your Honours, I will explain one thing. First of all, I did all that,
11 apart from the last. I did not go to Gulu to collect intercepts. But the role of liaison
12 of the ministry of defence and focal point of UPDF is just the same thing, these are not
13 two roles. But even if they were, if you want to separate them, there is no problem.
14 But for me, I take liaison of ministry of defence and focal point up of UPDF, ministry
15 of defence, UPDF, the ministry of defence is the mother ministry of the UPDF. So it's
16 just one role.

17 PRESIDING JUDGE SCHMITT: [10:04:56] So let me perhaps shortly say something.
18 What the witness has done, what -- where his competence is and his responsibilities
19 seems to be clear. If we qualify one or the other, divide them in different roles, is
20 a matter of interpretation what a role is. So if you interpret role narrowly, you might
21 come to five; if you interpret it broadly, you would say that two roles or three can
22 group together. I think we simply, simply we know what the witness's
23 responsibilities and competences were. He said that and, yeah, whatever follows out
24 of that.

25 MR TAKU: [10:05:41] Well, your Honours, this question is important as we progress

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1 with this cross-examination because it will explain the intervention, his knowledge
2 and ability to answer questions depending on the different departments in this
3 particular case and that's why I had to lay this out clearly.

4 PRESIDING JUDGE SCHMITT: [10:06:02] We have understood. Please continue.

5 MR TAKU: [10:06:06]

6 Q. [10:06:07] Witness, when you conducted the collection of information analysis of
7 crimes committed by the LRA, did you also collect information and analysis on the
8 crimes committed by the UPDF in the prosecution of the war within the charged
9 period?

10 A. [10:06:38] Your Honours, in regard to the RF -- in regard to ICC I think we have
11 to separate my role in collecting evidence for the ICC and collection of evidence
12 involving UPDF officers who may have committed offences. There are other
13 departments which handle UPDF internal witnesses and that's not -- that was not my
14 role.

15 Q. [10:07:21] In respect of specific attacks in the charged crimes in which the UPDF
16 and the LRA with the belligerents, did you enquire whether in prosecuting the war in
17 those charged, charged locations the UPDF were responsible for the crimes, some of
18 the crimes charged against Mr Ongwen?

19 A. [10:07:58] Your Honours, we, we carry out tasks that are given to us. That was
20 not my role and as I have said, we have so many departments in the UPDF, including
21 the special investigations branch, including the divisional intelligence that handle that
22 kind of matter.

23 Q. [10:08:32] In respect of the intercepts, were you interested generally in locating
24 or procuring and handing over to the investigators intercepts from UPDF
25 commanders and others in the Prosecution of the war that could shed light on the

1 activities and conduct of the war relating to the alleged crimes?

2 A. [10:09:19] Your Honours, if I understood the question I have already stated that
3 my role was limited to responding to the ICC investigations, and other people would
4 have done what you are suggesting.

5 Q. [10:09:41] Witness, you stated in your statement that -- which has been adopted
6 here today that you were also expected to identify exculpatory evidence against
7 Mr Ongwen. If that exculpatory evidence happens to be that the crimes were
8 committed by the UPDF or some other person, Witness, would that have been of
9 interest or, or would you have considered that as part of your duties to, to
10 conduct -- collect that evidence and turn over to the investigators?

11 A. [10:10:34] Your Honour, if such evidence existed, I would have indeed handed it
12 over to the ICC.

13 Q. [10:10:50] In the manner in which you said you, you selected the intercepts, and
14 we will be getting into detailed questions about some of them, if in locating the
15 information it turned that you got information that some other LRA commander, let
16 me say, Ben Acellam, Ocan Labongo, Otti, committed a crime and not Mr Ongwen,
17 did you deem it necessary to look for that information and hand over to the
18 investigators?

19 A. [10:11:47] Your Honour, first of all, we did not look specifically for
20 Dominic Ongwen's alleged crimes. The Court will be aware that at the end of the
21 day the ICC indicted five top commanders of the LRA. So the evidence we were
22 gathering was not specifically for Dominic Ongwen. There were the other four.
23 And actually we collected more than the five who were indicted, we collected for over
24 maybe 15 LRA commanders. It was up to the ICC to choose whom they wanted to
25 indict.

1 Q. [10:12:38] In terms of the intercept, what specifically did you turn over to the
2 Prosecutor, originals in the original form in which you collected or copies or
3 enhanced copies of the originals?

4 A. [10:12:59] Your Honours, this can be seen from the registration forms. If details
5 of the registration forms are studied, I think the answer would be in those forms.
6 I cannot recall specifically. I handled thousands and thousands of documents. I
7 remember some used to be originals, some used to be copies. It was up the ICC.

8 Q. [10:13:27] Now let's come quickly to one of the organisations, one of the
9 commissions that you were a member, that's the subcommission that was established
10 by the National Security Council at the chieftaincy of military intelligence. What
11 was specifically the role of this subcommission?

12 A. [10:13:56] Your Honours, the joint intelligence committee is a body composed of
13 the various security agencies in Uganda. So whilst the Uganda government referred
14 the northern Uganda situation to the ICC, the body was formed, it's an existing body
15 that was tasked to gather evidence that would be handed over to the ICC. And my
16 role was limited to looking at the crime bases, and I didn't, I didn't stay on that
17 committee for a long time. I left it to the police, who went to the field and made
18 some investigations.

19 Q. [10:14:57] And this committee was established by the president for that purpose.
20 Would I be right to say that?

21 A. [10:15:12] Your Honours, this committee is a standing committee, joint
22 intelligence committees. It even exists up to now. It is not that it was formed for
23 this purpose. It was just given a mandate to look into the investigations. And it
24 was not specifically -- it was not appointed by the president, no.

25 Q. [10:15:42] But it's established by the National Security Council?

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1 A. [10:15:49] That is correct.

2 Q. [10:15:51] And can you tell the Court the functions of the National Security
3 Council? Is it a constitutional organ, an organ within the constitution of Uganda?

4 A. [10:16:14] Your Honours, the National Security Council is a body which brings
5 together various top actors to look at, handle security matters in Uganda.

6 Q. [10:16:41] Now, Witness, you were already representing -- you were already the
7 focal person for the ICC and your role, as explained in the first statement which has
8 been submitted, was to help to gather this evidence. Can you explain, if you know,
9 why it was necessary for the National Security Council, presided over the president,
10 to delegate this National Security Commission within the CMI to collect the evidence
11 for this case?

12 A. [10:17:42] Your Honours, I'm not sure that I understand your question.
13 Because that is normal, that's the normal workings of -- if somebody wants to task
14 whatever organ, for whatever purpose, it's their right to do so.

15 Q. [10:18:10] In turning over the material for this case, did you turn over to
16 the Prosecutor the reports and the procès-verbal - that's the reports - that were
17 generated by the national -- by this subcommittee in the CMI? Did you turn them
18 over to the Prosecutor?

19 A. [10:18:40] Your Honours, I don't recall, but the ICC, its basic list, if they received
20 the report, then they received it. I am not sure.

21 Q. [10:18:54] Now, Witness, we have here the request for assistance that was
22 submitted by the Office of the Prosecutor, requesting for several reports and
23 information, including the report of that commission. But they were never fulfilled,
24 they were never handed over to the Prosecutor. The Prosecutor insistently asked for
25 them.

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1 MR TAKU: [10:19:33] Your Honours, let me go to tab 32. Your Honour, tab 32
2 to -- it would take several hours to read through one after another, but tab 32 to
3 about 39, your Honours.

4 The Prosecutor insistently asked for those reports from the joint intelligence team,
5 asked for forensic reports, asked for reports established by pathologists in respect of
6 certain camps basically, including Lukodi, asked for certain officials to be placed at
7 the disposal of the Prosecutor to be interviewed, a whole wide range of documents
8 detailed in this evidence.

9 Your Honour, I wonder whether I should read it.

10 Maybe I may read some of them out, your Honours, for ...

11 PRESIDING JUDGE SCHMITT: [10:21:03] I think it would be the best -- Mr Taku, I
12 think it is simply if you read out perhaps the first UGA and then I think it continues
13 the last four digits.

14 MR TAKU: [10:21:22] Yes, your Honour, UGA-OTP-0206-0109, and then the last ... it
15 is tab 32, 0112. Then tab 33, your Honours, UGA-OTP-0206-0113, and the page that I
16 will read, your Honours, 0114 at paragraph 5, your Honours. With your permission,
17 let me read, your Honours:

18 "The OTP requests the Government of Uganda to provide all documentation relating:
19 5.1 JIC Reports: Access to, and copies of, all reports produced by, or under the
20 supervision of, the JIC relating to LRA activities in Northern Uganda."

21 PRESIDING JUDGE SCHMITT: [10:22:35] Okay. So --

22 MR TAKU: [10:22:38] "Supporting documentation: Access to, and copy of, all
23 documentation gathered and used by the JIC in the process of documenting LRA
24 crimes and producing the above mentioned reports.

25 Witness statements: Access to, and copies of, all witness statements and notes of

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1 witness statements, taken by the JIC or by JIC sub-teams in the process of generating
2 the above mentioned reports.

3 5.4 Photographs: Access to, and copies of, all photographic material produced by
4 the JIC or JIC sub-teams in the process of generating the above mentioned reports.

5 The OTP will inquire whether the original negatives, if available, can be transferred to
6 OTP custody."

7 Then you have "Identification and whereabouts of persons":

8 "6. The OTP requests the Government of Uganda to identify and provide details of the
9 whereabouts of any former LRA witness interviewed by the JIC or by JIC sub-teams
10 in the process" --

11 PRESIDING JUDGE SCHMITT: [10:23:31] Not so quick, please, Mr Taku.

12 MR TAKU: [10:23:35] Sorry, your Honour. Let me repeat:

13 "The OTP requests the Government of Uganda to identify and provide details of the
14 whereabouts of any former LRA witness interviewed by the JIC or by JIC sub-teams
15 in the process of generating the above mentioned reports."

16 Q. [10:23:53] Witness, you heard that?

17 A. [10:23:57] Yes, I have, your Honours.

18 Q. [10:24:02] Where are those reports? Are they available?

19 A. [10:24:11] Your Honours, we must make -- I must make a clarification here.

20 When we talk of government of Uganda, we are actually talking about several layers,
21 and the top level is the Ministry of Justice. These are the first interlocutors with the
22 ICC when they make their requests for information.

23 I come in as a subset at the level -- at the operational level. I even don't know
24 whether those reports were handed over or not. It is not as if I am the only one that
25 channels information to ICC. There is the attorney general. So I am not competent

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1 to answer questions about whether this is available, whether this was submitted. I
2 just did my role at the lower level of intelligence. But if you are talking about the
3 government, you are talking about the Ministry of Justice and Attorney General.

4 PRESIDING JUDGE SCHMITT: [10:25:31] Mr Kanyogonya, it is not a reproach,
5 I think, by Mr Taku. It is simply he wants to clarify what kind of material has been
6 handed over and not.

7 But it is absolutely understandable that the witness does not have knowledge of every
8 detail. He cannot, if you look at the enormous amount of evidence in place. And
9 what he can talk about is of a general handling - that was my understanding, at least,
10 from his statements - of intercepts of documents, of pictures, things like that. And
11 when it comes to such reports, for example, we would have to -- and all the other
12 potential evidence that is mentioned in this request, we would have to ask
13 the Prosecution if they have got it. But I think we cannot ask the witness here
14 because he cannot say something meaningful about it. I think he has clarified. But
15 I understand that you want it on the record, but I think we would have to continue in
16 that respect.

17 MR TAKU: [10:26:34] Let me ask the question from another perspective.

18 Q. While you were a member of that commission, did they generate reports of the
19 activities, of the investigations that were conducted?

20 A. [10:26:52] Your Honours, as I said, I was a member of that subcommittee for
21 a short time. I think it's even in my statement. Whether they generated reports or
22 not, I am not aware.

23 Q. [10:27:06] Was the head or the chief of military -- chief of military intelligence
24 a member of that commission?

25 A. [10:27:19] Your Honours, he was not.

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1 Q. [10:27:23] At least you said it's a standing commission. Would this commission
2 have provided their report to the appointing authority, to the president?

3 A. [10:27:42] Your Honour, I must clarify. There is what we call the National
4 Security Council and also there is what the -- what is the National Security Committee.
5 One is headed by the president. That's the National Security Council. Then the
6 National Security Committee is headed by the minister of internal affairs. So the one
7 which we are talking about is from the National Security Committee that was headed
8 by the minister of internal affairs.

9 Q. [10:28:25] But they were operating from the chieftaincy of military intelligence
10 for the purposes of conducting an investigation and gathering information to assist
11 the Prosecutor in the investigation in LRA northern Uganda. Would I be correct to
12 say that, sir?

13 A. [10:28:47] Your Honour, I am not sure that that is correct, because the
14 subcommittee would meet at different places. It would either be at the police
15 headquarters or the ISO or the ESO. It was not based all at CMI. It wasn't -- it
16 would rotate. Not correct to say that it was based at the military intelligence.

17 Q. [10:29:18] Now, as the focal point and given that these documents are security
18 related, as focal point and also as counsel, lawyer, adviser for the CMI, did you
19 become aware that the Prosecutor wanted reports that were issued or generated by
20 this committee?

21 A. [10:29:53] Your Honour, I did not become aware, and actually I am listening,
22 I am hearing that for the first time. As I said, some requests would go to the
23 ministry of the attorney general. If you look at -- if you look at those RFAs closely,
24 most of them, if not all, they are addressed to the ministry of justice. We only get
25 information from the ministry of justice, but in some cases, urgent cases, sometimes

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1 they send them directly to me if it's security related.

2 Q. [10:30:38] While we're at it, while we're at it, let me ask -- bring forward a
3 question that I will ask at some other point in time and this refers to requests directed
4 to the ministry of justice. But before I ask, let me ask if you know someone by the
5 name Paddy Ankunda.

6 A. [10:31:22] Your Honours, I know of Paddy Ankunda if you are referring to the
7 lieutenant colonel.

8 Q. [10:31:29] Yes, please.

9 A. [10:31:30] Yes, I do.

10 Q. [10:31:34] Within the charged period from 2002-2006, what was his role, what
11 position did he hold in the military UPDF?

12 A. [10:31:47] Your Honours, I believe he was the army spokesperson, but I am not
13 sure about the years.

14 Q. [10:32:02] Do you know a distinguished lawyer and military man by the name
15 General Sejusa, formally Tinyefuza? Do you know him?

16 A. [10:32:25] Your Honour, yes, I do.

17 Q. [10:32:27] What position until fairly of late did he hold in the UPDF?

18 A. [10:32:42] Your Honour, he has held several positions in the UPDF. And also
19 one time he was a minister. So I need to know what exactly, what period are you
20 talking about, if I can even recall what position he held.

21 Q. [10:33:10] With regard to the intelligence services?

22 A. [10:33:13] He was a coordinator of the intelligence services at one time.

23 Q. [10:33:18] Now, given the position held by these senior officers were they, or if
24 you know, from the position they held they were in the position to know the
25 command structure of the LRA, particularly from 2002 to 2006?

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1 A. [10:33:44] Your Honour, you cannot tell what anybody knows. I think it's
2 better to refer the question to the individuals.

3 MR TAKU: [10:33:57] Well, I say this, your Honours, tab 26 -- no, sorry,
4 your Honour, tab 18, tab 17 and 18. These are confidential, your Honours, for the
5 purpose of these proceedings.

6 PRESIDING JUDGE SCHMITT: [10:34:26] But these are -- yes, okay, please tell us
7 the UGA numbers and then we continue.

8 MR TAKU: [10:34:34] UGA-D26-0017-002 and UGA-D26-0017-004. Essentially
9 those are the information we got from the ministry of the attorney general's office,
10 stating that these officers, not having been members of the LRA, were not in the
11 position to know the command structure of the LRA.

12 Q. [10:35:15] Witness, as a senior officer of the LRA, let me find out, you said that
13 you did not know whether they will know, you don't know what these person know,
14 but specifically, coming from that authority, that not having been, your Honours, did
15 being a member of the LRA, was it -- did you consider it to be a reasonable criteria for
16 knowing the command structure of the LRA, especially with regard to senior military
17 officers, those who prosecuted the war against the LRA?

18 PRESIDING JUDGE SCHMITT: [10:35:54] Again, I think he would have to -- the
19 witness would have to speculate. But if he wants, wants to speculate, I will let him.
20 But the probative value will be not very high, to put it this way.

21 MR TAKU: [10:36:05] Well, I am going to come back to him. If he gives a general
22 answer with regard and speculate, then I will ask about himself, his own position,
23 your Honours.

24 PRESIDING JUDGE SCHMITT: [10:36:15] But you wanted to answer, Mr Witness.
25 I don't want to stop you.

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1 THE WITNESS: [10:36:21] Much obliged. And, your Honour, as you correctly said,
2 I would only be speculating if I said that so-and-so because of his position knew
3 about this or that.

4 There is a need to know, a well-known principle in intelligence, that even a general
5 may not know what is happening if that's not his purview. It depends on what
6 you are actually doing.

7 PRESIDING JUDGE SCHMITT: [10:36:52] So what, of course, the witness might
8 know is what he knows.

9 MR TAKU: [10:36:59]

10 Q. [10:37:00] What about you, what was the command structure of the LRA
11 between 2002 to 2006? Given the role you played in the investigation of this case,
12 collecting the evidence and your duties in the military?

13 A. [10:37:18] Your Honour, my knowledge about the LRA command structure is
14 purely based on what I would read before handing over information to the ICC,
15 which included actually material concerning how the LRA was organised. So I did
16 so, their command structure in their own books, in their own nominal roles, in their
17 messages, I would tell that so-and-so is a brigade commander like Dominic Ongwen,
18 vice-chairman Vincent Otti, chairman Joseph Kony and so on.

19 Q. [10:38:10] But you were also director of counterintelligence. What were your
20 functions as director of counterintelligence? Did you partake in that position in
21 the Prosecution of the war?

22 A. [10:38:31] Your Honour, director of counterintelligence in the UPDF was
23 checking our own internal weaknesses. That's the counterintelligence role in the
24 UPDF. It was not about countering enemy forces as would be done by the external
25 security counterintelligence officers. So the role of counterintelligence in UPDF is

1 different.

2 Q. [10:39:15] Now, while you were still a member of this commission, this joint
3 intelligence committee, did you discuss with them or disclose the captured
4 documents, documents that they were captured from the LRA?

5 A. [10:39:41] Your Honours, we analysed the documents, yes, we did as the JIC
6 subcommittee and sorted out what were the required information from what would
7 otherwise be irrelevant information.

8 Q. [10:40:14] From your analysis of these documents and from the information you
9 gathered about the LRA, was the LRA a conventional army?

10 A. [10:40:29] Your Honours, the LRA was an armed group, it was not
11 a conventional army, but it was an armed group fighting using the unconventional
12 methods of fighting, in my view, with elements of terrorism.

13 Q. [10:40:59] That leads me to my next question, and before I go into that area, let
14 me ask you, what was Operation Iron Fist? And when did it start and when did
15 it end?

16 A. [10:41:23] Your Honours, I would not like to go into things that I do not know
17 about. I know there was an operational Iron Fist, but when it started and when it
18 ended, I don't know.

19 Q. [10:41:40] Did you get to know, Witness, from your specific participation, RFA
20 participation in the prosecution of this war, did you get to know, Witness, whether
21 the higher command of the army defined the enemy, if they did, whom did they
22 define as the enemy, the enemy you were sent out to combat?

23 A. [10:42:16] Your Honour, on the question of whether the high command defined
24 the enemy, I don't know. I am not a member of the high command.

25 Q. [10:42:27] What definition trickled down to you when you deployed the forces?

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1 That you deployed the forces to go to the field, there must have been -- the enemy
2 must have been defined and identified, the resources deployed -- and I ask this
3 question because without defining the enemy we would not be in the position to
4 make a determination about the resources, where the enemy is and how to take out
5 the enemy. So let's forget the higher command, what they do is very highly
6 restricted, but what trickled down to those of you who were involved in defining the
7 war and the definition of the enemy?

8 PRESIDING JUDGE SCHMITT: [10:43:15] Perhaps it would first have to be
9 established if the witness deployed forces at all to the field because that was entailed
10 in your question.

11 MR TAKU: [10:43:25] Well, from his statement I know that the UPDF were in the
12 field, they were fighting the war. I didn't want to -- so, they were deployed.

13 PRESIDING JUDGE SCHMITT: [10:43:34] Yeah, but if he has deployed forces,
14 I don't think if it is so clear.

15 But, Mr Witness, you may answer if you have any knowledge about this.

16 THE WITNESS: [10:43:48] Mr President, first of all, I don't. As an army officer I
17 know what an enemy is without even reference to high command. These are people
18 who were fighting against the UPDF. We know that this was the
19 Lord's Resistance Army. So that was the enemy. The enemy was the
20 Lord's Resistance Army. I did not deploy in northern Uganda. I am not a field
21 commander. My role is legal, director of legal services, but I can answer from my
22 knowledge of what the enemy is because it is quite clear to me that anyone who is
23 trying to fight the established government of Uganda is an enemy.

24 MR TAKU: [10:44:51]

25 Q. [10:44:52] Would your definition include financiers, those who finance the LRA,

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1 and collaborators, both external and internal?

2 A. [10:45:17] My Lord, your Honours, I do not make those determinations, but
3 what I know is that in criminal law there is always joint enterprise, conspirators and
4 so on, so if they fall into the categories that make them culpable, then they would be
5 a class of other enemies apart from those on the field.

6 Q. [10:46:01] Witness, while my colleague locates from your statement, I think you
7 talked about one area of concern when you gathered information was also to get
8 information about the financiers of the LRA. You remember that?

9 A. [10:46:27] My -- your Honour, I do not understand that question. Senior, senior
10 what? Could you please repeat it?

11 Q. [10:46:40] Witness --

12 PRESIDING JUDGE SCHMITT: [10:46:43] I think --

13 MR TAKU: [10:46:45]

14 Q. I am looking for -- I'm looking for your statement.

15 PRESIDING JUDGE SCHMITT: [10:46:48] I think it is quicker, perhaps, when we do
16 it this way.

17 When you had your first selection of the potentially relevant material, would material
18 that reflected or shed light upon financiers of the Lord's Resistance Army be
19 considered by you as potentially relevant?

20 THE WITNESS: [10:47:16] Thank you, Mr President.

21 Yes, the financiers, the ones who were leading to the prosecution of the war would be
22 relevant, because those were the ones who were executing the war by other means.

23 PRESIDING JUDGE SCHMITT: [10:47:36] And so it would have been given or
24 handed over to the Prosecution if such information came to your knowledge.

25 THE WITNESS: [10:47:48] Mr President, that is correct and I think we submitted

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1 a list of financiers.

2 PRESIDING JUDGE SCHMITT: [10:47:57] Thank you.

3 THE WITNESS: [10:48:00] To the OTP.

4 PRESIDING JUDGE SCHMITT: [10:48:01] Thank you, Mr Kanyogonya.

5 Please, Mr Taku.

6 MR TAKU: [10:48:05] Thank you, your Honours.

7 Q. [10:48:06] And just further from that, Witness, if you can remember, if you can
8 remember, do you remember the names of any of the financiers?

9 A. [10:48:25] Your Honour, I do not, unless I look through my -- I don't even think
10 it's in the, in the statements. I don't think so.

11 PRESIDING JUDGE SCHMITT: [10:48:37] I also don't think so, frankly speaking,
12 because I have read the statements. And you can never be sure of course, of yourself,
13 but still. But that happen doesn't matter. Obviously such information might have
14 been of a certain relevance and if you have it, Mr Taku, it's simply a document that is
15 part of the evidence and the witness will not have own knowledge about the persons
16 on this document. He was simply tasked with a collection of evidence and handing
17 it over to the OTP. So we cannot ask him to any of these potentially thousands of
18 items that he has collected and given over to the Prosecution.

19 But when there is something that the Defence would to elaborate upon on this list,
20 then this would have to be, I think, simply with another witness or as documentary
21 evidence.

22 MR TAKU: [10:49:42]

23 Q. [10:49:43] Witness, were you also -- did you also obtained information about
24 collaborators? And if you did, did you hand over the list of those you found to
25 the Prosecutor?

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1 A. [10:49:58] Your Honours, any information that was relevant, including
2 collaborators, financiers, would have been handed over to the OTP.

3 Q. [10:50:12] Your Honour, with regard to financier, it's tab 1 of the Prosecutor's list
4 and the page is paragraph 31, UGA-0069-79. In fact, it's a list of external financiers,
5 your Honour.

6 PRESIDING JUDGE SCHMITT: [10:50:35] Thank you, Mr Taku.

7 MR TAKU: [10:50:53]

8 Q. [10:50:55] Now, this morning, Witness - I'm sorry I have to move to and fro
9 because I have to arrange some of my questions - you stated that -- now, Witness, you
10 stated that you conducted an assessment, evaluation analysis of the information you
11 received. Now, in the course of assessing and evaluating that evidence, Witness, did
12 you come into contact with a series of document in the Acholi language only?

13 A. [10:51:48] Your Honour, yes, I did and we had to look for translation. I
14 remember some few documents which were in Acholi where we had to translate, to
15 look for translations -- translators to translate it.

16 Q. [10:52:05] Who conducted the translation?

17 A. [10:52:09] I do not recall.

18 Q. [10:52:16] But would I be correct to say that the translations, you do not recall,
19 but they were not conducted in the 4th division of the UPDF in Gulu?

20 A. [10:52:35] Your Honours, if I recall, it was done at the military intelligence
21 headquarters.

22 Q. [10:52:45] You also said in your statement that what you did and what was done
23 at the CMI were summaries and these summaries with -- along with the tapes that
24 you recall were handed over to the Prosecutor, why did you make these summaries
25 as opposed to transcribing the entire document or the tapes, as the case may be?

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1 A. [10:53:17] Your Honour, the ICC would get the whole -- they would get
2 everything. Summaries were done for our convenience. Remember this
3 information was not just for ICC. It was for UPDF primarily. So the summaries
4 would be made by our signal intelligence so that we pick out what is relevant. They
5 would, they would make their summaries for benefit. And we handed over the
6 summaries also to the ICC for their benefit. But they would still receive everything
7 from the tapes. It was up to them to make use of the full information and I think
8 they have done so.

9 Q. [10:54:06] Now, tell the Court exactly what happened at the CMI when all this
10 information was gathered. Did CMI invite the technical, that is the soldiers who
11 conducted the technical intelligence, who intercepted these tapes, did CMI invite
12 them to come to their office, listen to them and attempt to make a voice attrition to the
13 respective tapes in the original form, or the chieftaincy of military intelligence had the
14 mechanism themselves of making the analysis and coming up with their own report?

15 A. [10:54:57] Your Honour, I would not like to go into details. There are people
16 who are more competent than me to answer things about signal intelligence and
17 taping. For me I was on the receiving end.

18 Q. [10:55:13] Now, what material did the commission in the CMI analyse? Was it
19 the documents in their original context, as it were, or enhanced copies of those tapes?

20 A. [10:55:32] Your Honours, as I have just said, I would receive documents, tapes,
21 and sort them out. The details of what was done, I am not competent to answer.

22 Q. [10:55:50] But those details would surely be in the report that those who did the
23 analysis, the commission or the committee did, it would surely be in those reports. It
24 would surely not be with you, correct?

25 A. [10:56:08] Your Honour, as I have said, details were not my --

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1 Q. [10:56:15] Were never handed -- sorry, I'm sorry. I'm sorry, please can you
2 repeat that?

3 A. [10:56:20] Details were not my responsibility. We have several departments
4 that handle information. Just like in any intelligence organisation, you will find
5 analysts doing their work, you will find those who make reports and so on.

6 Q. [10:56:45] Just to be very clear, Witness, what did you actually hand over to
7 the Prosecutor? You handed over the copies of those tapes, either in, in the original
8 form or copies.

9 Your Honours, let me read -- the lead counsel is drawing my attention to this at
10 UGA-0069-787, that is by the one prosecutor, your Honours. And let me read the
11 necessary part.

12 Yes. Witness, listen:

13 "After going through the process of intercepting, taping and transcribing information
14 heard, the intercepts are sent to the army signals intelligence branch of the chief of
15 military intelligence in Kampala, which is required to analyse the intercepts and brief
16 members of the UPDF command."

17 And if I may read another paragraph, your Honour, before I put the question for
18 purpose of completeness.

19 PRESIDING JUDGE SCHMITT: [10:58:13] Please.

20 MR TAKU: [10:58:14] That is at UGA-0069-791, 33:

21 "I might make helpful clarifications or comments for the ICC on some of the copies.
22 I have indicated the markings I have made when we went through the documents
23 today."

24 PRESIDING JUDGE SCHMITT: [10:58:41] Just another clarification for the witness,
25 who might of course know because it is his statements, but for the other participants

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1 here too. The first quotation was about intercepts and the second was about
2 captured documents and other physical evidence.

3 Please, your question, Mr Taku.

4 MR TAKU: [10:59:04]

5 Q. [10:59:05] So, Witness, from the explanation you have given and the answer you
6 have given so far, you portrayed yourself as someone who just collected the
7 information and handed it over, you didn't participate in the process, but the
8 paragraph I just read, your Honours, shows that -- Witness, shows that you
9 participated more in this process, you conducted analysis transcribing, you even
10 made comments to explain the nature of the evidence, contents of the evidence to
11 the Prosecutor, Witness, so you participated more than, Witness. So why did you
12 deem it necessary, Witness, first, why did you think it was necessary to do the
13 transcriptions of the tapes before handing over, and also you explaining the contents
14 of the captured documents?

15 A. [11:00:07] Your Honour, first of all, I did not transcribe. That's not correct and I
16 even don't have it in my statement. Transcription, definitely I did not do that. I
17 only aided in order to make my evidence or the evidences I was submitting to make it
18 easier for the people receiving it, to know that this evidence was a bundle of evidence
19 from said leader, this one was from Gulu, this one was from wherever it was. And
20 then I would -- the evidence would come in -- sometimes the evidence would come in
21 a very disorganised state and I would have to make sense out of it and be able to
22 hand it over to the ICC so that they could understand it.
23 Sometimes I would look for documents that look similar, because I would at times get,
24 let's say, for an example, I would get around 50 pages that would be confusing even
25 to me originally, and then I would look for how to piece -- to put anymore together

1 and staple them together because it would otherwise be very, very confusing to
2 anybody. So that's the role -- if that's the role you are talking about, then yes, I
3 participated. But I did not transcribe. That was not something I did at all.

4 Q. [11:01:55] Just one or two before -- before we go on break.

5 Who did the transcription then within the UPDF structure? Was it done at the
6 chieftaincy of military intelligence or who did the transcription?

7 A. [11:02:10] Your Honour, transcription was done by signal intelligence.

8 Q. [11:02:13] And to your knowledge was this transcription in that form handed
9 over to the Prosecutor?

10 A. [11:02:32] Yes, it was and that's what I handed over. If you look at our
11 registration forms, which I know you have, you will see all the evidence which I
12 handed over and signed before handing it over.

13 Q. [11:02:45] Did they also analyse these intercepts?

14 A. [11:02:51] By "they" whom do you --

15 Q. [11:02:57] The signal intelligence.

16 A. [11:02:59] Your Honour, yes. As I said, it was primarily, this information was
17 primarily for use by the UPDF. They would definitely have to analyse it in order for
18 it to make sense.

19 Q. [11:03:15] And before we go on break, with regard to relevance, Witness, as
20 a lawyer you know that issues of relevance are determined by the Court.

21 A. [11:03:26] I think I had already talked about the context of relevance. I talked
22 about jurisdictional issues, I talked about whether if the ICC wanted something from
23 Gulu, I would not give them something from Teso. But if the RFA says we need
24 information of this nature, and even the period they are talking about, I would
25 definitely not give them something irrelevant. That's the context in which I am

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1 using relevant.

2 PRESIDING JUDGE SCHMITT: [11:04:04] I think this is answered now.

3 MR TAKU: [11:04:07] Just a last question on this before we go on break, your
4 Honours.

5 PRESIDING JUDGE SCHMITT: Yeah, yeah.

6 MR TAKU:

7 Q. [11:04:12] You were in the peace talks, during the peace talks in South Sudan,
8 did you consider that relevant to this case, the peace talks that took place in Juba?

9 A. [11:04:27] Your Honour, the, the peace talks were relevant to the extent that it
10 was one of the ways of -- one of the ways of stopping the war. But accountability
11 mechanisms which were in the peace documents also referred to the ICC. So for
12 those who are -- who had participated in massive atrocities, the cases would be
13 handled either domestically or referred to the ICC.

14 MR TAKU: [11:05:20] Your Honours, we can take the break.

15 PRESIDING JUDGE SCHMITT: [11:05:22] Yes, we are now going into the break and
16 of course we would have to allow us an unusual time, otherwise it would not make
17 much sense to go out of the courtroom and back in 20 minutes. So perhaps
18 20 minutes to 12 we reconvene here. As I said, it's an unusual time so everybody has
19 to keep it in mind and follow this time.

20 THE COURT USHER: [11:05:44] All rise.

21 (Recess taken at 11.05 a.m.)

22 (Upon resuming in open session at 11.41 a.m.)

23 THE COURT USHER: [11:41:21] All rise.

24 PRESIDING JUDGE SCHMITT: [11:41:42] Mr Taku, you have of course still the
25 floor.

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1 MR TAKU: [11:41:46] Thank you, your Honour.

2 Q. [11:41:52] Witness, if I understood you well, you said that the requests for
3 assistance from the Court were sent to the -- his excellency the minister of justice,
4 attorney general minister of justice. Were you copied in some of these requests for
5 assistance in your position as a point man or liaison?

6 A. [11:42:36] Your Honour, I would not be directly copied, but I would be informed
7 by the relevant departments of the ICC. But if you -- in some cases I would be, I
8 would be -- I would say that attention can open a (inaudible), but most of them would
9 write to the honourable minister of justice, attorney general.

10 MR TAKU: [11:43:08] Your Honour, that is in respect of tab 15.
11 UGA-OTP-0206-0165 at 0169.

12 Q. [11:43:31] Now, with regard to the material that came into your possession,
13 prior to you making a determination about jurisdiction and relevance, did you have
14 a comprehensive list of all the material and the report submitted with the material
15 about -- was this submitted to you at the time that you received the material? In
16 other words, comprehensive records of all the information, including the one later on
17 excluded?

18 A. [11:44:20] Your Honour, if I, if I understood the question, I would be the one to
19 make the list, if that list was to be made, because the RFA would indicate what they
20 wanted, then I would be the one to generate the list of what I am giving to them.

21 Q. [11:44:51] So when you approached the different services, you told them
22 specifically to select what you thought -- to make a pre-selection at that level of the
23 material you thought would be necessary to fulfil the Prosecution request, correct?

24 A. [11:45:25] Your Honours, I don't understand the question, because when you
25 say "approached the service", what -- what exactly does that mean?

1 Q. [11:45:39] Now, when you went to ISO or you went to the 4th division or to the
2 different departments that did the intercepts - and this includes those who did
3 directional findings, those who did intercepts in the different departments - when you
4 went to them to request for information for the material, did you in any way tell them
5 what you wanted specifically for them to make a pre-selection at their level what you
6 wanted to fulfil your specific request, or you asked them to give to you all the
7 material that they had related to the LRA intercepts?

8 A. [11:46:31] Your Honours, I did not ask them for any specifics. What happened
9 was that the divisional IOs, intelligence officers of the -- especially the 3rd, 4th and
10 5th divisions, which are in the northern Uganda and eastern Uganda, had a duty to
11 collect and send to the headquarters of the military intelligence all that they would
12 receive. I did not have to even ask them for anything. And as I told you,
13 your Honour, as I informed the Court, this would go through the various stages,
14 beginning with the signal intelligence and then analysis and then to me.

15 Q. [11:47:26] Now, when it came to you, and you made this determination about
16 relevance and jurisdiction, did you keep a list of the material you excluded on the
17 basis of jurisdiction and relevance?

18 A. [11:47:49] Your Honours, I did not keep a list. I would just send it back to
19 where we store information in the department.

20 Q. [11:48:06] So if I understand you properly, at what point in time did you exclude?
21 Did you make the exclusion, this determination, before the chieftaincy of military
22 intelligence made the analysis, the transcription and analysis, and gave back to you to
23 hand over to the Prosecutor, or after they had made the analysis?

24 A. [11:48:37] Your Honours, I said the process is from the field IOs to the signal
25 intelligence of CMI, to the analysis department, lastly to me. That's where I did the

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1 sorting, and after sorting out what was required, the balance of materials, I would
2 send them back to the analysis department and then probably the registry, which
3 keeps all documents.

4 Q. [11:49:12] Did the CMI also, upon looking at the material or prior to, prior to,
5 fulfilling the request, the Prosecution request, did they establish intelligence reports,
6 looking at the material that came into their custody? Did they establish intelligence
7 reports to assist them in the prosecution of the war against the LRA?

8 A. [11:49:40] Your Honours, that was the primary reason why I was collecting the
9 intercepts. They were supposed to be for us, and the ICC came in later. They
10 weren't made for ICC. The primary reason for collecting intelligence was to enable
11 us to prosecute the war with our eyes and ears open.

12 Q. [11:50:19] So how effective were these intelligence reports that were generated
13 in this prosecution of the war?

14 A. [11:50:28] Your Honours, I would not want to go into speculation.

15 Q. [11:50:35] Now, how were they established? They were established by the
16 same technical team in the CMI?

17 A. [11:50:46] Your Honour, I don't get -- I don't understand the question.
18 Probably rephrase it or make it clearer.

19 Q. [11:50:56] Anyway, let's move to something else.
20 Witness -- just one minute, your Honour.

21 Yes, Witness, this chain of custody you have just developed, stated about here,
22 Witness -- but we see here, in tab 15, your Honours, at pages 0941 and 0943 -- no,
23 sorry, your Honours, tab 5.

24 PRESIDING JUDGE SCHMITT: [11:51:54] Yes, I just wanted to say --

25 MR TAKU: [11:51:56] Tab 5, yes, your Honour, Prosecution binder.

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1 Q. [11:52:02] In both, Witness, we found that it stated:

2 "P-3 holds key to UPDF intercept room in building BR-111.

3 P-38 conducted final review and release on 1 August 2015."

4 On the other page we see:

5 "P-3 holds key to access the UPDF intercept room in building BR-111.

6 P-38 conducted review and release on 1 August 2015."

7 Witness, would that mean that in respect of the chain of custody you have given,
8 there are also instances where you went to the field? For example, you went to the
9 4th division and assessed the material that was in the custody of the 4th division and
10 conducted a final review and release to the Prosecutor?

11 A. [11:53:18] Your Honour, I went -- I went just a few times at the beginning of the
12 investigations. In 2004, that's when I remember going to the 4th division. It wasn't
13 even for a review of materials. It was just to assist the ICC officials get their bearings
14 in the northern Ugandan areas of operation. And I think that was the first time the
15 ICC officers were going to northern Uganda.

16 PRESIDING JUDGE SCHMITT: [11:54:03] Mr Witness --

17 THE WITNESS: [11:54:05] As I was, as I was saying, the chain of custody remained
18 the same. The field IOs would have to get and gather the information, pass it over to
19 the signal intelligence, that is in respect to the intercepts, go to analysis and end up
20 with me. I did not go to make assessments in any division.

21 PRESIDING JUDGE SCHMITT: [11:54:39] But, Mr Witness, when you went there,
22 did you get at this time then the information who, for example, had the key, like
23 Mr Taku has written it out? Did your information -- did you get this information
24 from going there or did somebody report it to you?

25 THE WITNESS: [11:55:03] Mr President, I am not sure about what "the key" means

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1 in this context.

2 PRESIDING JUDGE SCHMITT: [11:55:12] Mr Black.

3 MR BLACK: [11:55:14] Your Honour, I just wonder, it might be helpful if we

4 emphasise the time frame, because he referred to 2004, 2005. This PRF refers to

5 activities in 2015. Perhaps if the witness is asked whether he went there in 2015, he'll

6 remember or not.

7 PRESIDING JUDGE SCHMITT: [11:55:29] Yes, I think that is, that is fair, Mr Black.

8 That's true.

9 So do you remember, Mr Witness, when you went there? At what time, if it was --

10 THE WITNESS: [11:55:44] Mr President, I only went to Gulu at the commencement

11 of investigations. Definitely not in 2015.

12 PRESIDING JUDGE SCHMITT: [11:55:52] Thank you. I think we leave it at that,

13 and you might continue, Mr Taku.

14 Thank you, Mr Witness.

15 THE WITNESS: [11:55:59] Thank you.

16 MR TAKU: [11:56:04]

17 Q. [11:56:04] I want to say, Witness, that by 2015, as this registration form showed,

18 the focus had changed generally from the investigation of LRA generally to

19 Dominic Ongwen. It is clearly stated.

20 Now, let's stay in tab 5, Witness. And, your Honours, my reference is

21 UGA-OTP-0244-0920 at 0939. There is an entry there, Witness, that I will read out to

22 you and then ask the question. And that entry was made, if I may, I can see on

23 8 July 2016. And with your permission, your Honours, the heading is, "Note

24 explaining history of tapes prepared by ..." and then the name of the investigators. I

25 will not call the name.

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1 MR BLACK: [11:57:52] Excuse me, sir, I am sorry to rise, but the date is 2006, not
2 2016. I thought that could be confusing, if I'm on the right page.

3 PRESIDING JUDGE SCHMITT: [11:58:04] Yes, 28 July 2006, not 2016.

4 MR TAKU: [11:58:09] I thought I said '06, your Honour. Maybe it came out
5 wrongly.

6 PRESIDING JUDGE SCHMITT: [11:58:14] Now, please continue, but we are talking
7 about a document from -- that at least, as we can see it, should be from July 2006.
8 Please read out the portion that you are interested in.

9 MR TAKU: [11:58:28] First, the arrow directs us a bit up, and it says:
10 "Note explaining history of tapes prepared by ..."
11 And it says, "Attacks on IDP camps of Odek (highlights results of attack)" and, please,
12 it should link to some other material.

13 Now, it continues:

14 "The transmission was taped from a VDF-radio but is not very clear. However basic
15 instructions (orders) issued by Kony to field commanders and results (effects) of the
16 attacks can be heard with low volume (highlights roles of 5 wanted in HR" -- that's
17 humanitarian -- "abuses in northern Uganda)."

18 And the witness signs, his signature is here.

19 My question, Witness -- and his name is on -- my question, Witness, that:

20 Considering this entry, were these tapes played in your presence or the explanation
21 was done by you to the investigator or the tapes were played in your presence and
22 this entry made that you signed?

23 PRESIDING JUDGE SCHMITT: [11:59:57] Before you answer, Mr Witness,
24 Mr Prosecutor, Mr Black, wants to raise an objection or make a comment.

25 MR BLACK: [12:00:02] Yes, your Honour. Just an objection. Counsel read it says

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1 the "note explaining history of tapes prepared by" and it gives the name of a staff
2 member of the ICC, not the witness.

3 PRESIDING JUDGE SCHMITT: [12:00:18] It's a little bit confusing, frankly speaking.
4 It's perfectly clear that this pre-registration form has been operated by
5 Mr Kanyogonya.

6 MR BLACK: (Microphone not activated)

7 PRESIDING JUDGE SCHMITT: Yes. So I think he can meaningfully answer the
8 question if this process was done by himself and if this remark was done by himself
9 and what is the basis for this remark.
10 Mr Witness, it might be a little bit confusing for you now, but what has been read to
11 you is in this preregistration form and it is an assessment that it might be of probative
12 value, of relevance for commander and for five persons that are connected with these
13 proceedings in general, in largely general. And the question of Mr Taku, if I have
14 understood you correctly, was if you did this assessment by yourself listening to it or
15 if that has been done by somebody else, or if it was, what was the basis for this
16 assessment?
17 Is this correct?

18 MR TAKU: [12:01:28] Yes, your Honour. Yes, your Honour.

19 THE WITNESS: [12:01:31] Mr President, thank you. From what I have heard, there
20 is something about low volume and so on. If that's what is being referred to, that
21 could not have been myself, because I did not listen to the tapes and put such remarks
22 like saying you can be -- it can be heard at low volume or anything like that. So that
23 was not by myself. But I would have -- it would have been clearer to me if I had
24 read the -- if we have a copy of the document, I would have read it and seen what
25 exactly Defence counsel is referring to.

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1 PRESIDING JUDGE SCHMITT: [12:02:18] But you have this, you have this
2 document, I think.

3 So perhaps, perhaps it's easier for you, Mr Kanyogonya, if you look at tab 5 of the
4 small binder of the Prosecution. If you open it and then you look at a page 0939,
5 0939, and that's what we are talking about. And we are talking about the remark
6 that is with the number 3 "Note explaining history of tapes prepared by" a certain
7 person.

8 THE WITNESS: Yes.

9 PRESIDING JUDGE SCHMITT: And then where we have where the arrow, so to
10 speak, starts on, further down the line, "the transmission was taped from", and this
11 was what has been read. And perhaps you can tell us what you know about this
12 document and how it came into place.

13 THE WITNESS: [12:03:28] Mr President, I believe this -- first of all, this is not my
14 handwriting, so probably the person who made these remarks is the person who is
15 in 3 "Note explaining history of the tapes".

16 PRESIDING JUDGE SCHMITT: [12:03:47] Thank you. I think that explains it. So
17 it might be -- we don't know exactly who has produced it, but I wanted to verify if it
18 is your handwriting, if you have written it down, and that's obviously not the case.
19 Thank you.

20 Please, Mr Taku.

21 MR TAKU: [12:04:08] Surely we are -- he has given the answer, your Honours, and
22 the information is before you. We were interested in these basic instruction and
23 orders issued according to field commanders, in plural, and the five individuals. But
24 he has given the answer you have and it's before your Honours.

25 Q. [12:04:43] Now, ESO, External Security Organisation, Witness, we saw that you

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1 were an intermediary to obtain information from ISO, that's the Internal Security
2 Organisation. Did you also collect and report information from External Security
3 Organisation for the purposes of this case?

4 A. [12:05:22] Mr President, I did not, apart from them having the person
5 represented on the subcommittee, I don't remember them giving us any information
6 in regard to this case.

7 Q. [12:05:43] And the basis for that question, Witness, is that the Prosecutor indeed
8 seek in writing the material from ESO and we are unable to know whether it was
9 disclosed to the Prosecutor or not. We haven't seen that. But we made a request for
10 disclosures. But did you at any time, for example, in the course of your duties
11 to -- in this case, did you come into -- see any reports or intercepts from ESO during
12 the charged period or after the charged period?

13 A. [12:06:37] Your Honour, if by ESO you are meaning external -- because for the
14 internal I already talked about. But if you are talking about the external, as I have
15 said, I did not remember them giving us any document in regard to this case.

16 MR TAKU: [12:06:57] Your Honours, the question was inspired by tab 38 of the
17 Defence binder, UGA-OTP-0270-1398 at page 1400, paragraph 7, 8 and 9 and of course
18 paragraph 10 also.

19 Q. [12:07:36] Now, let's move to another area. We've established that you were
20 the point person for the UPDF and the other roles that you played. Apart from you
21 was there any other officer of the UPDF appointed as intermediary to assist
22 the Prosecutor in either obtaining information or the preparation of investigations in
23 this case, that you know of? If you know, please. I do not know, if it doesn't
24 disturb you, you can -- if you want in closed session to give the name, you can do that.
25 But if the Prosecutor does not object, you can give the name. I do not think he may

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1 be a witness in the case.

2 A. [12:08:42] Your Honour, I would prefer not to mention other members who have
3 not -- who have -- who are testifying themselves. I had assistance, but I am not
4 comfortable with releasing information about other people who are not testifying
5 here.

6 MR TAKU: [12:09:06] Then we go to private session, your Honours.

7 PRESIDING JUDGE SCHMITT: [12:09:08] Yes, that's correct. I understand this,
8 Mr Witness. We go to private session.

9 (Private session at 12.09 p.m.)

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11 (Redacted)

12 (Redacted)

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16 (Redacted)

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7 (Open session at 12.31 p.m.)

8 THE COURT OFFICER: [12:31:01] We are back in open session, Mr President.

9 THE COURT OFFICER: [12:31:20] (Via video link) Your Honours, Mr President?

10 PRESIDING JUDGE SCHMITT: [12:31:22] Yes.

11 THE COURT OFFICER: [12:31:22] (Via video link) The witness was asking if he
12 could take just a short break.

13 THE WITNESS: [12:31:26] One minute.

14 PRESIDING JUDGE SCHMITT: [12:31:26] Of course, of course. Yeah. We can
15 stay here in the room, I would say.

16 Please, Mr Witness, you are allowed.

17 THE WITNESS: [12:31:33] Thank you, Mr President.

18 (The witness stands down)

19 PRESIDING JUDGE SCHMITT: [12:31:41] Mr Taku, in the meantime perhaps I can
20 enquire if you can foresee how long the examination of this witness by the Defence
21 will last, what you envision?

22 MR TAKU: [12:31:51] Your Honours, not quite at this time. We are trying
23 to -- from the directions that the Court gave from the beginning we are trying to move
24 as fast as possible, and we will inform your Honour shortly when we, during the
25 break, I will review with lead counsel and we would inform the Court, your Honour.

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1 PRESIDING JUDGE SCHMITT: [12:32:22] Yes. And then the Court will get into
2 a short discussion with you what your estimates are. Yeah. Because I think it's
3 clear that on Wednesday we will at least, at the latest, we will start with the next
4 witness. That that should be clear.

5 (The witness enters the video-link room)

6 PRESIDING JUDGE SCHMITT: [12:32:46] You know, this is always, not a problem,
7 but it's -- when there is a gap to fill it is always filled by me, in a hopefully meaningful
8 way.

9 So the witness is back.

10 Mr Witness, thank you very much.

11 And, Mr Taku, you can continue with the examination.

12 MR TAKU: [12:33:16]

13 Q. [12:33:17] Now, Witness, let's move quickly to another area of the evidence that
14 you gave with -- documents that were seized from the UPDF -- from the LRA,
15 I'm sorry, from the LRA.

16 Did you keep a comprehensive inventory of the documents you seized from the LRA?

17 A. [12:33:55] Your Honours, I did, I did have such a list at one time. But because
18 of different office holders taking over from me, the last time I checked I couldn't
19 locate it.

20 Q. [12:34:19] And did you keep an inventory of the documents that were
21 transmitted to the Prosecutor? We have seen those related to the tapes. Were they
22 also released relating to the documents you seized from the LRA?

23 A. [12:34:44] Your Honour, if I understand the question, are you talking about
24 documents that I did not hand over to ICC, or the ones I handed over to the ICC.

25 Q. [12:35:00] The one you handed over to the ICC, sir.

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1 A. [12:35:05] Your Honours, this is the list I was talking about. At one time I had
2 a comprehensive list of whatever I gave to the ICC, but when I left the office of legal
3 counsel to the CMI, and I later returned to that same office after some years, I could
4 not trace it.

5 PRESIDING JUDGE SCHMITT: [12:35:30] A short remark by me.

6 I think the receiving side, which would be the OTP, should also know what they have
7 received. What they have gotten by the witness, or not. Mr Black is not nodding.

8 MR BLACK: [12:35:48] Your Honour, it was an internal sort of smile. It's not
9 always as easy to reconstruct these things as we would like, but the PRFs that are
10 attached to the second statement should, I believe, comprehensively cover what we
11 received from him.

12 PRESIDING JUDGE SCHMITT: [12:36:02] At least I understood it like that.

13 Okay, please, Mr Taku. It was just a remark by me.

14 Please, Mr Taku.

15 MR TAKU: [12:36:08] And I thank the Prosecutor for that clarification, your
16 Honours.

17 PRESIDING JUDGE SCHMITT: [12:36:11] But, you know, when we are asking the
18 witness if he has kept an inventory of those items he gave to the Prosecution, then
19 the Prosecution, who is a part of this Court, should also know what they have got by
20 the witness.

21 So, please, Mr Taku.

22 MR TAKU: [12:36:32]

23 Q. [12:36:34] Witness, in your statement you said that you were in possession of
24 the -- you captured, the UPDF captured the stamp and seal of authority of the LRA
25 and that if it was -- the Prosecutor requested, you would turn it over to the Prosecutor.

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1 My question is: Did the Prosecutor make a request for you to turn over this
2 captured LRA stamp and its seal of authority?

3 A. [12:37:08] Your Honours, to the best of my knowledge, they did not and it's still
4 in my office, even up to now.

5 Q. [12:37:20] If you can, if you can, you can tell the Court from whom, which officer
6 of the LRA was the stamp and seal of authority captured, if you remember?

7 A. [12:37:31] Your Honour, I do not know.

8 Q. [12:38:00] Witness, and I'm asking the question that you already, from the
9 nature of work, know exactly about Joseph Kony. So this material which is still in
10 your office must have been, if you know, from your analysis, from your knowledge,
11 must have been very close to Joseph Kony, somebody very close to Joseph Kony, or
12 captured from Joseph Kony himself. Could that be a fair assessment?

13 A. [12:38:46] Your Honour, that would be speculation from me. I don't know how
14 the LRA used to keep their documents or their stamps.

15 Q. [12:38:55] Well, earlier you wouldn't know how, how they organise,
16 operationally, how they organise operationally. But among the documents that you
17 captured, Witness, or the UPDF captured, did you find correspondences between
18 Joseph Kony and President Museveni?

19 A. [12:39:19] Yes, your Honour, I did. And I submitted them to the ICC.

20 Q. [12:39:34] Now clearly, at least some of them were dated 1999.

21 Your Honours, let's go to tab 1 Defence. Defence tab 1 --

22 PRESIDING JUDGE SCHMITT: [12:39:45] That that's this 791 of the first statement,
23 paragraphs 36 following, I would say.

24 MR TAKU: [12:39:57] Yes.

25 Q. [12:40:03] Of course, Witness, this was dated 1999. How did you assess the

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1 relevance of those correspondence, that correspondence dated 1999, to the
2 proceedings in the case, when you were making the assessment regarding relevance
3 and jurisdiction?

4 A. [12:40:31] Your Honour, in the context of the overtures for peace, because these
5 letters were being written in terms of trying to arrange peaceful settlement of the
6 armed conflict and coming from the highest authority in the land, I do not see why I
7 wouldn't hand over such a document which is actually sort of exculpatory, in other
8 words, it was something good that I thought the ICC should look at, that attempts to
9 resolve the conflict were being made by the president and Joseph Kony.

10 PRESIDING JUDGE SCHMITT: [12:41:17] And there were -- and there were other
11 letters that date 2002 and that is -- there is no problem with the temporal jurisdiction.
12 And to tore this, perhaps sort of connected letters, apart would also not have made
13 sense, to put it this way.

14 MR TAKU: [12:41:41] Your Honours, in the letters -- why in respect of the captured
15 documents relating to the rules that were pre-established many years, including
16 roughly before Ongwen was abducted, they were not established within the charged
17 period by Joseph Kony.

18 PRESIDING JUDGE SCHMITT: [12:41:56] No, it's not -- I'm not questioning what,
19 I'm not questioning that what you are saying. But when it comes concretely to this
20 letter from 1999 it seems, from the statement of the witness, it seems that there is
21 a connection to other letters that date from related period that fall under the temporal
22 jurisdiction. So especially when it comes to this matter I would say it is, at least
23 there is an explanation for it, put it this way.

24 MR TAKU: Yes, your Honour.

25 THE WITNESS: [12:42:25] Mr President --

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1 MR TAKU: [12:42:26]

2 Q. [12:42:27] But in your statement, also paragraph 38, you describe Joseph Kony
3 as "so-called Major General Joseph Kony". Can you say why you refer to
4 Joseph Kony as "so-called Major General Joseph Kony"?

5 A. [12:42:47] Your Honours, ranks in the army are given by commander-in-chief of
6 a state and Joseph Kony definitely did not get his rank from his state institution.
7 This is an armed group and therefore his rank was he was a purported major general.

8 Q. [12:43:17] What would you say about the rank that Joseph Kony gave to
9 Mr Ongwen?

10 A. [12:43:26] Your Honour, that one, I leave it between Joseph Kony and
11 Dominic Ongwen.

12 PRESIDING JUDGE SCHMITT: [12:43:36] That is at least consequent, I would say,
13 the answer.

14 MR TAKU: [12:43:45] Yes, yes, your Honour. Yes.

15 Q. [12:43:45] Now, Witness, you also intercepted or captured, the UPDF also
16 captured some letter that is dated 17 October 2002 addressed to the government of
17 Sudan.

18 That is tab 1, in Prosecution tab 1 at 0793, paragraph 42.

19 PRESIDING JUDGE SCHMITT: [12:44:14] 792, but the paragraph is correct,
20 paragraph 42.

21 MR TAKU: [12:44:19] Yes, your Honour.

22 Q. [12:44:20] Witness, you had a pre-assessment of the letter. Did you know who
23 wrote the letter?

24 A. [12:44:43] Your Honour, first of all, when I read paragraph 42 it does not show
25 me, it doesn't give me indication, apart from saying "a document under a tab marked

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1 M". I can't see the document. It's a bit -- it's not clear to me.

2 PRESIDING JUDGE SCHMITT: [12:45:04] But I think we should not make it more
3 complicated. I would assume that this document exists. I address this question to
4 Mr Black.

5 MR BLACK: [12:45:17] Your Honour, this is part of why I was smiling earlier. I
6 also have made some attempts to track down what's marked "M" and what's marked
7 "N" in this particular statement, and it is not always clear to me. If we received this,
8 it's, you know, in our collection and been reviewed for disclosure and disclosed. But
9 matching these things up and finding the ERN of this has not been an easy task for
10 me.

11 PRESIDING JUDGE SCHMITT: [12:45:42] Okay. So I thought it was simpler,
12 but -- because if we had this document, it would be very easy to -- or could be very
13 easy to verify who wrote it. But I assume at least, and more we cannot say, I think,
14 when we look at paragraph 42, that it has been -- that it comes out of the LRA, I
15 would understand. And the witness cannot tell at the moment, which is also
16 understandable.

17 MR BLACK: [12:46:09] And if it's helpful, your Honour, I'll take one more look at
18 the lunch break and see if I can identify this (Overlapping speakers)

19 PRESIDING JUDGE SCHMITT: [12:46:17] Yes, I think we can move on then and
20 perhaps we get further after the lunch break.

21 MR TAKU: [12:46:23] Yes.

22 Q. [12:46:24] Now, Witness, in the -- it goes without saying, maybe you know one
23 distinguished general, a significant personality in East Africa, General Salim Saleh?
24 You know him so well?

25 A. [12:46:52] Yes, I do.

1 Q. [12:47:00] Were you aware that at some point in time he established contacts
2 with Dominic Ongwen and the information with a view to getting Ongwen to quit,
3 surrender, and even before Ongwen could take any action, this information was
4 known by Joseph Kony and he took moves to get Ongwen executed, although he did
5 not realise that? Are you aware of that?

6 A. [12:47:53] Your Honours, I am not aware about any contact or dealings between
7 General Saleh and Dominic Ongwen.

8 Q. [12:48:15] Well, Witness, we have here -- your Honours, tab 54,
9 UGA-OTP-0255-0943, and it was restricted, a report by the UPDF about internal
10 wrangles within the LRA. Your Honours, we are at page 0945.

11 PRESIDING JUDGE SCHMITT: [12:49:01] But you have to draw a question out of
12 this because that document was not produced by the witness.

13 MR TAKU: [12:49:07] Yes, your Honour. Yes, I want to draw a question.
14 Let me correct myself. Ongwen established a contact with General Salim Saleh to
15 assist him to leave before - oh, my goodness, some noise, I'm afraid - and this
16 information somehow got to Joseph Kony.
17 Now, let me read it out to you and then extract the question:
18 "Major Odomi. He operates mostly in Gulu and he's one of the Battalion
19 Commanders. Commander Odomi is under surveillance following his involvement
20 in peace talk contact with Lieutenant General Salim Saleh. Commander Odomi
21 narrowly escaped firing squad when he was reportedly received some bags and
22 money from Saleh."

23 This is an internal UPDF security report and is internal wrangling within the LRA.
24 Were you aware of the internal wranglings within the LRA and were you also aware
25 or came into custody of this restricted report which was disclosed to the Prosecutor?

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1 A. [12:50:36] Your Honour, this is the first time I am looking at this document.

2 And I don't even think it went through me to be transmitted to the ICC.

3 Q. [12:50:50] Well, Witness, for your information, this document transited through
4 your office, through the chain of custody to the ICC. In other words, are you saying
5 you didn't read it, you didn't look at the content, you merely transmitted it to the
6 Prosecutor? Do I understand you to say that?

7 A. [12:51:12] Your Honour, as I said, I am not the only person. I don't read the
8 thousands of documents that go through my office. I have other people, assistants.
9 I have already mentioned some of the assistants in the closed session. And even
10 some of my bosses, I mentioned one of them. So not everything that went to the ICC
11 was read by me. That would not be correct.

12 Q. [12:51:48] Witness, did you, at any time in the course of executing your duties,
13 come into contact or know that one LRA commander called Opiyo Akula was a
14 conduit through which Lieutenant General Salim Saleh initiated -- that Ongwen, that
15 was the conduit -- I mean, the liaison between Ongwen and the lieutenant general, the
16 distinguished lieutenant general, for whom I have a lot of respect?

17 A. [12:52:30] Your Honours, I have nothing in my knowledge about any dealings
18 between General Saleh and LRA commanders.

19 MR TAKU: [12:52:46] One minute, your Honour.

20 Your Honours, just for the record, this report was disclosed, passed over to the
21 Prosecutor by him in August 2015.

22 PRESIDING JUDGE SCHMITT: [12:53:04] Yes. I have a team here and they have
23 already informed me. So they are really also very quick here.

24 MR TAKU: [12:53:11] Yes, your Honour.

25 PRESIDING JUDGE SCHMITT: [12:53:12] Mr Black.

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1 MR BLACK: [12:53:13] I don't mean to interrupt, but Mr Elderfield, who is much
2 more skilled, apparently, in these things than I am, was able to find the
3 17 October 2002 document marked "M" in the first statement, or at least what appears
4 to be that. The reference is UGA-OTP-0206-0136.

5 PRESIDING JUDGE SCHMITT: [12:53:37] Thank you very much. So it makes
6 sense to have several people in a team.

7 MR BLACK: [12:53:43] Yes.

8 MR TAKU: [12:53:45] Thank you very much for your kind cooperation.
9 Now, one minute your Honour.

10 PRESIDING JUDGE SCHMITT: [12:54:07] Mr Taku, we could also have the lunch
11 break and then you have time to -- I don't know if you want to continue with the
12 same line of questioning or if we --

13 MR TAKU: [12:54:22] I think we have the break and come back. Let me arrange,
14 arrange my questions, your Honour.

15 PRESIDING JUDGE SCHMITT: [12:54:27] I think it makes sense. So we have now
16 the lunch break until 2.30.

17 THE COURT USHER: [12:54:34] All rise.

18 (Recess taken at 12.54 p.m.)

19 (Upon resuming in open session at 2.29 p.m.)

20 THE COURT USHER: [14:29:39] All rise.

21 PRESIDING JUDGE SCHMITT: [14:30:00] Mr Taku, you have the floor.

22 MR TAKU: [14:30:02] Yes, your Honours. At some point in time, your Honours,
23 we will respectfully request to close 15 minutes earlier because we are going to sign a
24 cooperation agreement between the African Bar and the ICC Bar, and some of your
25 Court officials will be present, including some of your colleagues, and I'm --

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1 PRESIDING JUDGE SCHMITT: [14:30:23] And I assume you and Mr Ayena will
2 be present or ...?

3 MR TAKU: [14:30:28] Well, I am the vice-president of the ICC Bar and a life
4 executive member of the African Bar. So I'm there in that capacity.

5 PRESIDING JUDGE SCHMITT: [14:30:37] Absolutely. I understand that. So we
6 finish today by quarter to 4.

7 MR TAKU: [14:30:43] Yes, your Honour.

8 PRESIDING JUDGE SCHMITT: [14:30:44] Okay, of course. Please continue.

9 MR TAKU: [14:30:49] Thank you, your Honour.

10 Q. [14:30:50] Good afternoon, Witness. Witness, can you hear me?

11 A. [14:31:07] Yes, I can.

12 Q. [14:31:09] Thank you. Pursuant to the application we made this morning, we
13 will respectfully ask the Court to go to private session to ask this question because I
14 may mention the name of one of his subordinates.

15 PRESIDING JUDGE SCHMITT: [14:31:31] Okay, then we go to private session.

16 (Private session at 2.31 p.m.)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

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13 Page redacted – Private session.

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17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Open session at 2.36 p.m.)

21 THE COURT OFFICER: [14:36:59] We are back in open session, Mr President.

22 MR TAKU: [14:37:05]

23 Q. [14:37:07] Considering your considerable involvement in the case, and you

24 made your witness statement way back in 2004, and subsequently -- subsequent

25 cooperation, Witness, didn't it occur to you that there was a likelihood more than

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1 anything that you would come to this Court to clarify the Court about the procedures
2 in which evidence was gathered, about the chain of custody and several critical issues
3 in which you have special knowledge about?

4 A. [14:37:48] Your Honour, I was actually not thinking that I would be called, and
5 it's the Defence which belatedly wanted me to be called; I was not one of the listed
6 people. Because I saw the list of those the ICC wanted and I was regarded as not
7 being a priority.

8 Q. [14:38:17] Now, Witness, when you signed your statement, you signed as
9 witness, witness statements, which means that from that moment, you could testify
10 by video link; testimony could be submitted or you could come here and testify,
11 signed clearly witness.

12 A. [14:38:40] Yes, your Honour, but there are hundreds of witnesses who aren't
13 going to testify.

14 Q. [14:38:50] But, Witness, your testimony had been deferred since January about
15 two to three times to enable you come to testify. Witness, doesn't that contradict the
16 fact that you had knowledge that you were going to testify only a few months ago?

17 A. [14:39:16] Your Honour, I've just stated that is a recent event, recent
18 information to me. If it's January, that's about -- I don't even know that it's January,
19 but it's a recent event.

20 Q. [14:39:33] But you were here in The Hague, Witness, weren't you, sometime
21 early this year, and you were actually in the gallery following these proceedings? At
22 the time Acholi leaders came, you were actually here and participated in the gallery,
23 sitting there and listening to the proceedings in this case; isn't that correct, Witness?

24 A. [14:40:00] Your Honour, that is correct.

25 PRESIDING JUDGE SCHMITT: [14:40:06] May I ask something, Mr Taku?

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1 MR TAKU: [14:40:09] Yes, yes, your Honour.

2 PRESIDING JUDGE SCHMITT: [14:40:11] Mr Witness, you said that you were
3 present during some interrogations of witnesses because they wished that you are
4 present as their lawyer. Have I understood this correctly?

5 THE WITNESS: [14:40:27] Mr President, that is correct. There are certain
6 witnesses who were not willing to appear for interview with the OTP unless I was
7 there.

8 PRESIDING JUDGE SCHMITT: [14:40:42] Yes. And I refer -- perhaps you can
9 also have a read, because you had this already, to this tab 11 that Mr Taku has
10 mentioned. That is on page 1, for the record 0385 at the end of the UGA number,
11 and there I read to you from the last paragraph:

12 "Lieutenant Colonel Kanyogonya in his capacity as Director of Legal Services insisted
13 on being present during the interviews of UPDF personnel attached to the CMI and
14 who had or were still engaged in radio wave interception. His role was primarily
15 concerned with safeguarding sensitive operational methodology and was a passive
16 observer during the interview process."

17 This is not exactly what you understand as being present as a lawyer for the witnesses,
18 but perhaps you can explain this sentence a little bit that I have read to you.

19 THE WITNESS: [14:41:50] Thank you, Mr President. The way the OTP captured
20 this paragraph is actually not accurate. It is not me who insisted on being present.
21 It is the officers who told me that they were uncomfortable with being in the -- in the
22 interview without my presence in case the interview strayed into matters that would
23 have legal implications; in other words, giving out more information than was
24 necessary for the interview. So this paragraph is not accurate.

25 PRESIDING JUDGE SCHMITT: [14:42:40] Thank you. In two ways, so to speak.

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1 First of all, the -- who insisted on you being present? It was not you, you say, it was
2 the officers. And secondly, the reason why you were present. It was not -- it was
3 legal matters and not methodology or whatsoever what is mentioned here. Okay,
4 thank you. I think we have understood it.

5 Mr Taku, please continue.

6 THE WITNESS: [14:43:06] Thank you.

7 MR TAKU: [14:43:07]

8 Q. [14:43:09] Yes, Witness, in the request for the assistance we will refer to,
9 previously sent by the OTP Office of the Prosecutor, the Prosecutor insistently wanted
10 to interview a variety of individuals and also wanted to assess a variety of reports.
11 Given the answer you've given, Witness, and given the role you played as liaison
12 officer, why didn't you approach the Prosecutor, the Prosecution would also see
13 whether you could establish a mechanism by which these documents could be given?
14 And I say this because in the reports, we have heavily redacted reports, some of the
15 reports are very heavily redacted, to the extent of almost being illegible. Why didn't
16 you at least hand over those reports, give those even to us, make them available to the
17 Prosecution to help the process, and if need be establish a mechanism by which you
18 were not going to give away matters of your national intelligence or national security,
19 or matter that could compromise the interests of your government by those who were
20 helpful to us? Why didn't you do that?

21 It was for you as a liaison officer, the contact person, to assist the Prosecutor to access
22 all these documents, all the relevant information. Considering the answer you have
23 given, why didn't you do that?

24 A. [14:44:43] Your Honours, the ICC, whenever it requires clarification, writes to
25 me or writes the attorney general. It is not for me to seek assistance from them. It

1 is the other way around. If they had wanted clarification, they would have done it.

2 Q. [14:45:04] Thank you very much for that answer.

3 Now, as a matter of military discipline, and I say this for this purpose, did you
4 actually find out from these individuals why they refused, those of them who refused
5 to cooperate, did you find out from them just a matter of military discipline?

6 A. [14:45:39] Your Honours, first of all, I would request that counsel explains or
7 elucidates on those individuals he's talking about, because you are not mentioning
8 their names.

9 Q. [14:45:54] Witness, I don't want to go back, you have many requests for
10 assistance here. Many of them were UPDF, some of them, one of them was a
11 pathologist, some of them were involved in forensic analysis, some of them have
12 special status, some of them were judicial police officers, some of them were members
13 of that same commission, the general commission of -- that was established as the
14 chieftaincy of military intelligence. I have referred to them previously, they are here,
15 and it would take us really an amount of time to go -- you have the report before you
16 and I asked a question previously about this. That is what -- those are the people I'm
17 referring to.

18 A. [14:46:36] Your Honours, I cannot reply something omnibus like that. If you
19 want me to reply on a particular individual I respectfully request that you mention
20 the person whom I could have advised.

21 Q. [14:46:53] One individual, we just mentioned an individual in private session,
22 did you find out from him why he refused to meet --

23 A. [14:47:04] I think I already replied that I don't know.

24 Q. [14:47:12] Now, since you want (Microphone not activated)

25 PRESIDING JUDGE SCHMITT: [14:47:21] Mr Taku, microphone, please.

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1 MR TAKU: [14:47:24]

2 Q. [14:47:25] Since you want more information, let me at random provide you
3 with that information?

4 PRESIDING JUDGE SCHMITT: [14:47:31] And if we mention a name that is
5 protected we have to go into private session, Mr Taku.

6 MR TAKU: [14:47:36] Yes, your Honour.

7 PRESIDING JUDGE SCHMITT: [14:47:37] But let's wait what name you excavate.

8 MR TAKU: [14:47:45]

9 Q. [14:47:52] Well, the names in tab 17 and 18, it wasn't you, it was the minister of
10 justice that refused to make them available, but ...
11 One minute, your Honour.

12 PRESIDING JUDGE SCHMITT: [14:49:15] I think we could also come back to that
13 tomorrow morning, perhaps, and you can -- with Mr Rowse you can -- so you
14 can -- I think it makes more sense, I would say.

15 MR TAKU: [14:49:27] Yes, your Honour. Yes, your Honour.

16 Q. [14:49:36] Now, Witness, we have -- Witness, among the information that you
17 gave to the Prosecutor we came along tab 31, that is the Abia and Barlonyo attacks.
18 UGA-OTP-0069-0423.

19 THE COURT OFFICER: [14:50:31] (Via video link) I'm sorry, counsel, can you repeat
20 the tab?

21 PRESIDING JUDGE SCHMITT: [14:50:35] Tab 31.

22 MR TAKU: [14:50:38] Tab 31.

23 Q. [14:50:43] And we can see this -- a report about attacks, first in Abia camp
24 dated 4 February 2004: We see the number of the LDUs and Amuka militia that
25 were present at the time of the attack. We see the LDUs and Amuka militia killed.

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1 We see returnees, abductees, or former soldiers from LRA who participated in
2 Barlonyo camp attack 21/02/2004. We see commanders of Barlonyo detachment, we
3 see their names.

4 Witness, in respect of this camp we have this information. Did you have or come
5 across similar information with regard to attacks in Odek, Lukodi, Pajule, Abok?
6 Did you come across information in this form that you turned over to the Prosecutor?

7 A. [14:51:55] Your Honour, if I did, then the ICC are better placed to answer
8 because I don't remember all the documents, thousands of them, that I submitted to
9 the ICC.

10 Q. [14:52:15] But looking at this tab, this information before you, you agree with
11 me that it's comprehensive information and it gives us an idea of what took place,
12 from at least the UPDF perspective, what took place in Abia camp and Barlonyo camp.
13 Correct, sir?

14 A. [14:52:39] It looks comprehensive. And I believe on all the attacks there was
15 comprehensive information, otherwise they would not have managed to place
16 charges against the accused.

17 PRESIDING JUDGE SCHMITT: [14:52:59] But then indeed, if we look at the bulk
18 really, or the thousands and thousands of documents, it should be in the hands of the
19 Prosecution.

20 And if -- the Prosecution would have disclosed it to the Defence, if it existed, I would
21 assume.

22 MR TAKU: [14:53:16] What informs some of these questions is that the effort, the
23 effort the Prosecutor made, when I read through the RFAs to assess this information,
24 your Honour, I do not know whether finally as of now they've got, and I've also seen
25 that some of the information often (inaudible) is struggling to get some of the reports,

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1 and I will ask. So I do not know, but if they have and turn over to us, it would be
2 helpful.

3 PRESIDING JUDGE SCHMITT: [14:53:45] And by the way, if I look at this piece of
4 paper, do we know who has produced it?

5 MR TAKU: [14:53:55]

6 Q. Can you help, Witness? Who produced it? Which unit in the UPDF
7 produced it?

8 A. [14:54:05] Your Honour, looking at the document I can't tell who produced it.

9 PRESIDING JUDGE SCHMITT: [14:54:21] And because of that, since it does not
10 look really official, it looks like, yeah, perhaps an internal work product also. But
11 I'm only speculating. I don't know.

12 MR TAKU: [14:54:33] It looks like --

13 PRESIDING JUDGE SCHMITT: [14:54:33] But nevertheless the information is
14 interesting then that is entailed.

15 MR TAKU: [14:54:37] Yes, your Honour. Our interest is that we thought it was
16 generated an internal document from the UPDF, from their perspective, not as a
17 result of any investigation as such.

18 PRESIDING JUDGE SCHMITT: [14:54:47] But also what is clear is that the witness
19 that we have a video link cannot give information about the content of all the material
20 he gave to the Office of the Prosecutor. This is absolutely impossible. That really,
21 we really have to concede this to the witness.

22 MR TAKU: [14:55:05] You are right, your Honour. It's for us to put this on record
23 that the (Overlapping speakers)

24 PRESIDING JUDGE SCHMITT: [14:55:11] I understand the purpose. I'm just -- not
25 that witness gets a wrong impression that we are blaming him for not knowing the

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1 thousands and thousands of documents by heart.

2 MR TAKU: [14:55:23] Absolutely not, your Honours. He was not going to
3 replace the Prosecutor in this case. He was playing a role, that (Overlapping
4 speakers)

5 PRESIDING JUDGE SCHMITT: [14:55:29] That's also correct. Yes.

6 MR TAKU: [14:55:34]

7 Q. [14:55:37] Witness, either in your role, like a senior officer who was interested
8 in the crimes committed by the LRA and also in obtaining information which you
9 turn over to the Prosecutor, did you, Witness, ever come across -- well, Witness, I
10 have here information and I want to find out if outside the information you
11 knew -- and, Your Honour, it's in respect of tab 56, and this relates
12 UGA-OTP-0255-0067, and this relates to the fact that the LRA -- that is in 2003,
13 October 2003, as of this date the purpose of the attacks was that they were desperate
14 for food and -- very desperate about food and because of that they initiated attacks
15 which led to the UPDF attacking, exterminating them. And because of the fact that
16 there was a lack of food some of the captives and the children fled, many of them,
17 forced them to fled from the area. Did you come to know about this either in the
18 course of these proceedings or in the course of your other functions?

19 A. [14:57:27] Your Honour, this kind of detailed information would be for
20 commanders, not for somebody like me, unless I was doing an analysis.

21 Q. [14:57:41] Yes, but tab 56 is to all commanders, from commander to all division
22 commanders, and if those working at the division intelligence services,
23 counterintelligence, that was subordinate to you, whether the information reached
24 them and they informed you about the purpose for these attacks, whether it
25 was -- and also for the defections, there was evidence within this period, did you in

1 that capacity know about this?

2 A. [14:58:15] Your Honour, first of all, this message is from then commander to
3 the 5th division commander and 5th division intelligence officer. That's restricted to
4 his, the 5th division, not all commanders. And in any case, for us as intelligence
5 what we get is the information which we then analyse and then pass it back to
6 whoever is required. I did not get this.

7 Q. [14:58:49] Within the charged period, would you say that the LRA who were
8 operating in some of the bases in northern Uganda were weakened, completely
9 weakened and their numbers were just around 1,000 or below 1,000? It's the
10 operating, lots of their commanders having been disseminated in the attacks by the
11 UPDF?

12 A. [14:59:17] Your Honours, I would not like to go into operational matters. I'm
13 not an operational commander. I'm just an intelligence officer who happens to be in
14 the headquarter.

15 PRESIDING JUDGE SCHMITT: [14:59:31] Yeah. I would not say that you can
16 object, that we can object to such questions, but really this is not the right person, so to
17 speak, to ask, to ask that. Really the main, the main reason why this witness is
18 sitting at the video-link location and we have the hearing with him is that he was the
19 one who collected a lot of evidence, gave it to the Prosecution, and this process and
20 this proceeding is why the witness came as a witness into these proceedings.
21 So of course, you know, when you ask him about these operational things he might
22 have an opinion, he might have heard something, but it's not his, let me put it this
23 way, it might not be his core competence in these proceedings. So it's really -- it
24 would be -- I think the best, to focus more on these matters of collecting evidence,
25 how it was processed by the witness, as it is reflected in the written statements that

1 have been incorporated in these proceedings.

2 MR TAKU: [15:00:39] I agree, your Honours, but in his statement, and we are not
3 the ones reciting evidence for the first time, he also said that prior to being appointed
4 to this role he investigated, analysed the LRA crimes during the war. He was not
5 operational commander, but he did this. And if he investigated these crimes, he
6 must have been in a position, your Honours, not necessarily for the Prosecutor, but
7 for the operations, to inform the operations that were organised. And so from the
8 position he even occupies in the chieftaincy of military intelligence, that you see those
9 operational reports which we've seen. And he's a lawyer. I mean he is a
10 humanitarian, but he was an investigator in that case, charged with that by his senior
11 officer. That is if he did not understand it's one thing, he said, "Well, I didn't do that,
12 I didn't go there, I didn't investigate into this." But clearly to say that he will not
13 know because he was not involved in operational matters, when it is he himself who
14 has offered that he conducted this investigation, your Honours, it's surprising to me.

15 PRESIDING JUDGE SCHMITT: [15:01:47] Yeah, but this is a conclusion that you
16 take. But what I would, what I only wanted to say, I wanted more to focus perhaps
17 on the, that you focus on the matters why the witness was called by the Prosecution
18 especially. But nevertheless, as I said, the questions, I would not object to them, but
19 simply when the witness answers, "I don't know. I was not involved", we have to
20 take it as it is like always. That this is the only thing that I wanted to say about that.

21 MR TAKU: [15:02:16] Thank you, your Honours. I totally respect all the answers
22 he gives. When other evidence will come, and evidence will come to this record, if
23 we find evidence that he was more involved then, or through other witnesses, other
24 sources, the Court will evaluate it at the end of the case. But before we ask questions
25 we know exactly what we have and what we found through our own investigation

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1 and the system through the witness. So including the questions we don't want him
2 to say yes or no. He should give whatever answers he thinks he gives, who will still
3 lay out the case in (Overlapping speakers)

4 PRESIDING JUDGE SCHMITT: [15:02:50] Then please continue, Mr Taku.

5 MR TAKU: [15:02:52]

6 Q. [15:02:53] Now, as a liaison for the UPDF -- and also for the ministry of
7 defence, if they both were the same, we don't want to make that distinction, according
8 to you -- did you at some point in time become aware that some of the issues we
9 discussed in this case, especially about this case, were discussed in parliament, find
10 the minister of state for defence and the minister of state for the interior giving a
11 report to parliament about the operations, in which they also mentioned the ICC case
12 and some of the -- about the evidence that was being generated in the case? Did you
13 come to know about that?

14 And, your Honour, I have the Hansard here. The question I want to put are from the
15 Hansard. Tab 14, your Honours, UGA-D26-0014-0142.

16 Were you aware of those reports given by -- in July 2004 about the honourable
17 minister of state for the interior and honourable minister of state for the defence to
18 parliament?

19 A. [15:04:34] Your Honour, I request counsel to give me the paragraph, because
20 this is a big document which will give me a lot of time to peruse.

21 PRESIDING JUDGE SCHMITT: [15:04:43] And I think the witness has not
22 produced the document obviously. Is he referred to in the document?

23 MR TAKU: [15:04:52] Your Honours, the premise on which we are putting the
24 questions is very clear; the witness was a liaison officer. The minister would never
25 have invented a report. And it is not something accusing him that it was wrong, or

1 that he did anything wrong, I mean he has established his statement of the
2 government. We can defer the questions to this tomorrow to allow him read
3 through in the night, look through the documents.

4 PRESIDING JUDGE SCHMITT: [15:05:19] But I assume -- we should not defer
5 everything here so we get confused tomorrow. Which part of it are you interested in?
6 Where do you -- which part of it do you want to read out to him so that the witness
7 can comment on it? Or is it the whole document? I think that we cannot do this
8 exercise because there's a lot of pages.

9 MR TAKU: [15:05:42] Well, it's the whole document we will be putting to you, but
10 interestingly the honourable minister, when we start referring to it, the witness will be
11 in the position to stipulate I have also or not. But I said because he was a liaison
12 officer between the courts and the honourable minister, whether the information was,
13 I do not know, he will tell us -- I don't know the answer yet, but we will put it
14 (Overlapping speakers)

15 PRESIDING JUDGE SCHMITT: [15:06:12] But I think, I think you would have to
16 take an allegation out of it. We cannot send the witness back, and back to his hotel,
17 or whenever he is, or his home, and then give him some homework to do. I think
18 this would not be appropriate. Because, as I said, we are talking about here a lot of
19 pages, more than 30 pages, which are not, as we have already found out, not
20 produced by him obviously and he is not referred to. Simply take an allegation out
21 of it, or a question out of it, for example. Yeah, whatsoever, it's up to you what
22 you're interested in.

23 MR TAKU: [15:06:53] Yes. In fact, the intention is to get specific questions, refer
24 to specific evidence that he has alleged here and see how he responds. I mean, it's
25 just to help us help the Court in this process, because we find that irrelevant, and we

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1 find that he is one of the most, looking at his qualification, I think my -- the facts he's
2 told us he has undergone and his experience, and I think that he can, he can help us.
3 And he's a lawyer, also a military lawyer at the (inaudible) -- if he can help us in that.
4 Because a witness comes here, he makes specific statements for a particular purpose,
5 but if he can help us understand and can help the Court, he will say so. If he cannot,
6 he will give the answer he has given and we will move to some other issue.

7 PRESIDING JUDGE SCHMITT: [15:07:43] There can be no doubt about it. But he
8 could help us if you put questions to him that he can answer. So you should put a
9 question to him.

10 MR TAKU: [15:07:51] Yes, your Honour, we will do that, we will just (Microphone
11 not activated). That's tab 14, your Honours.

12 Q. [15:08:11] Yes, in respect of this discussion that we refer you to the Hansard, is
13 if in the course of, because the Hansard discusses, I mentioned about militias in the
14 camps and the specific role they played. And we've seen that you were liaison for
15 the UPDF. In the context of the information that you gathered in that position, did
16 you see specific information referring to militias? In particular, would you refer to
17 one in respect of Abia and Barlonyo? Did you come to more information that we
18 have already (inaudible) who these militias were, if you know?

19 A. [15:09:12] Your Honour, militias, militias meaning the militias Ugandan
20 militias or? The question is not clear to me and --

21 Q. [15:09:24] The militias that were in the camp that were working, collaborating
22 with the UPDF in the camps, in the IDP camps. LDUs, Amuka, other boys.

23 A. [15:09:40] And the question is? I know there was LDU, Amuka, and so on.
24 But what is the question?

25 Q. [15:09:49] In the course of the documents you collected and turned over to the

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1 Prosecutor, in particular those related to the charged crimes, did you also come across
2 information relating to the activities of Amuka, LDUs, in general these militias that
3 were associated with the UPDF in prosecuting the war?

4 A. [15:10:27] Your Honour, that kind of information would not be in the course of
5 conducting investigations to assist the ICC. That is not the kind of information -- I
6 want to make one thing clear, there are many, many different officers, apart from me,
7 who undertake different roles. This role I am talking about, and I think you
8 called -- I was called to testify, is about my linkage with ICC. But if you are talking
9 about other militias, other issues, or like this Hansard which you are bringing now, I
10 am not -- I don't (inaudible) everything because I'm a liaison for ICC. You find
11 somebody else analysing this, maybe the analysts, maybe ISO, maybe an analyst in
12 my office. So I would, I would really want you to know that my role was gathering
13 information or evidence that the ICC was interested in.

14 PRESIDING JUDGE SCHMITT: [15:11:52] Microphone, please.

15 MR TAKU: [15:11:54]

16 Q. [15:11:56] Could it be that you came across the information nevertheless and
17 found it to be irrelevant to the scope of the information the Prosecutor wanted and
18 discarded it?

19 A. [15:12:09] I have no comment on that because I don't remember. Maybe I
20 came across it. Maybe I gave it to the ICC. I think, your Honours, this is -- first of
21 all, we are talking about something which happened many, many years ago. And
22 for me to now start answering questions on minutia and without even having been
23 interested in that kind of material for so many years, I would really request that I
24 don't go into answering things that I can't recall.

25 PRESIDING JUDGE SCHMITT: [15:12:51] Mr Witness, it's no problem if then

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1 when such a question is asked and you really do not know, then simply say, "I do not
2 recall. I do not know any more". And of course, also we cannot really not expect
3 from the witness to have a comprehensive idea of all the - I repeat myself - of all the
4 material that he has provided to the Office of the Prosecutor. I think, yes, nobody in
5 the courtroom would have this idea, this comprehensive idea.

6 MR TAKU: [15:13:25] I say that, your Honours, because of tab 32 and because of
7 the fact that the Prosecutor was interested in record, document, other forms of
8 information related -- from the UPDF in relation to attacks on Abia, Barlonyo, Lukodi,
9 Pajule. I mean, it was a wide, very wide scope of the examine. I just wanted to
10 know if he got it, and since he says that he was interested in what was relevant to the
11 Prosecutor's request. It's one thing, your Honours, if we look at all these requests for
12 assistance, the scope of the Prosecutor that the Prosecutor intended but --

13 PRESIDING JUDGE SCHMITT: [15:14:05] No, no, I understand. This is of
14 course -- but this is slightly different. It might of course be of interest why some
15 requests for assistance were followed and others not. But if I recall correctly, the
16 witness has answered this already, that he does not know, if I have understood him
17 correctly.

18 And you were referring to before -- in the morning to these tabs 32 to 39, I think, all
19 these requests for assistance, yes?

20 MR TAKU: [15:14:34] Yes, your Honour.

21 PRESIDING JUDGE SCHMITT: [15:14:42] Or perhaps I may ask him if -- perhaps I
22 have understood the witness incorrectly. We have here - we don't have to look into
23 it - also one of these many requests for assistance relates to attacks on Abia IDP camp,
24 Barlonyo IDP camp, and so on.

25 First of all, do you know, were you involved in executing this request? Do you

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1 know that?

2 THE WITNESS: [15:15:13] Mr President, I could have, but I don't have the RFA in
3 front of me so I don't know.

4 PRESIDING JUDGE SCHMITT: [15:15:21] Then perhaps just for now I'm
5 interested. This is tab 32. Perhaps you have a look at it. It's UGA-OTP-0206-0109.

6 MR TAKU: [15:15:37] Your Honours, I just wanted the witness to know that we
7 are only asking him to help us. We are not blaming him; he must have done similar,
8 he might have done certain things. I don't blame him for that.

9 PRESIDING JUDGE SCHMITT: [15:15:52] Nobody blames him. And of interest,
10 and I think these are only a couple of lines, is the nature of the request, because this is
11 the -- what is really requested in the end. And then the question would be: Do you
12 know of this request for assistance? Were you involved in it? And if yes, how was
13 it executed? Or why was it not executed, if it was not executed?

14 THE WITNESS: [15:16:25] Thank you, Mr President. First of all, I'm not sure, I'm
15 not sure about whether or not I was involved in this request for assistance and
16 whether or not it was indeed replied. But I would expect that it was, because Abia,
17 Barlonyo, these were the -- these should have been responded to, if I remember. But
18 I'm not, I'm not sure.

19 I want also to explain that not everything that was done had to be handled by me.

20 PRESIDING JUDGE SCHMITT: [15:17:09] And I think --

21 THE WITNESS: [15:17:10] (Overlapping speakers)

22 PRESIDING JUDGE SCHMITT: [15:17:11] Yeah. Yeah, I understand. And
23 also -- and the problem with -- if we go through this -- all requests is that they
24 are -- their scope is very large, and that the answer to the question if the request was
25 executed or not might be different from request to request.

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1 And, for example, if we have records documents, Abia, it might be from Abia, from
2 Barlonyo, from Pagak. So, for example, we cannot claim to say that nothing was
3 executed with regard to Abia and Barlonyo because in this session we have already
4 seen, as you have said it, a comprehensive summary of what has happened there, if
5 I recall correctly. So there might -- the answer might be -- might differ.

6 And as I also said already, given the potential number of items of evidence, document
7 and so on and so forth, it would -- it's highly unlikely that the witness has a concrete
8 recollection to certain items, to specific items.

9 THE WITNESS: [15:18:23] Thank you, Mr President.

10 MR TAKU: [15:18:27]

11 Q. [15:18:29] Do you know or do not know whether the JIC recorded statements
12 from witnesses which they turn over -- handed over to you to turn over to the
13 Prosecutor?

14 A. [15:18:57] Your Honour, I think you are asking about the JIC subcommittee
15 when you say JIC and whether they took statements? Am I correct?

16 PRESIDING JUDGE SCHMITT: [15:19:20] Microphone, please.

17 MR TAKU: [15:19:21]

18 Q. [15:19:22] Sorry about that. I wanted to know whether, from the description
19 of their functions that you gave, did they go out and take statements from witnesses
20 related to these crime bases in the course of their activities? And if yes, did they turn
21 over those statements to you or they withheld them?

22 A. [15:19:43] I'm not sure about that.

23 PRESIDING JUDGE SCHMITT: [15:20:09] And a further slight complication, so to
24 speak, with requests for assistance is that they sometimes date back to times when
25 there were five potential suspects and they might relate to other persons than

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1 Mr Ongwen. So this also makes it difficult really to follow exactly what happens
2 concretely to certain requests for assistance.

3 MR TAKU: [15:20:41] Yes, your Honours. The Prosecutor clearly had this
4 information. Looking at the scope and the mode of liability charged, it is not just
5 about the seven charges that were initially put on Mr Ongwen when they asked for
6 the warrant. It is now 70, and the scope of the evidence which has been led here,
7 and you very, very see why it's relevant, that this wider scope could still be material
8 in some ways, your Honour.

9 PRESIDING JUDGE SCHMITT: [15:21:16] But I only pointed to the difficulties that
10 we have with these documents.

11 MR TAKU: [15:21:28]

12 Q. [15:21:28] Did you in the course of that -- the documents that came to your
13 possession, did you have death certificates and autopsy reports?

14 A. [15:21:49] Your Honours, I'm not sure about that, apart from -- apart
15 from -- the police and members of police investigations in Gulu had those kinds of
16 reports.

17 Q. [15:22:11] Did you also have victim identification information?

18 A. [15:22:17] I think all that was police.

19 Q. [15:22:20] And did the police turn over this to the commission, for the
20 commission? If yes, did the commission turn them over to you for disclosure to the
21 Prosecutor?

22 A. [15:22:34] If they did turn them over to me, then they must have been handed
23 over to the ICC.

24 MR TAKU: [15:22:43] Well, your Honours, this is in respect of (inaudible) more
25 from his answer, tab 36, UGA-OTP-0206-0079 to 0091.

1 Q. [15:23:25] You've consistently told the Court that you were not the only person
2 that would normally provide information to the Prosecutor in this case. Did you
3 know if, apart from you, there were other liaison officers or -- who would normally
4 intervene in this process to disclose, gather, obtain and disclose information to the
5 Prosecutor? Did you know? If yes, please inform the Court.

6 A. [15:24:03] Your Honour, I think I mentioned some of them in the closed
7 session and I said yes.

8 Q. [15:24:19] While we were in closed session, we were talking about your
9 subordinates. I wanted to know, all these subordinates, they were also liaison or
10 contact officers or intermediaries?

11 A. [15:24:32] Your Honour, not only subordinates. Your Honour, (inaudible) my
12 superior. Yes, they carried out the same functions just like I did.

13 Q. [15:24:45] Now, how did you organise the disclosure regime? Did they -- was
14 all the information -- I mean, all the information given to you from the chieftaincy of
15 military intelligence and the commission and you gave to the Prosecutor? Or these,
16 your subordinates, could themselves, without passing through you, exercise the same
17 function and hand over information direct to the Prosecutor, and the Prosecutor
18 would receive and issue the forms signed by them, like the ones we've seen here?

19 A. [15:25:22] Your Honour, I think the best thing would be to look at the forms
20 and see whether other people indeed handed them over to the ICC. I wasn't -- I
21 wasn't always in that office, as I said earlier. I was away for one year and the ICC
22 definitely continued with the process when I was not in that office.

23 Q. [15:25:51] Can you please, perhaps in private session, very briefly provide the
24 name of the person who took over or would have acted in your absence for the one
25 year you were away.

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1 A. [15:26:08] Your Honour, I had already mentioned him, but I can repeat.

2 PRESIDING JUDGE SCHMITT: [15:26:12] No, you don't have to repeat. If there
3 are no other persons, then I think you don't have to repeat it.

4 And just for my understanding now, I direct myself to the, from my perspective, right
5 side of the courtroom. Normally the Prosecution would know who provided you
6 with the documents and the evidence items generally speaking, or wouldn't you?

7 MR BLACK: [15:26:39] Absolutely, your Honour. And the PRFs, the
8 pre-registration forms, that we saw attached to the second statement of this witness
9 show evidence that came from him. Other pre-registration forms show
10 witnesses -- or other sources of information. P-27, I think, is one that comes to mind.
11 Several other liaisons, depending on the agency that was at issue.

12 PRESIDING JUDGE SCHMITT: [15:27:01] So what was -- my question behind the
13 first question is so that this has been disclosed to the Defence who was responsible for
14 providing this information and this material?

15 MR BLACK: [15:27:13] Yes, your Honour, I believe that's right. It should be on
16 the chain of custody and eCourt, among other places.

17 PRESIDING JUDGE SCHMITT: [15:27:20] Okay. I think, Mr Taku, we can move
18 to another point then.

19 MR TAKU: [15:27:24] Your Honour, we'll definitely verify that we conducted a
20 search for this material and we've also many times asked the Prosecutor to disclose
21 some information. We know that they are in Court at the same time looking at this.
22 They will look at our request, pending requests, and give us the information they find.
23 But we will go back again and verify and come back to the Court about this, because
24 this is an important issue.

25 PRESIDING JUDGE SCHMITT: [15:27:50] Yes, but you know the questions that

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1 have to be asked in the presence of this witness, and by this witness I think we cannot
2 do more at the moment in that respect, so we would have to move to the next point.

3 MR TAKU: [15:28:03] Yes, yes, your Honour.

4 Q. [15:28:06] Now, Witness, when you fulfil the mandate with the Prosecutor, did
5 you also write a report to your superiors, those who appointed you as the contact
6 person, give a report to them informing them about the information that you
7 disclosed to the Prosecutor and make the comprehensive report to them to tell them
8 that you were carrying out the assignment and telling them about that on the basis of
9 the information that you were giving over to the Prosecutor, to your superiors? I
10 presume that would be -- that would be the high command of the army and
11 chieftaincy of -- the chieftaincy of military intelligence?

12 A. [15:28:57] Your Honour, I made periodic reports whenever necessary to the
13 minister of defence, to the chief of military intelligence as required.

14 PRESIDING JUDGE SCHMITT: [15:29:20] Yes, just, you know, when you go
15 through all these documents and there is a short gap, you have some finding. So, for
16 example, if we look at our last tab that has been discussed, tab 36, and we look at page
17 0085, for example, we see "Provided by Ugandan police deputy inspector" and then
18 comes a name, I don't know if he's protected, so I don't read it out. So we have at all
19 sort of locations, so to speak, in documents we have given a source and we have given
20 a name of a person who has provided the information.

21 So it is really a cumbersome, a really cumbersome process to go all through this, but
22 yes, the witness has said what he has provided to the Prosecution and especially
23 I think this is entailed in the second statement, if I understand it correctly, from the
24 Prosecution. And this is -- and really he cannot go beyond that, he cannot talk about
25 things he has not been involved in.

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1 MR TAKU: [15:30:31] Yes, your Honour. He was able to provide that
2 information because as he explained, he obtained the information from various
3 sources and some of the -- and he in his notes he explained the sources from which he
4 obtained the information. That's why with regard to the Prosecutor they were able
5 to know that this came from the police, this came from ISO, this came from this. I
6 did not seem to understand his statement to mean that the police and others were also
7 coming -- I don't know whether the Prosecutor will explain or the case is still
8 unfolding, but I understand this witness to say that somehow the material came from
9 different units, including ISO and others, they came to this commission and they gave
10 to him, he looked through and he did the disclosure to the Prosecutor, evidenced by
11 these forms that he said. But let's see how the Prosecution case unfolds and see
12 exactly how this matter will be addressed. Now he has given an answer, we take the
13 answer for what it is and we'll proceed to something else, your Honour.

14 PRESIDING JUDGE SCHMITT: [15:31:35] Yes.

15 MR TAKU: [15:31:36] But also, your Honours, in the request for assistance the
16 Prosecutor was asking for these police officers to be made available for interview
17 among the number of people that they were requested and some officers and so of
18 course the answer is the same, he says he may not know, but the request for
19 assistance clearly stated among them the police and other sources from which the
20 information might have been got.

21 PRESIDING JUDGE SCHMITT: [15:32:10] And we have -- and as I pointed out, we
22 have here at tab 36, 0085 an instance where another source is, yeah, entailed and given
23 and, yes, it -- I have to say sometimes really on a case-by-case document-by-document
24 basis the information -- where the information is coming from, the source of the
25 information is given somewhere. So the -- Mr Witness, Mr Kanyogonya does not

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1 have -- did not have everything in his hands, so to speak.

2 THE WITNESS: [15:32:51] Mr President, if I, if I may.

3 PRESIDING JUDGE SCHMITT: [15:32:54] Yes.

4 THE WITNESS: [15:32:55] I would like to add that the minister of justice had
5 another focal point, indeed it was the superior focal point for even me. So whatever
6 he channelled out to ICC I believe was not even the majority of the documents. For
7 instance, this particular one you referred to, 0085, I believe it went through the
8 minister of justice. So this is the clarification I thought I would, I would make.

9 PRESIDING JUDGE SCHMITT: [15:33:28] Thank you.

10 Please continue, Mr Taku.

11 MR TAKU: [15:33:33]

12 Q. [15:33:34] Yes, Witness, we referred -- we referred to documents, requests
13 were made to the minister of justice and the answer they gave. But we have here
14 also -- given the answer you gave, that they also asked for forensic reports and other
15 reports that would normally be obtained by the CID in the course of the investigation.
16 I presume, Witness, that the UPDF were not conducting investigations when the CID
17 conducting investigation, criminal investigations; would I be right to say that?

18 A. [15:34:13] Your Honour, I've not even heard the question. I request you to
19 repeat the question.

20 Q. [15:34:18] I said ordinarily to your knowledge the UPDF were not conducting
21 criminal investigations of this kind, it is the CID, one of the -- one of the organisations
22 you mentioned that constituted the committee, they were the ones who were
23 specialised to conduct criminal investigations and therefore the requests for forensic
24 reports, autopsy, death certificate, birth certificate, all those involving the crimes
25 would normally have been conducted by the CID who would later on form part of

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1 that commission in the chieftaincy of military intelligence, the commission CID?

2 A. [15:35:02] Yes, but with one caveat. First of all, I had earlier said that it was
3 not because you are centring it at the chieftaincy of military intelligence, which is not
4 correct. The JIC subcommittee does not have -- was not based at CMI, it could be
5 based at ISO, it could have been based at police, depending on what matter we were
6 investigating. For instance, the forensics, that would be at the police headquarters.
7 So it was rotational.

8 Q. [15:35:40] Thank you very much for that answer, Witness.

9 MR TAKU: Your Honours, if we can continue tomorrow with this. At this point in
10 time if I can be released to --

11 PRESIDING JUDGE SCHMITT: [15:35:54] So this is a request for assistance --

12 MR TAKU: [15:35:57] Yes, your Honour.

13 PRESIDING JUDGE SCHMITT: [15:35:58] -- by the Chamber, so to speak.

14 MR TAKU: [15:36:01] So the superior of the --

15 PRESIDING JUDGE SCHMITT: [15:36:04] In a broad, in a broad understanding, of
16 course.

17 MR TAKU: Yes, your Honour.

18 PRESIDING JUDGE SCHMITT: Yes, but you understand that we finish the witness
19 tomorrow, this is --

20 MR TAKU: [15:36:09] Absolutely. Absolutely, your Honour.

21 PRESIDING JUDGE SCHMITT: [15:36:11] Okay. Okay. So then we abate the
22 proceedings for -- no caveat, Mr Taku.

23 MR TAKU: [15:36:18] I'm sorry, your Honours. I can't give the answer when the
24 person who has the authority to give the answer is here. So --

25 PRESIDING JUDGE SCHMITT: [15:36:26] But Mr Ayena has not given the

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1 impression that he would contradict you vehemently.

2 MR TAKU: [15:36:36] (Overlapping speakers) lead counsel and I note the authority
3 of lead counsel, your Honour, so I absolutely respect him.

4 PRESIDING JUDGE SCHMITT: [15:36:42] Mr Gumpert.

5 MR GUMPERT: [15:36:43] I'm the next up. Does what your Honour says mean
6 that the next witness won't start tomorrow? Or if we finish early in the day, may I be
7 on in the afternoon say?

8 PRESIDING JUDGE SCHMITT: [15:36:59] If we had -- this would be depend if we
9 had a realistic prospect that the Defence finishes by tomorrow after the second session,
10 if we had -- but otherwise it would not make sense to have all these preparations. So
11 if you could say something in that respect, Mr Ayena, perhaps.

12 MR AYENA ODONGO: [15:37:23] Mr President and your Honours, you suggested
13 very strongly that I did not indicate any -- I did not give the impression that I would
14 change anything, but if now that you ask for it, Mr President, I think I have looked at
15 the vicissitudes and vacillations during this process, I think there is quite a number of
16 things to clarify from the learned witness.

17 PRESIDING JUDGE SCHMITT: [15:38:01] Then I think we can make it shorter.
18 We put ourselves and especially we don't put you under further pressure, meaning
19 that we simply have the next witness on Wednesday and not tomorrow afternoon or
20 something like that. Simply like that.

21 MR AYENA ODONGO: [15:38:17] That sounds music to my ears. After all,
22 Mr President, you remember yesterday you had already given us up to Wednesday,
23 so I was guided by that.

24 PRESIDING JUDGE SCHMITT: [15:38:29] Yes, that's also true, yes, and we should
25 stick to what we have said. But sometimes, you know, things change and

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- 1 proceedings evolve and so on.
- 2 But nevertheless, we abate the proceedings for today and we continue tomorrow
- 3 at 9.30.
- 4 We thank you for today, Mr Kanyogonya, and we will see each other tomorrow
- 5 morning again.
- 6 THE WITNESS: [15:38:51] Thank you.
- 7 THE COURT USHER: [15:38:52] All rise.
- 8 (The hearing ends in open session at 3.38 p.m.)