

1 International Criminal Court
2 Trial Chamber IX
3 Situation: Republic of Uganda
4 In the case of The Prosecutor v. Dominic Ongwen - ICC-02/04-01/15
5 Presiding Judge Bertram Schmitt, Judge Péter Kovács and Judge Raul Pangalangan
6 Trial Hearing - Courtroom 1
7 Monday, 27 February 2017
8 (The hearing starts in open session at 9.30 a.m.)
9 THE COURT USHER: [9:30:52] All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE SCHMITT: [9:31:11] Good morning, everyone.
13 Could the court officer please call the case.
14 THE COURT OFFICER: Thank you, Mr President.
15 The situation in the Republic of Uganda, in the case of The Prosecutor versus Dominic
16 Ongwen, case reference ICC-02/04-01/15.
17 We are in open session.
18 PRESIDING JUDGE SCHMITT: Now I call for the appearances of the parties.
19 On his special day, Mr Gumpert, please first.
20 MR GUMPERT: Your Honour has an elephantine memory.
21 I appear today, together with Pubudu Sachithanandan, Julian Elderfield, Adesola
22 Adeboyejo, Yulia Nuzban, Colleen Gilg, Ramu Fatima Bittaye, Kamran Choudhry,
23 Mari Pilvio, and Colin Black.
24 PRESIDING JUDGE SCHMITT: Thank you very much.
25 And now for the Legal Representatives of Victims, please.

1 MS ADONG: [9:32:12] Thank you, Mr President. Jane Adong, appearing together
2 with Mr Orchlon Narantsetseg, Caroline Walter and Jacqueline Atim.

3 PRESIDING JUDGE SCHMITT: [9:32:22] Thank you. And.

4 MS HIRST: Good morning, your Honours. I am Megan Hirst, legal assistant, in
5 place of Joseph Manoba and Francisco Cox. With me today is James Mawira.

6 PRESIDING JUDGE SCHMITT: [9:32:39] And for the Defence, please.

7 MR AYENA ODONGO: [9:32:41] Good morning, your Honours.

8 I'm Krispus Ayena Odongo, I'm assisted by co-counsel Charles Achaleke Taku,
9 Mr Obhof Thomas and Abigail Bridgman. Thank you. Our client is in court.

10 PRESIDING JUDGE SCHMITT: [9:33:08] Thank you very much.

11 A little bit short disturbance here at the Bench resulted because, when I want to hear
12 English I have to switch to French. So I had to accustom myself to that first.

13 Thank you very much for the appearances and now we first have to issue an oral
14 decision.

15 Before the start of the testimony of the next witness, the Chamber wants to quickly
16 address an issue regarding one of the documents that the Prosecution wants to put to
17 the witness.

18 The Chamber notes the discussion between the Prosecution and the Defence about the
19 usage of a list of pseudonyms for a number of people. The Prosecution proposes
20 that 12 persons are only referred to by a pseudonym during the testimony of P --

21 THE INTERPRETER: Please do not speak so fast.

22 PRESIDING JUDGE SCHMITT: [9:34:10] The Defence argues that -- too quick?

23 Since I always reproach witnesses and everybody else in the courtroom not to be so
24 quick, I have to take this on myself too of course. So then we try it a little bit slower.

25 The Defence argues that the usage of pseudonyms exceeds the protective measures

1 granted by the Chamber for P-3 and constitutes a de facto request for reconsideration
2 of the Chamber's decision granting these protective measures.

3 The Defence further submits that not all of the 12 persons concerned have been
4 provided with protective measures and that there is no need that they are subject of
5 such measures.

6 The Chamber notes that in decision 651 it granted as protection measures for P-3 the
7 use of pseudonym, facial distortion and a limited recourse to private session to elicit
8 identifying information and information related to the witness's current employment.

9 The Chamber is of the view that the list with pseudonyms does not constitute a new
10 protective measure. According to the Prosecution, which we follow here, all 12
11 persons are either still working in positions which concern the security interests of
12 Uganda or the mentioning of their name could identify P-3. The reason for the
13 pseudonym is therefore not a new protective measure vis-à-vis these persons, but to
14 protect the identity of P-3 or to protect the legitimate interests of the Ugandan
15 government as identified in decision 651.

16 Consequently, and this is of course most important, the name of these 12 persons
17 would have to be mentioned in private session. By providing a listing of
18 pseudonyms for these people, the usage of private session can be limited, an objective
19 which was previous encouraged by the Chamber.

20 Accordingly, the Chamber finds that the list of pseudonyms can be put to the witness
21 and the persons on that list can be referred to by pseudonym.

22 Further, the Prosecution is instructed to file the list into the case record in order to
23 assure its future availability.

24 This concludes the Chamber's oral decision.

25 A short additional comment by the Presiding Judge, it is about the following: The

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 list of the pseudonyms might help to avoid recourse to private session, a goal that all
2 in the courtroom here would like to achieve. I envisioned a little bit that it will not
3 be easy because we have 12 pseudonyms, but we give it a try.

4 Now the Prosecution is, as I understand it, of course calling P-3 as its next witness,
5 and the court usher please bring in this witness.

6 In the meantime, English is again English here.

7 (The witness enters the courtroom)

8 PRESIDING JUDGE SCHMITT: [9:38:52] Mr Witness, good morning. I welcome
9 you in the courtroom. You are going to testify before the International Criminal
10 Court.

11 To explain to you who the person is sitting next to you, this person is there to help
12 you turn the pages in the binder of documents that the parties want to go through
13 with you.

14 Mr Witness, there should be a card in front of you with the solemn undertaking to tell
15 the truth. Could you please read this card aloud.

16 WITNESS: UGA-OTP-P-0003

17 (The witness speaks Acholi)

18 THE WITNESS: [9:39:39] (Interpretation) I swear that I will tell the truth, the
19 truth and nothing but the truth.

20 PRESIDING JUDGE SCHMITT: [9:39:56] Thank you very much, Mr Witness. Let
21 me now explain to you the protective measures that the Chamber has put in place for
22 your testimony.

23 The following measures are put in place for you: Face distortion, which means that
24 no one outside the courtroom can see your face during the testimony on the screen.

25 There will also be the use of a pseudonym, in accordance with that we will refer to

1 you only as "Mr Witness" to make sure that the public does not know your name.
2 When you answer questions that will not give away who you are, we will do so in
3 open session, which means that the public can hear what is being said in the
4 courtroom. When you are asked to describe anything that relates specifically to you
5 or you are asked to mention facts that might reveal your identity, we will do this in a
6 private session.
7 I explain to you what that means, private session. There is no broadcast and no one
8 outside the courtroom can hear your answer.
9 If ever anything gets said during open session which should have been said in private
10 session, we will do our best to protect this information. Your testimony will be
11 broadcast on a delay and we can remove any such remarks from the broadcast which
12 will be heard by the public and from the public transcript of the proceedings.
13 Mr Witness, have you understood all that?
14 THE WITNESS: [9:41:52] (Interpretation) Yes, I have understood.
15 PRESIDING JUDGE SCHMITT: [9:41:56] Before we turn to your testimony, we
16 have a few practical matters that you should have in mind when giving your
17 testimony:
18 Everything we say here in the courtroom is written down and interpreted. It is
19 therefore important to speak clearly and at a slow pace. Please speak into the
20 microphone and only start speaking when the person asking you the question has
21 finished. To allow for the interpretation, everyone has to wait for a few seconds
22 before starting to speak.
23 If you have any questions yourself, raise your hand so we know that you wish to say
24 something.
25 Have you understood all that too?

Trial Hearing
UGA-OTP-P-0003

(Private Session)

ICC-02/04-01/15

1 THE WITNESS: [9:42:49] (Interpretation) Yes, I have understood.

2 PRESIDING JUDGE SCHMITT: [9:42:51] We will then start your testimony. The
3 Prosecution has the floor and the Prosecution has of course to explain what it means,
4 this list of pseudonyms.

5 MR ELDERFIELD: [9:43:00] Thank you, your Honour.

6 QUESTIONED BY MR ELDERFIELD:

7 Q. [9:43:07] Good morning, Mr Witness.

8 My name is Julian Elderfield and I'll be asking you questions over the next few days.

9 MR ELDERFIELD: [9:43:20] Your Honours, private session for about five minutes,
10 please.

11 PRESIDING JUDGE SCHMITT: [9:43:25] Yes, then we go into private session
12 please.

13 (Private session at 9.43 a.m.)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
UGA-OTP-P-0003

(Private Session)

ICC-02/04-01/15

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Open session at 9.46 a.m.)
- 16 THE COURT OFFICER: [9:46:45] We are in open session.
- 17 PRESIDING JUDGE SCHMITT: [9:46:47] And thank you, Mr Elderfield, that you
- 18 assessed a little bit the length of the need to be in private session. This is I think a
- 19 very good thing. Of course we would not count the seconds then, but it's very good
- 20 for people in the gallery that they know when they can expect to hear again what is
- 21 being said in the courtroom.
- 22 Please continue.
- 23 MR ELDERFIELD: [9:47:11] Thank you, your Honour.
- 24 Just to be clear, per your direction we'll file the document in the case record, so it
- 25 won't be on the transcript today but we will be able to cross-refer the names later on.

1 Q. [9:47:29] Mr Witness, what languages do you speak?

2 A. [9:47:37] I speak a little bit of English, Kiswahili and Acholi.

3 Q. [9:47:48] And can you write those same languages?

4 A. [9:47:57] Yes, I can write.

5 Q. [9:48:01] I'm going to ask you during the course of today and tomorrow
6 questions about six areas. Firstly, we're going to go over your work history and
7 training; second, the UPDF interception operation in Gulu; third, the procedure you
8 followed when you intercepted communications; fourth, how the LRA used the radio;
9 fifth, the times you met ICC staff; and finally I'm going to play you several sound
10 recordings so you can help us understand what's in the transcripts of those. Do you
11 understand?

12 A. [9:48:51] Yes, I have understood.

13 Q. [9:48:56] Mr Witness, when did you join the UPDF?

14 A. [9:49:09] I joined the UPDF in 1987.

15 Q. [9:49:20] Can you please briefly describe to the Court your career, not what
16 you're doing now, but perhaps from when you joined up until a few years ago.

17 A. [9:49:43] Thank you. I joined the army and I underwent training to become
18 an effective soldier. When I completed the training, I was posted or taken to work in
19 the field or participate in field operations. So when I completed the field operations,
20 I joined to do some courses. There were many courses that I did, I can't remember
21 all of them now, but one of them as an instructor. Another course that I did was in
22 intelligence. I also did a course in signals. And afterwards, I went back to do
23 another course which then actually brought me to do my current job, which is
24 technical intelligence.

25 This course was very important to the UPDF, or the Ugandan army, especially the

1 most important one was the one of technical intelligence which I was, you know,
2 trained on how to identify the voices to understand who is speaking. And for one to
3 qualify to undertake this course and to confirm that this is the voice or this is the
4 person who is speaking, you are taken to the field and, while using my intelligence or
5 oral skills in signals. When I speak about signals, some people here may not
6 understand it, but this means when a group of soldiers communicate using radio calls
7 and you might find that there are, like, 20 different stations. So to be qualified to do
8 technical intelligence where you are able to identify the different voices, identify the
9 call signs, you undergo through interviews and these interviews are done through the
10 army's radio call. And you are assigned to identify who is speaking and you are
11 asked "What about the other voice? Who is using that call sign?"
12 So after, after that you are tested and you are taken to the examiner to confirm if
13 indeed you can differentiate between the different voices that you have heard.
14 PRESIDING JUDGE SCHMITT: [9:53:32] May I just shortly interrupt. I think you
15 are now, Mr Witness, I don't want to stop you rudely, but you are now, of course, I
16 think answering questions that Mr Elderfield wanted to put to you in the future.
17 MR ELDERFIELD: [9:53:49] Your Honour, the English channel has just reverted to
18 Acholi, so I wasn't able to follow what you were saying. I'm sorry.
19 PRESIDING JUDGE SCHMITT: [9:53:59] Then I repeat it.
20 I said, I think it was, might be in your interest what I said, because it seems that the
21 answers of this witness might shorten the number of your questions significantly, so
22 to speak. But it's of course up to you how you conduct it.
23 But if the witness, which is not a problem, answers future questions, you don't have
24 to put them again to him. Just to alert you to that. Thank you.
25 MR ELDERFIELD: [9:54:30] Thank you, your Honour.

1 Q. [9:54:31] Mr Witness, this training that you're talking about, what year was
2 this?

3 A. [9:54:44] This training was conducted between 2000 and 2001.

4 Q. [9:54:56] And who gave this training?

5 A. [9:55:08] The training was conducted by one army officer called Okello
6 Adupango (phon). He was the one that was providing this training.

7 Q. [9:55:24] And what equipment were you using to listen to radio
8 communications?

9 A. [9:55:33] As I said before, the communications in the army mostly is used
10 through radio call and there are different types of radios. There is that which is
11 called PRM, another one is Icom, another one is Yaesu, even sometimes walkie-talkie.
12 But the most important one that I was trained in is PRM.

13 Q. [9:56:15] And how many others were on the course with you?

14 A. [9:56:30] It's difficult to tell because we were two people, but I was the only
15 one that qualified because the other colleague was not able to identify properly and
16 did not follow the training guidelines. And at times when we were to do practicals
17 he would not be available, so he was disqualified during the course so I remained
18 alone.

19 Q. [9:57:13] And whose radio communications were you using to practice?

20 A. [9:57:32] These were radios that were already being used by this officer to
21 intercept LRA communication, but even sometimes we would intercept
22 communications of the Sudanese government. It was majorly to intercept the LRA
23 communications. I think the reason why I was asked to do this training because
24 there were some difficulty because there were, many people were not doing this work
25 properly. That's why I was trained in this line.

1 Q. [9:58:15] So in total can you estimate how many years you've been working as
2 a signaller in the UPDF?

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. [9:59:18] And how many of those years did you spend listening to the LRA?

9 A. [9:59:38] Right from 2000, the course took a very short time. Majorly I
10 concentrated mostly in intercepting radio communication from 2001, majorly from
11 2001. And this was basically the monitoring of the LRA communication started in
12 2001, but the usual signal communications I began in 1997, that is the signal work.
13 This is the normal signal work, but not technical intelligence of monitoring the LRA,
14 which started 2001/2002.

15 This same assignment actually was in a way connected with the signal, ordinary
16 signal and into advanced signalling work, and that's why we call it technical
17 intelligence.

18 Q. [10:00:54] So just to be clear, you started working as a signaller in 1997 and
19 you started listening to the LRA in 2001?

20 A. [10:01:12] Yes, that's correct.

21 Q. [10:01:16] What year did you stop listening to the LRA?

22 A. [10:01:31] I stopped listening to the LRA communication at the time that they
23 had already gone to Central Africa because the range was now very wide and it
24 wasn't clear. If I can remember, it should be around 2005, 2006. I don't quite
25 remember. But the time they left Sudan and entered into Central Africa, that's when

1 now the range became so wide so we couldn't pick them clearly.

2 Q. [10:02:06] How did your skills and experience compare to other signallers in
3 the UPDF?

4 A. [10:02:27] Languages are different, the languages are different. They speak
5 using proverbs so the signallers do not understand it. That's why even if you're an
6 Acholi or a Lango --

7 Q. [10:03:00] Mr Witness, Mr Witness, sorry, I'm going to have to stop you there
8 and ask you to repeat your answer because we weren't hearing the translation. Can
9 you start again, please?

10 PRESIDING JUDGE SCHMITT: [10:03:08] Perhaps shortly may I say, Mr Witness,
11 this is of course not your fault. This is a technical problem. So we have to say sorry
12 for that. Please try to repeat what you have said.

13 THE WITNESS: [10:03:28] (Interpretation) Can you please repeat the question?

14 MR ELDERFIELD: [10:03:30]

15 Q. [10:03:31] Mr Witness, how do your skills and experience compare to others in
16 the UPDF, other signallers in the UPDF?

17 A. [10:03:48] My skills and experience, well, I cannot assess it myself, but the
18 UPDF soldier are the ones who can assess and they can make the assessment and tell
19 me how good my work is, but I cannot actually decide how good my work is. My
20 superiors have to assess that.

21 PRESIDING JUDGE SCHMITT: That's fair, I would say, Mr Elderfield.

22 THE WITNESS: (Interpretation) If I tell you that my experience is higher than
23 others, then I would actually be increasing my own professional experience. So the
24 difference between my work and my other -- and the other signallers is what has
25 brought me actually here and that is what has made me come here. Thank you.

1 MR ELDERFIELD:

2 Q. [10:04:50] Mr Witness, from what different locations from 2000, 2001 up to
3 2005, from which physical locations have you intercepted LRA radio
4 communications?

5 A. [10:05:11] At the beginning it wasn't that important. When we started doing
6 the training, it wasn't that important. They would speak and we weren't actually
7 interested in intercepting it. But at some point when the superiors started
8 acknowledging the work and realised how much the work would help them in the
9 operations, and on this occasion the superior commanders, the people with whom we
10 were training realised how important it is to record these things and to keep a record
11 of it, because they realised that whatever would happen in the future was not so sure.
12 At the beginning we did not record it, but at some point when the superiors realised
13 how important it is, that's when they decided that we should record this. Then they
14 started buying the machines to record the voices. They bought the batteries and
15 other equipment that was necessary for us to conduct our work. That's when they
16 realised the importance of recording, because there are certain things that even if you
17 do not hear it properly, some of the things are not important; if you don't hear
18 something properly then, you can actually play back the recording for it to make
19 sense.

20 Q. [10:06:47] Mr Witness, I'll just stop you there. We'll get on to that later in the
21 testimony. So I'll ask you to answer my questions about your procedure when we
22 come to them.

23 What I'd like to understand is from which physical locations during your career
24 listening to the LRA, physically in terms of towns or locations, where you were when
25 you intercepted?

1 A. [10:07:17] Thank you. I was intercepting voices from the town. There are
2 occasions when we actually go to the field on operations, but most occasions I was
3 based in Gulu town in the 4th division barracks.

4 So on the occasions that I would go to the field, at times intercepting voices would be
5 a problem because when you are in the field, you don't have everything, so
6 sometimes it makes it difficult to record voices. But when you are in the base, then it
7 makes it easier.

8 Well, the LRA did a number of things, so sometimes it was very difficult. We had to
9 go to the field and sometimes we also had to work from the barracks.

10 Q. [10:08:16] Let's focus now on your time working in the 4th division barracks in
11 Gulu. When did you first start intercepting there, what year, month or year, if you
12 can remember?

13 A. [10:08:38] Well, I cannot recall that well. Well, I cannot really recall because
14 it's been, it's been quite a while I haven't actually been thinking about that, but it's
15 been a while. And the tapes, there is some information, the records and the tapes
16 will actually show the time that I started. But luckily the tapes are available and the
17 tapes are dated, so the information is on the tapes. Thank you.

18 Q. [10:09:13] Do you remember if you started in Gulu before or after Iron Fist,
19 Operation Iron Fist?

20 A. [10:09:28] It was during. When Iron Fist started we were already intercepting
21 voices.

22 Q. [10:09:38] And where in the barracks, in the 4th division barracks in Gulu were
23 you intercepting from?

24 (Redacted)

25 (Redacted)

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 (Redacted)

2 Q. [10:10:13] Mr Witness, I'd like you to open your binder to tab 7, please.

3 The ERN is 0244-3308 and it's a confidential document.

4 Mr Witness, do you recognize this photograph?

5 A. [10:10:51] Yes, I do recognize it.

6 Q. [10:10:54] What is it?

7 A. [10:11:03] That's my office, that's where my office is located.

8 Q. [10:11:11] Can you please turn over the tab to tab 8.

9 The ERN is 0244-3352, and this is also confidential.

10 Do you recognize this photograph?

11 A. [10:11:43] Yes, I recognize the photo.

12 Q. [10:11:47] What is it?

13 (Redacted)

14 (Redacted)

15 Q. [10:12:08] Thank you. You can close your binder now.

16 Mr Witness, I want to focus your mind to the period 2002, so around or just after Iron

17 Fist, to 2005. Who else was working in the building that you've seen in these

18 photographs?

19 A. [10:12:44] Well, there were a number of people who were working, who were
20 doing the same job. I wasn't the only person who was doing the same -- that job.

21 There were a number of people who were intercepting calls, and I was told not to
22 identify them. I do not know whether I should do that, because I was told not to
23 identify people.

24 Q. [10:13:06] Thank you. Do you have the piece of paper again in front of you
25 with the list of names and the orange colour at the top? If you worked with any of

1 those people, perhaps you can read them out using the code that we agreed on,
2 person 1, 2, 3, 4, et cetera.

3 A. [10:13:43] Yeah, I do see some of the people. Number 1, he was our superior
4 and is still our superior and he's the person I send my reports to.

5 Number 2, number 2 was among the people who were in a group that were working
6 there before I came, but I understand that they were dismissed. They used to work
7 in that office.

8 The third person was somebody who did not understand the language very well.

9 I would write, draft a message or the intercept, I would give it to him and he would
10 write it in English. He was an Ateso and he did not understand English very well.

11 So what he used to do was to record whatever it is that I had written down.

12 Number 4 was somebody that I instructed, because the work had, work schedule had
13 become heavy and the superiors had decided that I should take a break to enable me
14 to conduct my work properly.

15 There was number 6, somebody that they brought to me and I also instructed this
16 person, and up to date the person is also working.

17 Number 7, number 6 and 7 are the same, they are people that I instructed and they're
18 all currently working.

19 Number 8 is the overall commander and he's the one who commands us during the
20 operations. He also had other technology. When those people speak he uses a
21 machine that performs direction finding, so when -- from the location that these
22 people speak from, he does the comparison to find that location and to locate it. So
23 at that particular moment he will actually locate the exact place that they are speaking
24 from.

25 Number 11 and number 12, they were, they were there to help, maybe collect the

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 intercept books and take them, or plot the coordinates of the locations from which
2 these people were speaking. Once number 8 plots the coordinations, number 11 and
3 number 12 would deliver these coordinates to the commanders.
4 If, for example, I'm very busy then they would also help with the books. They are all
5 in the same department of the CMI.
6 And that's what I can say briefly.
7 If there's anything else that I can add with regard to this piece of paper, I see some
8 other names and I've heard that these people also work there, but there are some
9 people I haven't seen the names. There's number 9 and number 10. I heard that
10 they also do the same kind of work that we do, but I do not know what they do
11 because I do not enter their offices, I haven't actually seen their work, so I don't know.
12 Because I think there are a number of people that actually conduct the same
13 operations that we do, but I do not see what they do and they do not see what they do.
14 We all focus on our own particular work.

15 Q. [10:17:54] I just want to ask you two follow-up questions, and thank you for
16 using the list and you did really well.

17 The first list of people that you mentioned, persons 1, 2, 3, 4, 6, 7, 8, 11 and 12, which
18 organisation do they work for?

19 (Redacted). They all
20 work for the Chieftaincy of Military Intelligence.

21 Q. [10:18:38] And persons 9 and 10 who you also mentioned, which organisation
22 did they work for?

23 A. [10:18:50] They work for Internal Security Organisation.

24 Q. [10:19:00] Did you ever have any interaction with personnel from the Internal
25 Security Organisation?

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 A. [10:19:14] No. We were not allowed to. We were prohibited. You know,
2 the intelligence prohibits us from sharing information. If we send the information to
3 the superiors, I suppose that there is a way that they analyse the information, but at
4 the moment -- but in the performance of our jobs we are not allowed to share
5 information.

6 Q. [10:19:41] Do you know -- did you know of any records that they produced?

7 A. [10:19:52] Well, it's difficult because the office is different from mine. If you
8 see the building, the one that we just saw the photo of, we work in a separate location.
9 Our office was in the boys' quarter, but the Internal Security Organisation, when they
10 started renovating the house, that's when the overall commander took us out of the
11 boys' quarter and put us in the same building. But the main building that we just
12 saw was an ESO building and those people were not supposed to know what we are
13 doing, they were not supposed to know what we are doing, but they put us in the
14 same building but with separate rooms, because at the time they were reconstructing
15 the building that we were using and for those reasons we were brought to same
16 house but we were working in different rooms. Whatever they were doing in their
17 offices we were not aware of, and whatever we were doing in our office they were not
18 aware of. But the CMI people that I mentioned earlier on and the directions findings,
19 they would come to us because we worked in the same organisation and sometimes
20 they would come and ask "(redacted), what did this person say?" And I would tell
21 them this person said this, this, this, they sent the location, they said that they were at
22 this location. So if you compare it, we would compare the information with direction
23 findings. That's how we worked.

24 Q. [10:21:30] What year, if you can remember, did you move from the boys'
25 quarters into the intercept building?

1 A. No, I cannot actually recall the year. I can't recall it very well. But I believe it
2 was sometime in 2004 or 2005. I'm not very sure.

3 Q. [10:22:02] During the period 2002 to 2005 how many days a week did you
4 work intercepting LRA communications?

5 A. [10:22:23] It wasn't for any particular number of days or a few days, but we
6 would intercept depending on their communication. On one particular day they
7 would speak four times or they would communicate four times or three times. They
8 would communicate at 9, at 5, at 4 -- sorry, at 11, at 4 and at 6. So we have to
9 intercept all these communications.

10 MR TAKU: [10:22:53] Your Honours, we just want to alert the Court that he just
11 mentioned his name so that can be redacted.

12 PRESIDING JUDGE SCHMITT: [10:23:06] Please continue.

13 MR ELDERFIELD: [10:23:13]

14 Q. [10:23:14] And how often, how many days per week did the LRA
15 communicate?

16 A. [10:23:29] They would work throughout from January to January. There
17 were no holidays. We would work from Monday to Sunday, January to January.
18 There was no time that the LRA were not communicating, so it was -- we were
19 constantly working.

20 Q. [10:23:49] I want to now focus on how you intercepted LRA radio
21 communications when you were in Gulu. Can you please just describe to the Court
22 generally the procedure you followed when you listened to a communication.

23 A. [10:24:15] The procedures were that I would record the LRA voices, whatever
24 it is that they were saying. The LRA used to communicate in three different styles.
25 The LRA would speak plainly. When they are talking about normal stuff, general

1 stuff, they would speak plainly. The LRA would also use proverbs if they are trying
2 to describe their mission. The LRA would also use coded messages. If they are
3 going on operations or if they are discussing operations or if there is a death, there is a
4 death of an LRA member and it's during those times that they would use coded
5 messages, so they would use code, coded messages. They would use jargon, LRA
6 jargon, and they would also use plain message.

7 If the LRA are sending messages or they are communicating I had to write whatever
8 it is that I heard, because most times the jargons and the proverbs are things that I
9 understood. If I'm receiving LRA messages, I would draft it on a piece of paper. At
10 the time we had a lot of papers -- paperwork and it became a little bit difficult to take
11 care of the paperwork, so they provided us with the logbooks. So I would write in
12 draft in the logbooks. Once I draft the message, then I would transfer the message
13 into the notebook. I would write it in a plain way and I would also use -- write the
14 coded messages. I would have to try and decode the coded messages, because
15 whatever it is that is being sent by code is important information that the superiors
16 were interested in. So most times when the LRA sent coded messages, once, for
17 example, they kill or when they have committed -- they have committed or they have
18 done something that they are happy about, then they would come on air and speak
19 about it plainly because then there would be no use to use coded messages. If, for
20 example, they go out and succeed at a mission, then after the mission, they would
21 start speaking clearly. The important thing is that once they send out the
22 information clearly, the UPDF would be able to -- would be able to get the
23 information and that would be problems. I recall on one occasion in Abim the LRA
24 spoke clearly, so when they went to Abim in eastern Ugandan I had already informed
25 the UPDF commanders and they had set up an ambush. They shot the LRA and

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 killed a number of people. They killed a number of their commanders. And this
2 made the LRA change their communication styles.
3 So at a time the LRA actually changed the call signs. If I talk about call signs I don't
4 know whether people understand. They started using call signs for communicating.
5 Later on they changed, they stopped using call signs and they started using
6 nicknames, for example, 9 Whiskey. 9 Whiskey would become alcohol. 9 Whiskey
7 was Ocan Bunia, that's an example.
8 So I performed this work. I would decode messages, then I would send it to army
9 commanders. When I send it to the army commanders who are my superiors they
10 read this information. Once they have read the information from the notebooks,
11 they would compare the information with the directions findings group or the team,
12 and then they would use the same information that I intercepted and they would use
13 this information to follow the LRA or to set up an ambush or to deal with the LRA.
14 And it's true that during the time that I was performing this job, the superiors became
15 very interested in this kind of -- the line of work and that's why we continued
16 recording.
17 So when the ICC came and started requesting for information, they found that I had
18 records that I had kept, and I suppose it was because of the way that I was working,
19 the way that I was intercepting LRA communication.
20 MR ELDERFIELD: [10:30:09] Your Honour, that was a very long answer but all
21 that information I would have tried to elicit through my questioning in any case.
22 So I --
23 PRESIDING JUDGE SCHMITT: [10:30:17] You know, I would like to say, of course,
24 questions are important but even more important are the answers of course. Yes.
25 MR ELDERFIELD: [10:30:26]

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 Q. [10:30:26] Thank you for that. Mr Witness, just one clarifying question: The
2 example that you gave us of the operation in Abim, where the UPDF killed several
3 LRA commanders, do you remember what year that was?

4 A. [10:30:54] I no longer recall the year. I don't recall the year, but if I look in the
5 records I may find the year. I didn't come with that book, but if it was necessary I
6 could give all these details.

7 Q. [10:31:18] Let's go back to the procedure that you followed when you
8 intercepted. How did you know what time to arrive in your office?

9 A. [10:31:37] I know that communication starts at 9 a.m., so before 9 a.m. I have to
10 prepare myself. I reach my office at 8 a.m., I clean the office, then I wait for the time.
11 During all this time the radio is already set, it is on. Because at times when you open
12 or switch on the radio you find that there is interference; for example, the post office
13 guys would be using the line, but at 9 a.m. exactly the LRA would come on air, even
14 at 1 p.m. -- sorry, even at 11 a.m.

15 So I open, I switch on the radio before 11 a.m., around, for example, 10.30 a.m., then at
16 11 a.m. they come on air. Some other important thing is that people may start radio
17 call communication at 9 a.m. and yet on that day there could be a lot of reports, many
18 LRA commanders who may have done a lot of activities such as killings and they
19 would have to send these reports to Kony, their chairman.

20 As a result these people may talk throughout because there are several reports,
21 operational reports, each commander is giving his or her report, "I have killed so
22 many people at this place. I have staged an ambush at such a place." So all these
23 reports should be -- must be submitted to Kony.

24 Therefore, even if sometimes we begin our work at 9 a.m. or even if we begin at
25 11 a.m. or at 1 p.m. and on so, nevertheless at other times when there are so many

1 reports from 9 a.m., that may continue up to midday, for example. As a result there
2 would be a lot of writing on our part because if they start at 9 a.m. and continue up to
3 midday or 1 p.m., that means there will be a lot of writing.

4 As a result, sometimes on our side it would be difficult for us to send reports to our
5 superiors, but nevertheless we select the most important information to send a report
6 to our superiors, for example, indicating the locations of the army commanders. So
7 we select the main important pieces of information, mainly operational information.
8 So as a result, the time for communication for the LRA would vary. Sometime it
9 may take a long time, at times there would even be nothing at all. So that's how they
10 used to operate regarding their communication. Thank you.

11 Q. [10:34:51] Let's focus on what you wrote during the communication. What
12 language did you write that first note in?

13 A. [10:35:07] Regarding the writing of the communication, it will be difficult to
14 write it in Acholi. I would like to thank God, I didn't have a lot of education, but
15 I think God helped me in this work.

16 So I would draft the intercepts in English. My English is not so good. There are
17 certain things I would write in shorthand, but when I now transfer all that into the
18 notebook -- into the notebook, I remember everything from the beginning to the end.
19 That's why if you compare the notebook and the draft book, you will observe that in
20 the draft book I write a few things, whereas in the notebook it is much longer. That's
21 how I used to proceed in doing my work. Thank you.

22 Q. [10:36:08] Can I ask you to open your binder to tab 9, please.

23 The ERN is 0197-2319 and this page is an excerpt of that document marked 2512.

24 And your Honours will also notice a second page in the tab, it's a rescanned better
25 quality version of the original, the original document. And the ERN of the better

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 version is 0254-2619 and this excerpt is 2815.

2 Mr Witness, do you have tab 9 in front of you?

3 A. [10:37:19] Yes, I have it. Although it is not very clear.

4 Q. [10:37:26] Can you please turn to the second page of the tab, perhaps that will
5 help. Do you recognize this page?

6 A. [10:37:46] Yes, I do recognize it.

7 Q. [10:37:51] Can I ask you to describe to the Court what it is, please.

8 A. [10:37:58] Now, this writing here, that shows how I used to work in
9 intercepting LRA communication and how I would record the intercepts. Above,
10 what I have written above is the date and the time and also the month and the year.
11 I proceed in this manner because there are several communications, so if you just
12 write 0900 there are so many 0900 because these people talk every day, so to be able to
13 differentiate you have to indicate the date as well as the time and also the month and
14 the year. Because it may be the 17th at 9 a.m. in May 2003 or in 2004 or 2005.
15 So what can make it possible to differentiate is for you to be able to write up the time
16 and the month. And then on your left, on the left, as I said earlier, these people used
17 to use call signs, but later, having realised that call signs was causing problems to
18 them, they started to use nicknames. They say from now on you will be called
19 so-and-so. And you, you will be called so-and-so.
20 So, from that time up to now, these people changed from call signs to nicknames, but
21 earlier on, if you see on the same page where I have made a list of words Atoti, Kony.
22 Even if Kony was not written like that, I just write Kony so as I can remember first.
23 Otherwise he used to be called Layom Cwiny. I shouldn't have written Kony, I
24 should have written Layom Cwiny because that is the name which was used to refer
25 to him.

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 So at that time, as you can see I've listed on the left, at that time they used to write 9
2 Whiskey, Hotel Mike, 2 Victor. That's how they used to write, but they changed
3 later.
4 Now, let me come to the paragraph. That's how I used to draft messages. If you
5 observe well, you can see that there are just a few words, but I have other things
6 already in my head or some of the information are already recorded. So you cannot
7 compare this writing with what is in the notebook. What is found in the notebook
8 that involves a lot of information. For example, when they use jargon, their jargon
9 you have to again, you have to again translate that into English, so that's you people
10 who speak English may be able to understand. So that makes it longer. So that's
11 how I used to do my work.
12 It may appear two, few words, but from that you may actually produce up to five to
13 six pages. Just from the drafts it may appear that there's not much information, but
14 from what we have on the draft you may generate several pages in the notebook.
15 And all the things which I've recorded are much what is -- what -- much what is in
16 the notebook and the draft. So when doing this work, you have to write things very
17 fast and if you are not fast, you may miss out certain things.
18 In some instances I write a name and then a second name which I underline. That
19 means that this is a report from a superior person and the instruction is being given to
20 the subordinate, that's the name I underline, that means the report I'm going to write
21 will concern the two people. I hope you do understand that.
22 And at other times the LRA commander may also come in with his or her report.
23 For example, if Lukwiya Raska tells Otti, "Listen, get this report, I have this report" so
24 which means I have to write Lukwiya's name and underline it and then immediately I
25 begin to note the communication between Lukwiya Raska and Otti. Once I have

1 finished I wait for another one. For example, if Kapere would like to talk with
2 Odongo Kaneri (phon), you write Kapere, then you write Odongo Kaneri, and then I
3 underline it.
4 Then immediately I write the communication between the two people. So if you
5 write the notebooks you will find the different messages which have been sent. Just
6 as it is done in the Bible. So that's what I used to work during my intercept work.
7 There are other things which we have to do, because in some cases we may have to
8 break codes because not all the messages are in plain language. There are some
9 messages which are clear but others which are coded.
10 Now, with coded messages you have to write them and then find time to break the
11 codes, because it is more important than the clear messages in plain language. The
12 coded messages means that these are very important pieces of information and there's
13 a need to use TONFAS. For example, there's the harambee TONFAS and there's
14 several other TONFAS. So all these elements are sent using coded messages. They
15 cannot just send a message saying, for example, we have no more food using plain
16 language. So these elements are very important for our commanders.
17 But there are some people who were rather lazy --
18 PRESIDING JUDGE SCHMITT: [10:46:06] (Overlapping speakers) I have been told
19 by the interpreters and been asked to ask you to be a little bit slower, because they
20 have problems to follow you with your answers. Thank you very much.
21 THE WITNESS: [10:46:21] (Interpretation) Sorry for that. Do I have to start
22 right begin from the beginning?
23 PRESIDING JUDGE SCHMITT: [10:46:31] No, I don't think so. Just continue or
24 wait until Mr Elderfield has asked you the next question.
25 MR ELDERFIELD: [10:46:39]

1 Q. [10:46:40] I've got one or two follow-up questions as a result of your answer.
2 Firstly one that I should have asked at the start. Whose handwriting is this on the
3 page?

4 A. [10:47:03] That is my handwriting. I thought you already understood that it
5 is my handwriting.

6 Q. [10:47:09] Going back to the list of call signs on the left of the page I can see
7 one, two, three, four, the fifth down is a word "Temwek." Whose call sign is Tem
8 Wek?

9 A. [10:47:33] As I said, sometimes it is so fast and you cannot write everything. I
10 should have written Tem Wek Ibong, I should have written Tem Wek Ibong. At
11 times even they themselves, the LRA, they may just say Tem or Tem Wek without
12 saying the full call sign, but the full call sign is Tem Wek Ibong.
13 Now this call sign belongs to Odomi. It was Odomi who was using this call sign.
14 Odomi is Dominic. That is number 5 regarding the notes of 17 May at 9 a.m.
15 I can still talk more about the rest, but I think I will just follow your questions.
16 Otherwise I could talk to -- about each of those call signs, but since you have asked for
17 one call sign, thus I think I will limit myself to that. Thank you.

18 Q. [10:48:57] Thank you. You also mentioned TONFAS. Can you point out or
19 can you describe where on the page, if indeed there is something on the page where
20 you have written TONFAS or tried to decode TONFAS?

21 A. [10:49:32] TONFAS is an abbreviation in the area of communication signals.
22 I don't recall very well. TONFAS is just an abbreviation, a manual or a book which
23 is used by people doing signals. It is something like time on net or something like
24 that. I don't know, I don't recall very well. It is an abbreviation. So the TONFAS
25 here is something which you prepare yourself. This is in all the armies of the world,

1 UPDF, the Kenyan army, American army, they all use what is called TONFAS. Any
2 person who has some knowledge in communication, radio communication can
3 prepare the TONFAS. It's like the piece of paper you have given me with the names
4 and the numbers where you told me to use the numbers instead of calling the names.
5 So this already is an example of TONFAS.

6 Q. [10:50:53] Mr Witness, let me just stop you there. We'll get on to TONFAS a
7 bit later today. I'm just asking you where on this page you can see an example of
8 where you've written TONFAS. We'll discuss the details of what it is and how to
9 decode it later on.

10 A. [10:51:27] Can you please repeat your question.

11 Q. [10:51:32] Can you see an example of TONFAS on this page? And if you can,
12 without describing what it is and the details of how to decode, just point out on the
13 page where you can see, or describe on the page where you can see TONFAS.

14 A. [10:51:59] I can see here on this date there's the TONFAS code harambee. So
15 there is the TONFAS code harambee which is on this page. And as I said earlier,
16 these people, the LRA, when it's an issue of deployment or of killings or of requests
17 for medicine, they don't use plain language, but they can use a code. It may be just,
18 may just be one word but which means a lot of things. So as I said earlier, if I am
19 receiving a message, I first write the name of the person and then I write the name of
20 the person to which the message is being sent and then I underline that name. So
21 here we have Tem Wek Ibong who was sending a message to Layom Cwiny or Kony,
22 so I have underlined Tem Wek Ibong, who is sending a message to Kony. And the
23 TONFAS he used on that day, the harambee TONFAS in -- it was saying in the first
24 home take everything. What he meant here was food. He was asking for
25 permission from Layom Cwiny how to obtain food. And then you can see the

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 answer, even in the recording you will find that same thing. And there Kony gave
2 him the permission. He gave the permission to Tem Wek Ibong to go ahead.

3 So this is an example of how a TONFAS is used. I can even explain all the TONFASs
4 because all that is found in the recordings and in the notebooks. Thank you.

5 Q. [10:54:34] Thank you. You can close the binder now. Thank you.

6 I'd like to go back to your procedure of interception. What did you do immediately
7 after the communication had finished and you had finished writing this draft note?

8 A. [10:55:14] Once I have received the message and once I have written down the
9 message, I have to record it in the notebook. I then send the message to the
10 commanders or to the head of intelligence or to the division commander. Or I may
11 even send it to the army commander. Because this is some important information
12 and they always need this information as soon as possible and that could help them
13 in their operations in the field. So once they have read through the notebooks, that
14 helps them in doing their operations in the field. Thank you.

15 Q. [10:55:59] Let's talk about the notebooks. What language did you record the
16 communications in?

17 A. [10:56:13] As I said earlier, I said if you observe what I have been writing in
18 the draft and if you compare that with what is in the notebook, you will observe that
19 there is a difference. For example, you cannot write in English Tem Wek Ibong or
20 Layom Cwiny, people wouldn't understand that. So instead of writing, for example,
21 Layom Cwiny said to Wat Pa Dano this, Wat Pa Dano, was Otti Vincent. Keto Keto
22 was Lukwiya Raska. I cannot say Layom Cwiny told Keto Keto. No, not that. I will
23 just write directly Kony told Lukwiya Raska this and that and this. I would write
24 that in English and not in any other language so that if I write in English, people
25 would be able to read. The commanders would be able to read and understand well.

1 Thank you.

2 Q. [10:57:29] Did you ever leave any information out of your logbook entry that
3 you had heard on the radio?

4 A. [10:57:49] I only do it after having asked for authorisation or permission.

5 THE INTERPRETER: The interpreter corrects: The witness requests you to repeat
6 the question.

7 MR ELDERFIELD: [10:58:11]

8 Q. [10:58:12] Did you ever leave any information out of your logbook entry that
9 you had heard on the radio communication at that time?

10 A. [10:58:32] Yes, there were many such cases. At the time when I had not
11 started recording, there are certain things which I don't write, for example, greetings;
12 how are you, or thank you. Such things I would not write down. I would just
13 select the most important things.

14 But to write all these things, Otti greeted Odomi, and so and so greeted this, I could
15 have done that, but I would not write those greetings because I find them not so
16 important. I go straight to the most important points. Thank you.

17 MR ELDERFIELD: [10:59:09] Your Honour, perhaps just one more question on
18 that.

19 PRESIDING JUDGE SCHMITT: [10:59:16] I have a question on that. First it was
20 at least translated that you, Mr Witness, said "I only do it after having asked for
21 authorisation or permission." Did that happen every once in a while that you left
22 information out after having asked for authorisation or permission?

23 THE WITNESS: [10:59:45] (Interpretation) I didn't ask. They just wait for what I
24 write. I'm the last person. Whatever I write they just have to take it. I don't have
25 to tell them or ask them, I just write what I have heard and then they read what I have

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 heard. And they don't have the time to say that "Ah, there's some things which you
2 didn't write." They don't ask such things.

3 MR ELDERFIELD: [11:00:15]

4 Q. [11:00:16] Mr Witness, you said you selected only the most important
5 information for the logbook entry. Can you give us examples of what type of
6 information you considered to be the most important information?

7 A. [11:00:39] For example, if a commander of the LRA has done a very bad thing
8 like killing people or burning houses, something which had just been done and the
9 commanders of the UPDF may not have understand who was behind those acts, so
10 once I have listened to the communication of the LRA, for example, if someone says
11 he or she has done such a thing in such a place, I immediately note that down because
12 I considered it as being important for the army commanders because they would like
13 to understand or to know which commander has done what act so that deployment
14 may be done in accordance to the commander in question. Because they know that
15 there are some LRA commanders who are weak and other LRA commanders who are
16 strong. So it will be useful for them to know that it is such a commander who is a
17 strong commander who is involved. In that case, therefore, they have to prepare for
18 armoured vehicles and other equipment such as the buffalo armoured
19 person -- armoured vehicle so as to confront such a strong LRA commander.
20 So I think that's what I can answer regarding your question. Thank you.

21 PRESIDING JUDGE SCHMITT: [11:02:20] I think we'll have now the break
22 until 11.30.

23 THE COURT USHER: [11:02:25] All rise.

24 (Recess taken at 11.02 a.m.)

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

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 THE COURT USHER: [11:31:49] All rise.

2 Please be seated.

3 PRESIDING JUDGE SCHMITT: [11:32:07] Mr Elderfield.

4 MR ELDERFIELD: [11:32:10] Thank you.

5 Q. [11:32:13] Mr Witness, staying with your logbooks for a moment, did you
6 include in your logbooks any information that didn't come from the radio, for
7 example, human intelligence?

8 A. [11:32:44] Thank you. All the information that I have drafted, it is not from any
9 other source, not from any person, not from any other telephone communication, but
10 they're all collected during the LRA communications.

11 Q. [11:33:23] Did you ever add your own comments?

12 A. [11:33:29] I do not add anything, I only write what I have listened to.

13 Q. [11:33:45] Where did you store these logbooks after you had finished writing in
14 them, after you had finished the books?

15 A. [11:33:57] All the completed logbooks, we select the most important ones, and
16 we send them to the headquarters of Chieftaincy of Military Intelligence.

17 Q. [11:34:20] And the rest that weren't selected, where did those -- where did you
18 store those?

19 A. [11:34:28] The rest kept in our office, because the ones that are sent to Kampala,
20 for instance, there are cases whereby when the officials from ICC would want them,
21 that's when we send them to Kampala. So they are depending on the kind of
22 information that they require. Because there are some documents that they wanted,
23 like right from 2002, so that's when we sent them to Kampala, but there are those that
24 are not important, we don't send them at all. Thank you.

25 Q. [11:35:19] Can you please turn to tab 10 of your binder. The ERN is 0197-1670,

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 and the excerpt, the one-page excerpt is 1723. This is a public document.

2 Again, your Honours will notice two other pages in the binder, and they're also
3 replicas. The second page is a better quality rescan, and that's ERN 0254-2982 and
4 page 3037. The third page is an annex to the witness' statement, again, the same
5 document 0246-0092.

6 Mr Witness, can I ask you to turn to the second page of the binder of that tab in the
7 binder. It should be a white document with blue writing and red writing at the top
8 right. Can you see that?

9 A. [11:36:44] Yes, I can see that.

10 Q. [11:36:50] Who's handwriting do you see?

11 A. [11:36:57] That is my handwriting.

12 Q. [11:37:03] Can you tell us what this page is?

13 A. [11:37:15] On this page, if you remember what I said about the TONFAS
14 harambee, I think this is a notebook from -- a page from the draft that I had made
15 because, as I said earlier on, when I'm writing a report about a particular
16 communication, I write the name of the person who is beginning to speak, and the
17 second person to whom the report is sent, is being sent. So the second person I put
18 the name below and I underline the name.

19 So it means the message being sent, the person who is sending the message, I write
20 the name first, and the receiver of the message I write the name below.

21 In this message Dominic was actually asking for permission from Kony.

22 Q. [11:38:41] Sorry, Mr Witness, I just want to stop you there. Can I check that
23 you're at tab 10. There should be three pages in that tab, the second page of which is
24 a document with blue writing and red pen on the top right of the document. Can I
25 just check you're there. The ERN is 0254-2982.

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 REGISTRY REPRESENTATIVE: The description of the page matches, but the
2 numbers don't. I cannot see the numbers.

3 MR ELDERFIELD: [11:39:52] My apologies. There is no ERN in fact on the page
4 itself, but the description of the page is a white A4 with blue writing and a red pen at
5 the top right.

6 PRESIDING JUDGE SCHMITT: And you are not controlling the ERN numbers. So
7 I think just follow the tabs in the binders and the pages amongst the tabs.

8 MR ELDERFIELD: [11:40:20]

9 Q. [11:40:20] Mr Witness, whose handwriting is on this page?

10 A. [11:40:30] This is my handwriting.

11 Q. [11:40:34] And can you tell the Court what this page is?

12 A. [11:40:42] I had started explaining what is in this page. I would like you to
13 give me further guidance on how -- on what exactly I should say. Should I read
14 everything in the page or there is a specific portion that you want me to talk about?
15 Thank you.

16 Q. [11:41:14] Can you see the words on the top right of the page "17th May 04 LRA
17 sitrep at 0900 hours"?

18 A. [11:41:29] Yes, I can see.

19 Q. [11:41:36] Who are the persons that you've listed directly below that date, date
20 and time, and why have you listed them there?

21 A. [11:41:45] Thank you, your Honours. As I said at the beginning, when you
22 look at the draft book, I write the names of the persons or the call signs on the left just
23 when I'm beginning to receive the message. I write the names and the call signs on
24 the left.

25 But when I'm now recording in the book, there is some slight difference. The person

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 whose name appears first on the paper, I now turn this writing or I put the writing in
2 a different format so I know that this is -- this writing is horizontal, but I present the
3 people who first came on radio in their order. When I'm now recording, I now only
4 write the name of the person and put a comma, I write the name and then put a
5 comma. And when I'm finished with the last person, I now link up, for example, to
6 the date 17 May 2004 at 9 a.m., the people who were, who communicated on radio at
7 that time, would be the people whose name you see appearing.

8 And I would have, I would write the names in the order in which they appeared on
9 air. So why do I do this? It is important because when the army commanders or
10 my superiors, there are times that they ask me, did this person or did so-and-so
11 appear or come on radio at 9?

12 So this helps me to explain to them because at some time you -- you may think that
13 your superiors have heard on domestic radio that LRA killed people in such and such
14 a place. So this information would help the army commanders to understand or to
15 know who did not come on radio and why did -- or did they not appear on radio. So
16 it enables the commanders to understand who did not appear or which commander
17 did not appear on radio at 9 a.m.

18 Sometimes because of too much information to write I could forget. A particular
19 commander could come on air a little late, like say 15 minutes after, so when now he
20 comes on radio he doesn't mention the call sign that "I am so-and-so and I'm now on
21 air," so what happens is you only now hear them communicating, they don't
22 introduce themselves on radio.

23 So that is why many times those who appear late on radio, you may not see their
24 name written on top, but I write these names on top to help a particular commander
25 to understand who appeared on radio and why a particular commander did not

1 appear at that time. Thank you.

2 Q. [11:46:16] So just to be clear, is this page in front of you the note that you wrote
3 in rough form during the communication or is this the note that you produced in your
4 logbook after the communication was finished?

5 A. [11:46:34] Yeah, this is now the final write-up. This is exactly an extract of the
6 logbook, and that's why you see the writing, the heading on top. I said, although the
7 handwriting is not very clear, it's because there is too much information and there is a
8 lot of writing, but this is like the final write-up and it is this book that I take to my
9 supervisors to read, and it is also the same book that I provided to the ICC. And I
10 think they extracted this from that book. Thank you.

11 Q. [11:47:20] Can you direct your attention to the bottom left of the page. Does
12 the word in grey, the word "seen," can you explain what that word is?

13 A. [11:47:39] As I explained earlier, I have my superiors, and this book is not my
14 personal notebook, it's an office document. And this book and the pens are
15 purchased, there are people who buy them. So when I write in this book, there are
16 people who actually have control over these books. And the final person that looks
17 at this book is the division commander at that time, because there were several of
18 them, but the word "seen" there is put there so that if the next commander is reading
19 this same report, it will help them to know where the first person read and actually
20 stopped or which particular section I have not yet read.

21 So there are times when the commanders would forget after reading, and they would
22 not indicate that they have read, but others would just make a tick, a mark of a tick, or
23 others would just write "seen."

24 So most times when I send the books to them and if they are so busy that they were
25 not able to tick or to sign, I then take the opportunity to let them know or ask them

1 whether they have read the book or not yet.

2 So he could say yes, I have read or I have not read. So if they confirm that they have

3 read the book, then I ask why he has not ticked or signed because then I am not able

4 to know where he read the book.

5 So they would say "Oh, please forgive me, I forgot, I was so busy I didn't sign." So

6 then they can either sign, tick or write "seen."

7 So this is like an evidence that you have read my -- the writing and you have

8 understood, and if there is any problem that needed actions, you have read the book

9 and you have signed, and I cannot now be blamed for not providing the information,

10 because I will refer back to this document and say "This action or incident happened

11 at this time and you read and you even signed." So this is like evidence between me

12 and my supervisor.

13 Secondly, this book also goes upward towards the army, up to the army commander

14 who is the overall commander of the army. So if, for instance, the army commander

15 comes to Gulu where I work, before anything is said or done, he calls for this book

16 and he himself reads this book. And so it means if there is any problem, if there is

17 any problem between the division commanders or the division intelligence officers, or

18 there is some problem or a laziness in terms of following up, or the LRA and yet they

19 have seen this book and they have even signed on it, then the army commander can

20 have the authority to, you know, to blame a particular commander or a particular

21 intelligence officer in the fourth division headquarter.

22 Q. [11:52:28] I'll just interrupt you there. That's all the information we need.

23 Can I please ask you to close your binder now.

24 You mentioned that during the communications you also tape recorded. Can you

25 tell us when you first started to tape record?

1 A. [11:52:52] I began taping the LRA communication around the time when,
2 around the time when there were rumours over domestic radio that the president of
3 Uganda wanted to send the LRA to the International Criminal Court. I think the
4 intelligence chiefs who were wise enough to, because we don't know what the high
5 command discuss, but from what I know, the intelligence chiefs were wise enough to
6 say that if we start a programme or something to record or intercept, maybe one day
7 it will be useful in terms of helping the Court.

8 So when the tapes were now sent to me so that I could use them, as I mentioned
9 earlier, I said these took place over a long period of time, and I may not remember
10 everything, but if the tapes are there, because on the tapes I write the dates and the
11 time, and just as I do on the write-up, but as of now I am unable to give a specific time
12 frame. Thank you.

13 Q. [11:55:03] Thank you. What equipment did you use to sound record?

14 A. [11:55:14] Thank you, your Honours. The equipments that we were using for
15 this interception work were we were using recorders and in these recorders we put
16 tapes. And once the communication begins, you now press "on" button, and it will
17 be running until the end of the particular communication at that time.

18 So when that particular communication is over, we now write the time and the date
19 on that tape. So everything would be, you know, correspond to what is written on
20 the notebook.

21 But there are also some times that we give a few pause on the recording for one or
22 two seconds after the end of the communication so that it's easy to identify and
23 prepare for the next set of recording of the communication. So this makes it easy to
24 know the next group of people that are coming on radio to communicate and so we
25 can distinguish between the sets of communications. Thank you.

1 Q. [11:57:00] And how did you use the tapes that you recorded in your work?

2 A. [11:57:10] Thank you. The tapes that we use are new, they come to me when
3 they're new. And once it is delivered to me and when I finish using them, I have
4 written on it and I've recorded accordingly. It is brought when they are -- first,
5 actually, they are brought when it is sealed, I open it and I start using them. And
6 when one is complete, I write the time and date, and I put it back in its case.

7 And inside the case there is a cover, that is -- that is a cover that is used for keeping
8 the used tapes. Sometimes it may be difficult to differentiate because most of the
9 oldest tapes come when they're new. So to make, create a difference between the
10 new and the used tapes, we write on it. They're --

11 Q. [11:58:41] Let me just -- sorry, Mr Witness. Sorry, let me stop you there.

12 Perhaps my question wasn't clear. After the sound recordings, after you made the
13 sound recordings, did you ever use the tapes in your work? Did you ever listen to
14 the tapes after you've record them?

15 A. [11:59:02] Most times when I am recording, because of the speed of
16 communication, at some point, maybe if I have not got a particular portion of the
17 communication or I missed a certain word, I have the time to play back the tape, to go
18 back to the very point that I missed a particular word. So yes, I used the tape,
19 listened to it to make corrections on the portion that I may not have got clearly.
20 So once I am done with it, that marks also the end of the use of that tape. Thank you.

21 Q. [11:59:55] And what was the quality of the sound that you could hear on the
22 tape compared to the quality of the sound that came from the radio?

23 A. [12:00:08] Yes, there are some differences because the one that you listen direct
24 from radio is very clear because it is a direct sound, but the one which is recorded
25 some time is not very clear. But even then, even then these tapes still record very

1 well and very clearly but, of course, the quality, when you compare with the ones that
2 you listen to directly from radio, there is some, a bit of difference. Thank you.

3 Q. [12:00:55] Did you ever have any problems with the tape recorder that
4 prevented you or impeded your recording of the sound recordings -- of the
5 communications?

6 A. [12:01:06] Yes. There are certain times when I did encounter problems; for
7 example, on occasions we'd run out of tapes and the people at the headquarters in
8 Kampala would delay in sending us new tapes. If this happens I report to them, I
9 informed them that we've run out of tapes or that we've run out of batteries, what
10 should I do?

11 On most occasions, if you find, if you come across information that is not very
12 important among the things that you have recorded, anything that is not very
13 important, then -- if you find that something is not that important, then you can
14 record over those tapes, for example, on that day. So perhaps there were times when
15 I would take a tape that I considered wasn't that important, I would erase the tape
16 and then I would record something new on that tape.

17 But the information that I'd written on that tape at the beginning would also change, I
18 would amend the information I'd written on it and put on the new date and the new
19 information. That is one of the ways that I used to use the tapes.

20 But on most occasions when information is not very important, I was actually
21 informed that if there is something that is not very important and you're running out
22 of batteries or tape, do not record the greetings and chit chat, wait for them to start
23 communicating important information and then put that information on the tape.
24 Thank you.

25 Q. [12:03:28] And where did you store tapes once they were full?

1 A. [12:03:36] Once the tapes are full, if you recall the list of people, one of the
2 people, you told me not to mention their names, but one of the people on that list, he
3 had a car. Most of us worked in the Chieftaincy of Military Intelligence. I worked
4 in intercept and he worked in direction of findings. Once the tape is full, I would
5 give it to him and then he would take it to Kampala with his car. Thank you.

6 Q. [12:04:18] Can you please bring up that list again with the orange heading. Is
7 the person that you're talking about -- well, tell the Court which person you mean by
8 saying, you know, the number.

9 A. [12:04:40] That was number 8. Number 8 was the officer in charge of the
10 department in Gulu. So number 8 was the one who had a car. When the tapes are
11 complete, then he would take the tapes to Kampala. And that's how it worked.
12 Thank you.

13 Q. [12:05:15] Can you please turn now to tab 11 in your binder. The ERN is
14 0039-0026. This is a public document.
15 Mr Witness, can you just look at that first page and then flick over to the second page
16 and have a look at that. Can you tell us what you see, please?

17 A. [12:06:02] These are the tapes that I recorded, the tapes that are complete. And
18 once a tape is complete, once it's full, that's what I would write on the tape. When
19 I'm done using the tape, if you look at the beginning, there are some tapes that are
20 glass, and you cannot write on the tape, then I would use a sticker, a label, and then I
21 would stick the label onto that tape. And that's on glass tapes because you cannot
22 actually write on those tapes. And it's the same information that's written on the
23 other side of the tape as well.

24 Q. [12:06:51] Whose handwriting can you see on the first page and on the second
25 page?

1 A. [12:07:01] That's my handwriting.

2 Q. [12:07:12] Thank you. You can close the binder now.

3 You told us earlier that you've worked with PRM radios. You also know about Icom
4 and Yaesu radios. Which one did you listen with in the period 2002 to 2005 in Gulu?

5 A. [12:07:44] Well, I changed the radios. The problem with the radio PRM was
6 that if the weather was not good, if we had bad weather, then it was not clear. You'd
7 not intercept clear information. So if the weather is not good, I cannot recall, I
8 cannot actually recall the information. But if the weather is not good, then we would
9 use far distance radios.

10 PRM radios, there is a lot of weather interference with PRM radios, so I consistently
11 switched radios.

12 But Icom, but with Icom, even though there are interferences it still works to pick up
13 information long distance. Thank you.

14 Q. [12:08:58] So could you estimate the range that you could pick up with your
15 PRM radio?

16 A. [12:09:04] PRM, we would use PRM. Well, I cannot actually estimate the
17 kilometres or the distance, but to my recollection even the people who were in Sudan,
18 we could actually pick them from Uganda. So we could, if the person in Sudan is
19 using PRM radio, then from Lubanga Tek would be able to pick up those
20 interceptions. Or from Aru junction where they were based would clearly pick them
21 up from Uganda using PRM. So it's very difficult to estimate the exact distance.
22 But you can use it anywhere, even if you set it up here, I can use it. But the problem
23 with the PRM radio was that there was a lot of weather interference. But with the
24 other radios, even when the weather was not good the radio would still work.
25 Thank you.

1 Q. [12:10:18] You mentioned two places Lubanga Tek and Aru junction. Are they
2 both in Sudan?

3 A. [12:10:29] Yes, they are both in Sudan. There is another one known as Lala that
4 was also LRA base, because I remember when I was working there at the time we
5 would pick them up from Lala, so it depends on the direction of findings. We would
6 intercept them from anywhere. So if you look at the person on, number 8 on the list,
7 he would tell us that these people are speaking from this location because he had the
8 co-ordinates to find exact directions or the exact location of those people and he
9 would communicate it to us. Thank you.

10 Q. [12:11:15] You said that the Icom radio was more powerful than the PRM.
11 What was the range of the Icom radio?

12 A. [12:11:29] Well, Icom could also intercept the same distance, but the difference
13 between the Icom and the PRM is that it's not conditional upon the weather
14 conditions. So regardless of the weather, when you are using Icom the recording is
15 still, the interception is still clear. But when you are using PRM, you'd get a lot of
16 weather interference. So Icom could still pick up information clearly despite the
17 weather conditions.

18 Q. [12:12:14] And how did you change frequencies on, first, the PRM radio and,
19 second, on the Icom radio?

20 A. [12:12:22] (Speaks English) Could you repeat the question, sir?

21 Q. [12:12:31] It's more of a technical question. How did you change the frequency
22 on the radio, first on the PRM radio and secondly on the Icom radio?

23 A. [12:12:47] (Interpretation) Yeah, the way we change the frequency, PRM had
24 buttons. It has knobs like the knobs for domestic radios. So you use your hands to
25 tune the knobs. But Icom has automatic charging. So when you set it, it

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 automatically makes the searching, the search. But with PRM you actually use a
2 knob and tune it to be able to intercept.
3 But we did not actually change the frequency regularly because the LRA did not
4 change the frequency regularly. They had the same problem. So if we had
5 problems with the weather in Uganda, then the same, the LRA would also have the
6 same, the same problems. The weather would also interrupt with their
7 communication. So when we had problems with the weather, they also had
8 problems with the weather. So on those occasions they would change the
9 frequencies.
10 So when they changed the frequencies we'd also find ways of looking for them by
11 changing the frequencies, either using Icom or using PRM. So wherever it is that
12 they are, we would actually try and find them. As I said at the beginning, the
13 department of direction findings, whose their superior is number 8, we also had a
14 way of trying to find them. So if those people disappeared or if they change their
15 frequencies, if for example they say okay, let's change frequencies, we would
16 immediately know that if they say "oh, let's go to a new home," then we would
17 immediately know that they have changed their frequency.
18 And then the boss on the list, number 8, he had the right to tell the people in the field
19 that this radio and this other radio and this other radio, start looking for channels
20 from 8 and from frequencies, start looking from channel number 9, and this station,
21 start looking for channels at number 7.
22 But for us, people who are in the base, we also had the same assignment. We would
23 also start following that order. So if those people disappear for one or two minutes,
24 maybe in those cases it won't be very difficult for us to relocate them because we
25 would actually search for them on the four stations that they have sent us. So if the

1 LRA change stations, we'd immediately also change stations. So we'd work together
2 and ensure that we find them, and that's how we used to work. Thank you.

3 Q. [12:16:05] Did you have any, ever have any technical difficulties or problems
4 with your radios during that period of time that prevented you or impeded your
5 ability to listen to LRA radio communications?

6 A. [12:16:28] Yes. There were times when we had problems. For example, when
7 you are using PRM radios, the PRM used accumulator batteries, the car batteries.
8 But the Icom radio used electricity. So for example, if there is a problem with the
9 battery, the PRM battery then I would use, I would switch and use the Icom,
10 regardless of whether we had good or bad weather. Thank you.

11 Q. [12:17:13] I want to move on now and talk about how the LRA used the radio.
12 Based on your experience listening to the LRA radio communications, how -- and
13 we're going to cover some details in the future, but just generally how did the LRA
14 use the radio to communicate?

15 A. [12:17:46] Well, when I started working they had, LRA was already using radio
16 communication. But when I started working, when I started working intercepting
17 their calls, the same way that they would communicate with radios, for example, once
18 they attack government soldiers, the local defence forces, the LDU or other, or
19 platoons or for the UPDF army who had radios, on most occasions the LRA attacked
20 these units and seized those radios. So once they seized those radios they used the
21 radios themselves.

22 But that's not the only way that they would use the radios. They would also, for
23 example when I was working, there were other ways that the LRA would also obtain
24 radios. For example, they would attack and loot Catholic missions to obtain radios
25 or they would also attack NGOs and seize radios from them. NGOs working in

1 Uganda who were using radio calls. And that's the way that the LRA obtained their
2 radios.

3 But even then, I do not know at the beginning, before I started intercepting the LRA
4 communication, because they already had radios; so I cannot clearly explain where
5 they got their radios from and where they received the courses from, or what kind of
6 experience or knowledge that they started communicating with. Because if you
7 listen to LRA communication, they use Acholi. They do not use direct language.
8 They use Acholi. They use jargon. So I suppose that if one time one of their
9 commanders come here, you can ask them and they will tell you how they obtained
10 those radios. Thank you.

11 Q. [12:20:30] Mr Witness, I just want you to talk about your knowledge of how the
12 LRA used the radio based on what you heard, the time that you spent listening to
13 them, you can tell us what you remember about how they used the radios from what
14 you heard on the radio.

15 PRESIDING JUDGE SCHMITT: [12:20:51] I think you would have to be a little bit
16 more specific with your questioning. In light of the witness and the answers he's
17 generally giving, the more open the question is, the more it might be that it will be a
18 very long narrative answer.

19 MR ELDERFIELD: [12:21:12] Thank you, your Honour. I was --

20 PRESIDING JUDGE SCHMITT: [12:21:15] So I would suggest to, normally I know
21 on examination you should question it, as I will not say unspecific, but general as
22 possible, but in that event I think nobody would object if you tried a little bit guide
23 the witness.

24 MR ELDERFIELD: [12:21:32] I'll certainly do so. I was just trying to help the
25 witness understand that he should just talk about his knowledge based on what he

1 heard. And I'll ask specific questions now.

2 Q. [12:21:43] Mr Witness, can you tell us some of the commanders that you
3 remember hearing on the radio, some of their names?

4 A. [12:21:56] Thank you. Yeah, there are a number of people. There are many
5 commanders, some of them are now deceased, some of them are still alive. Yes, I
6 know them. I would recognize them by their voices. I would know that the
7 speaker is so and so, this speaker is so and so, this speaker is so and so.

8 So even if I cannot actually tell the -- identify the person's voice, if they call other
9 people who were doing the same job, well, you heard that there are a number of
10 people who are doing the same job. I don't know if they actually have the same
11 memory because some of these things took place a long time ago and I cannot actually
12 recall all their names. Thank you.

13 Q. [12:22:54] Can you recall any names? For example, for example, two or three
14 names?

15 A. [12:23:03] Yes. Kony, Otti, Tabuley, Yadin Tolbert, Dominic, Odhiambo,
16 Kwoyelo, Ocan Bunia. And there are so many other that I cannot list them one by
17 one.

18 Q. [12:23:27] Who in the LRA received radios? Which commanders were entitled
19 to talk on the radio?

20 A. [12:23:44] The LRA commanders who were authorised to speak used signallers.
21 So once they get to a certain location, the signaller would set up the radio and then
22 the commander would start talking. The signaller would make sure that the radio is
23 in good working condition and then hand it over to the commander. Sometimes the
24 commander would actually let the signaller speak on his behalf. But even when the
25 signaller is speaking it does not necessarily mean that the commander is not there.

1 The commander is usually around within the vicinity. So, yeah, I know quite a
2 number of them. I know I do recognize their voices. Most of the people who had
3 authority to speak on, to use the radios were very superior commanders who would
4 go and fight. So they had to have radios. Kony had to have his radio on. Otti
5 Vincent had to have his radio on. Odomi or Dominic should always be on air.
6 Those are the three commanders that were trusted. Odhiambo also had to be on air.
7 Tabuley also had to be on air. Lukwiya Raska had to be on air. Onen Kamdule also
8 had to be on air. And there are other people who were required to be on air. So,
9 for example, if a signaller makes a call, then Kony would authorise them. For
10 example, if he's talking about Otti Vincent who was shot and the radio was taken,
11 Kony actually authorised him to get a radio from a substation that was not that
12 important. So Otti actually went and got that radio. So we actually have that radio
13 in our office.

14 Thank you.

15 Q. [12:25:52] And apart from authorising operations what else did Kony talk about
16 when he came on to the radio, Kony?

17 A. [12:26:07] Kony would speak a lot. For example, there are times when he
18 would come and give instructions, instructing people telling them what people
19 should do or what people -- or prohibiting people from doing certain things. On
20 occasions he would talk about deployments, he would issue orders telling people that
21 this is how he wanted those operations or orders to be conducted.

22 Occasionally he would come on air to promote commanders, commanders who he
23 perceived as having done a good job. On occasions he would actually come to
24 criticise people, people he thought were not following orders, people who he thought
25 were -- people who he thought that were actually taking actions for their own

1 personal benefit, for example, looting or taking money from civilians to give to their
2 family. So he would issue a lot of orders.

3 There are times when he would issue orders for people to be killed. Those were also
4 different orders. Sometimes he would come and issue an order saying it's the period
5 for prayer so they should not meet with soldiers. So there were a number of orders.
6 On each and every day he would come with different orders. He would give good
7 orders and sometimes he would give bad orders. Thank you.

8 Q. [12:27:44] And how did the commanders react when Kony gave orders?

9 A. [12:27:56] Well, some commanders when Kony issued an order, some of them
10 would actually avoid it. Some would avoid carrying out those orders because they
11 did not like following or making sure that they followed Kony's instructions. For
12 example, what I heard, there are some commanders who were told "Go from this
13 place to Kitgum and do something" and they would have excuses saying "Oh, we
14 cannot cross the rivers because the rivers are overflowing or the rivers are full."
15 Sometimes they refused to go because the UPDF deployments are very tight, so the
16 commander would not actually tell them that this is the reason why I cannot go and
17 carry out your orders. There are certain commanders who would, if Kony issued
18 any order, for example go and do this, go and attack a place, they would actually go
19 without any hesitation. Sometimes they'd actually go and attack a place without
20 waiting for an order from Kony, because sometimes when their deployment, some
21 people among some of the commanders would be seeking, would be seeking
22 promotion, so they would want Kony to be promoting them, so they would decide to
23 do something that they knew would please Kony.
24 So there are some commanders who did not wait for orders from Kony. They would
25 actually go ahead and do something in order to surprise Kony, who would then be

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 happy and promote him. These are a number -- these are the categories of people
2 who would actually be promoted speedily. They would not wait for any promotion
3 from Kony or wait for orders from Kony. But they would just go ahead and do, take
4 their own initiative and attack a certain place in order for them to get promotions.
5 There are some times when Kony would not give orders. For example, he would
6 actually not issue orders for people to go and kill, but you'd find that Kony would go
7 and issue orders for -- you'd find that the commanders would go and kill without
8 issuing the orders. So when Kony would come on air he would be surprised and he
9 would ask "Oh, who did this" and the person would say "Oh, I did" and Kony would
10 say "Oh, so you are the one who did that."

11 So, yes, sometimes you would find that LRA, some of the LRA would act on their
12 own initiative. Sometimes Kony would issue the orders. Sometimes Otti would
13 issue the orders. Thank you.

14 THE INTERPRETER: [12:30:44] The interpreter asks the witness to slow down,
15 please.

16 PRESIDING JUDGE SCHMITT: [12:30:50] Mr Witness, please speak a little bit
17 slower again.

18 THE WITNESS: [12:31:02] (Interpretation) Thank you.

19 MR ELDERFIELD: [12:31:05]

20 Q. [12:31:05] Mr Witness, how disciplined was the LRA when they spoke to each
21 other on the radio?

22 A. [12:31:12] Regarding the LRA discipline during communication I would say it
23 was very good, because if there is a signaller talking with some superior, they would
24 actually respect that signaller as if it was the commander who was talking. They
25 have great respect for communication. Their style of communication may not be

1 easy to follow, because first of all, they don't talk oral and it is difficult to know that
2 the person speaking is a signaller or a commander. It's difficult to know that.
3 Both signallers and commanders talk well with respect and happiness. They talk
4 very well. They have an understanding between them. If Kony's signaller is
5 talking, they would actually listen to him and respond to him as if it was Kony
6 himself who was talking. So I would say there was good discipline in
7 communication. Thank you.

8 Q. [12:32:39] You've mentioned signallers a couple of times now. What were the
9 specific duties of a signaller in the LRA?

10 A. [12:32:49] The duties of signallers in regards communication is that a signaller
11 should have permission from his commander or get the message from his commander,
12 the message he's supposed to send to other units.

13 But most times, for example, if it is Kony who is on air himself, if the other
14 commanders find that it is Kony who is speaking, that means that all the commanders
15 must take the radio call, the radio, the radios from their signallers and talk directly
16 with Kony.

17 But if it is Kony's signaller who is talking, some other commanders wouldn't mind
18 about that. But when it is Kony's voice they hear then, for example, when -- let me
19 talk to your tai, tai means your title, the appointment title. So he refers to call your
20 tai to come. That means that Kony wants to give instructions to that commander.
21 And if he wants to give instructions concerning deployment, he would ask each
22 signaller to call their commanders and all the commanders will report and they will
23 respond and say "We are here, over. Two Victor is present, over." That's to say the
24 commanders would themselves be listening -- receiving the messages personally.

25 Thank you.

1 Q. [12:34:33] What ability did a signaller have to give orders or to make reports
2 independently from any instructions from their commander?

3 A. [12:34:59] They have their way of operating. When you hear a signaller talking,
4 you should know that his commander is just besides him or her during the operations
5 which were carried out by the UPDF against the LRA, if for example the LRA is
6 attacked, most of the commanders are injured. So because of that, the commanders
7 who would now give the authority to the signaller to talk, even if the commander is
8 around nearby, they would do that because in case of an attack, they would say that
9 this is the signaller of Kony or the signaller of Otti or the signaller of Tabuley who
10 talked and not Tabuley himself.

11 So that's what they -- the perception they may have and yet, actually, the
12 commanders may just be besides their signallers. I give an example. One day there
13 was a signaller called Omona who was so loved by Kony and he was giving out
14 orders. He said "If you don't behave well, you will regret."

15 So people might think that this is a low-ranking signaller who is giving orders to a
16 major or to a colonel by saying: If you don't behave well, I will punish you for that.
17 That shows that actually it is Kony who is instructing his signaller to say this and that,
18 because a signaller may just be a private or a sergeant. So if he or she is speaking
19 you should know that the commander or the superior is just around, near him.

20 Thank you.

21 Q. [12:37:11] Could a signaller speak without instructions from their commander?

22 A. [12:37:20] According to the tone used by the signaller, if you are a reasonable
23 person you may know that this person talking is not talking on his own.

24 The voice of a corporal, corporal or a sergeant, normally they cannot give orders to
25 someone superior. But for -- in the LRA, that was the procedure. The signallers

1 had the power to say anything because as he's talking, he or she is talking, their
2 commander is there, especially for Kony and Vincent Otti, it was mostly their
3 signallers who would talk as if he or she had all the authority.

4 In actual fact he would be, he or she would be talking on behalf of Kony or Otti
5 Vincent. So this usually happened so much with Kony's signaller, but not really so
6 much with the other signallers. Thank you.

7 Q. [12:38:37] When you heard a signaller on the radio, what did you write down in
8 your logbooks?

9 A. [12:38:46] When I heard a signaller talking, at times I would write "Kony's
10 signaller" or "Omona's signaller" or "Kony's signaller Labalpiny" or "Tabuley's
11 signaller" or "Tabuley himself." I write what I hear. Thank you.

12 Q. [12:39:19] Let's move on. We've talked about call signs, and we saw a few in
13 your rough notes, like Tem Wek Ibong or Tem Wek. Who owned these call signs?
14 And how long did they stay with a commander?

15 A. [12:39:41] There came a time when the LRA abandoned the call sign system
16 because they knew, for example, Dominic Ongwen used to be referred to as Lima
17 Charlie, and Kony before he changed was called Hotel Mike. So there were different
18 call signs.

19 But later in their wisdom, they understood that if they continued using call signs, the
20 direction finding machines would be able to locate or to locate the call signs more
21 easily than if they used their nicknames, because with a call sign there is a mixture of
22 figures and letters, so they thought that if you say One-Two Charlie, for example, or
23 Hotel Three or Five Tango, which was that of Otti, so they would imagine that it will
24 be easy for the direction finding team to locate them.

25 So they thought that if they used nicknames, it will be more difficult to locate their

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 positions. But despite all that, it was still possible to locate them and therefore they
2 remained with the nicknames and they used nicknames forever without using other
3 call signs.

4 I don't know when they went elsewhere, I cannot say whether they changed or gone
5 back to using call signs. But I know they use nicknames like Wat Pa Dano or Layom
6 Cwiny instead of using call signs. They would say for example Kongo, 9 Whiskey
7 would be called now Kongo. That was their style. Thank you.

8 Q. [12:42:10] Did the call signs or nicknames attach to the commander or did they
9 attach to the position in the LRA like a brigade commander or a rank?

10 A. [12:42:26] These calls signs were given to those who had radios, because not
11 everybody in the LRA had a radio. As I said earlier, radios were only given to big
12 high-ranking commanders who were hard working. So those who were hard
13 working commanders wouldn't be given radios.

14 So it is Kony who came out with this plan. He came on air and said to Otti: Each
15 person should now use something different and you should all stop using our call
16 signs. So you will now find a nickname which you like, which gives you fame.
17 So that's why each person, each commander started knowing or started getting his or
18 her nickname like Layom Cwiny, Wat Pa Dano, Tem Wek Ibong, Free Africa. So
19 they had these nicknames which they used and which replaced call signs till now.
20 Thank you.

21 Q. [12:43:58] Mr Witness, just to go back briefly over that answer. On the record
22 we've got it written down that you said, and this is on transcript page 66 at line 9 and
23 10, "So those who were hard-working commanders wouldn't be given radios." Is
24 that what you said?

25 A. [12:44:29] Commanders who were hard working had radios and Kony knew

1 which commanders were hard working. And if there was a commander who wasn't
2 hard working, Kony would order a hard-working commander to go and get the radio
3 from the other less-hard-working commander.

4 Or if a commander is not disciplined enough and doesn't carry out operations very
5 well, Kony had the power to instruct Otti, for example, to go and get a radio from a
6 weaker commander. That is why an LRA is funny, they may get a radio from a
7 colonel because he's weak, he doesn't work well, and then they give that radio to a
8 captain or to a major who is more skilled in fighting. So some colonels, some majors
9 would be actually under the order of a captain or a lieutenant who is very good at
10 fighting.

11 Q. [12:45:39] You've said that the LRA talk in Acholi on the radio and that they use
12 clear language and jargon and coded language. I want to go through those three
13 things now.

14 First, can you tell us what -- an example of something that the LRA would say in clear
15 language?

16 A. [12:46:15] In a clear language they would give some kind of information, for
17 example, if the LRA did an attack somewhere and they have good achievements,
18 they've obtained good results out of that attack, something which is pleasing to Kony,
19 in that case they will not talk in proverbs, but they will talk clearly in plain language
20 by saying, for example, "I captured guns and ammunition. I also captured a PK gun.
21 I abducted some people." So these are the kind of things which are mentioned
22 clearly in plain language.

23 But when they would like to describe how to abduct someone, they cannot say "Go
24 and abduct someone." They cannot say "Go and abduct young children." They
25 can't say it plainly like that. They would say, for example, "Go and do, go and

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 uproot some cassava, go and uproot this and that and keep them well."

2 That in actual fact means that go and capture children and then train them so that
3 they become good fighters. So such information would be conveyed in using that
4 jargon. So when they're talking about their achievements, they mention talk in plain
5 language in order to please Kony. Thank you.

6 Q. [12:48:08] So the second example you gave about uprooting cassava, how would
7 the LRA form that jargon or where would the LRA get that language from?

8 A. [12:48:24] It is difficult, sir, to know, it's difficult, sir, to know the style they
9 really use, because I remember one time there was an Acholi person who is right now
10 a major general. He came and wanted to listen to the LRA messages himself. Now,
11 this gentleman came to my office because he was an Acholi and wanted to listen to
12 the messages himself. So when he came to the office and the LRA started talking
13 about issues of the UN, "Do well UN, after having well done UN, then dukele (phon)"
14 the gentleman didn't understand. He started saying that these people are saying UN
15 did what? What do they want to do to UN?

16 I told him, no, this doesn't mean UN. UN here is a group who are deployed on top
17 of trees or mountains to make them monitor what the UPDF is doing. So if you
18 interpret all that locally, you may not get it correct. So there are many such things
19 where they use such kind of language. Thank you.

20 Q. [12:50:14] Can I please ask you to open your binder to tab 12. The ERN is
21 0069-0803, and this document is an extract of that page, and that extract is 0808 to
22 0810. This is a confidential document.

23 Mr Witness, do you recognize the document?

24 A. [12:51:03] Yes, I do recognize it. Yes, I do.

25 Q. [12:51:17] Can you describe to us what it is?

1 A. [12:51:22] This document was made during the time when the LRA had already
2 abandoned the issue of call signs. This was at a time when they had stopped using
3 TONFAS. That is the time when they started making up nicknames to replace call
4 signs. I'll give an example. For example, like the paper you gave me where you
5 told me not to mention people's name, but to use the numbers, so this was one way,
6 this was one approach they used at the time when they abolished the call signs.
7 They changed their style of operation and that is why as I had said earlier they
8 stopped using TONFAS and call signs a long time ago and instead replaced them by
9 this system.
10 This happened at a time when the LRA had been attacked and their TONFAS had
11 been, had been captured and also some of their radios had been captured. So they
12 thought that if they continued using TONFAS and the call signs, UPDF already had a
13 copy of the TONFAS, so they thought it wise that it will not be prudent to use call
14 signs because the UPDF already had copies of their TONFAS.
15 And that is why that marked the end of the use of call signs. So what has been
16 presented here is just nicknames which shows who is who. I'm not sure whether
17 later on they changed their nicknames, but what I see here are the names they used to
18 use to refer to themselves. Thank you.

19 Q. [12:54:17] Mr Witness, do you remember how this document was made or do
20 you know how this document was made?

21 A. [12:54:26] This document wasn't officially used or prepared. This was a
22 communication which was sent on air by Kony himself saying that each person
23 should find a nickname to -- he or she could use. This document wasn't officially
24 communicated. Kony came on air officially and said each person should use any
25 other name apart from call signs, good enough, it was still possible to know who was

1 speaking even if they had changed their call signs. Thank you.

2 MR ELDERFIELD: [12:55:29] Your Honour, I'd like to request to refresh this
3 witness's memory on the fact of how this document was made, and I would like to
4 refer you perhaps to tab 3 at paragraph 10 just before I do so so you know what I'll
5 read out to the witness. So that paragraph, paragraph 10 of the statement and
6 paragraph 12 describes how this document was made. So that ERN is 0069-0803 at
7 paragraph 10 and 12.

8 Q. [12:56:28] Mr Witness, I'm going to read you a portion of a statement that you
9 gave previously to the Prosecution about this document, the one that's in front of you
10 at the moment. It says:

11 In January 2005 "I met with" ICC staff. Then the statement goes on: "He explained
12 that the OTP has obtained tapes of LRA intercepts" and I'm going to skip over the
13 next clause "and that translators at the OTP have begun listening to the tapes ... I was
14 asked about a series of words and phrases, asking in each instance if I recognizes the
15 word or phrase and whether the word or phrase was one that I recognized as being
16 used by the LRA in their intercepts. I was asked about ordinary words or phrases
17 that the LRA conceals by using jargon or codes. When I recognized the word or
18 phrase, or knew of the way the LRA deceives ordinary terms, I told" the ICC staff "my
19 understanding of how the LRA communication should be understood."

20 And now at paragraph 12:

21 "I reviewed on 18 February, with the additional aid of an interpreter, the list annexed
22 to this statement as Exhibit A. On this list are words and phrases that I was asked
23 about on 16 and 17 February and some additional words or phrases I was asked about
24 on 18 February. I confirm that the first column represents the words or phrases I
25 was asked about, and the second column reflects my answers. In some instances, I

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 recognized the word or phrase I was asked about, although it was not properly said
2 or spelt."

3 Mr Witness, does that help you, does that refresh your memory about how this
4 document was prepared and what this document in front of you is?

5 A. [12:58:51] Yes, it does.

6 Q. [12:58:58] You can see on the top right of the page it says "Annex A" to your
7 statement "Dated 18 February 2005." And you can see at the bottom right your
8 signature; is that correct?

9 A. [12:59:11] Yes, sir, it is correct.

10 Q. [12:59:28] So turning to number one on that list, Labalpiny, who is Labalpiny?

11 A. [12:59:56] (No interpretation)

12 PRESIDING JUDGE SCHMITT: Mr Taku.

13 MR TAKU: [12:59:57] Your Honours, that question is completely not fair because the
14 answer is evident. He's just reading the answer that is there. If you are showing
15 him to refresh his memory, put it back and ask him the questions that he can give the
16 answers we know, but not to ask for him just to read the answers that are found on
17 the paper.

18 PRESIDING JUDGE SCHMITT: [13:00:17] I think of course if we would now want to
19 elicit every information that is on these pages, it is clear that we would have to close
20 the binder and ask each of the numbers on the left side and ask him and try to
21 compare it. But I think important is that the witness has recognized that this is a
22 document he has signed and perhaps you put to him a question if what you have
23 read to him as his former statement, if he recognizes this, that this is still what he has
24 in -- what he remembers today also.

25 MR ELDERFIELD: [13:00:52] Thank you, your Honour. I won't be going through

1 all of these, obviously, just to highlight a few of them, and I'll do as you suggest.

2 PRESIDING JUDGE SCHMITT: [13:01:00] Please perhaps do what I said first and
3 then I think we can make the break. And if you want to go through a few of them,
4 why not do it like this, close like Mr Taku has suggested and ask two or three, and
5 then we can compare it, yeah.

6 MR ELDERFIELD: [13:01:43]

7 Q. [13:01:43] Mr Witness, the list of words on the left, you've given a list of words
8 on the left in 2005 and a list, and then beside it a description of those words or phrases
9 on the right. Are they how -- is that still how you remember producing this
10 document?

11 A. [13:02:10] Yes, I do remember that is how I did it.

12 PRESIDING JUDGE SCHMITT: [13:02:18] I think we can have now the break. And
13 what I wanted to suggest was, I don't know how good, a pars pro toto procedure now
14 if you want.

15 Lunch break now until 2.30.

16 THE COURT USHER: [13:02:31] All rise.

17 (Recess taken at 1.03 p.m.)

18 (Upon resuming in open session at 2.32 p.m.)

19 THE COURT USHER: [14:32:55] All rise.

20 PRESIDING JUDGE SCHMITT: [14:33:14] Mr Elderfield can rise again and has still
21 the floor of course.

22 MR AYENA ODONGO: [14:33:20] Before that --

23 PRESIDING JUDGE SCHMITT: [14:33:21] Yes, Mr Ayena, please.

24 MR AYENA ODONGO: [14:33:22] Yes, my lords, I'm sure apologies due to you, we
25 had to have extensive talk with our client and that's why we took a bit longer than we

1 should have. We highly apologise.

2 PRESIDING JUDGE SCHMITT: [14:33:38] Absolutely accepted. Thank you very
3 much for this.

4 Please Mr Elderfield.

5 MR ELDERFIELD: [14:33:45]

6 Q. Mr Witness, can I check that your binder is closed.

7 Just to continue on briefly on the subject of jargon, can you remember if there was an
8 LRA jargon way of saying civilians?

9 A. [14:34:21] Thank you. The LRA had a way of referring to the civilians. For
10 instance, in Uganda they would refer to civilians as waya. The way they interpret, it
11 refers to soldiers. If you are a civilian -- I mean if you are a soldier, at least you have
12 a relative who is a civilian. So anybody who is a civilian was referred to as waya.
13 But there are also two parts of this. There are waya who are males and then waya
14 who are females. So when the LRA wants to differentiate between the male and
15 female civilians, they would say "waya negative" or "waya positive."
16 Most times when they begin talking about positive or negative, they usually talk in
17 line of the wire that is used for connecting electricity, the red wire which is used for
18 connecting is referred to as positive, and then the black one, the black wire for
19 connecting electricity is negative. So when the LRA speaks in this way they will not
20 directly call or refer to as civilians. They will refer to the negative wire or wire
21 which is positive, which means male civilian or female civilians.

22 There is also another way that the LRA refers to civilian, especially when they are in
23 the Sudan. They call civilian as zero ozero, zero ozero. There is a way when the
24 civilians in Sudan make tattoos or make marks on their faces and this makes their
25 faces becomes rough, and that is why when they are talking about ozero, it means

1 something which is happening in Sudan, because the Sudanese are people who have
2 those marks or tattoos on their face.

3 There is also another way that the LRA refer to the Sudanese. And once they are in
4 Sudan, the LRA refers to the people who were in the Imatong hills, they are called
5 *Ongokolyec. These are a group of people who are in the Imatong areas of the
6 Sudan so we know how to differentiate between the type of people or civilians that
7 the LRA is talking about. So if they talk about ozero, then we know they are talking
8 about the people in Sudan. And if they are talking about waya, which is just plain
9 waya without differentiating, then we know they are talking about the civilians in
10 Uganda. And if they are talking about Ongahalye, then we know they are talking
11 about a group of Sudanese in the Imatong.

12 This is --

13 PRESIDING JUDGE SCHMITT: [14:38:49] I think this answers the question, Mr
14 Witness.

15 Mr Elderfield, you would have perhaps expected a slightly shorter answer, but please
16 continue.

17 MR ELDERFIELD:

18 Q. [14:38:55] Thank you, Mr Witness. Perhaps slightly shorter this time. Was
19 there any LRA jargon way of saying "to kill" or "killed" and "to wound" or
20 "wounded"?

21 A. [14:39:09] On which side? Is it on the side of the LRA or on the side of the
22 civilian? Because there are two terms that they use. I want to understand. Is it on
23 their side or on the side of the civilians?

24 Q. Perhaps you can tell us briefly what the answer is on both sides.

25 A. [14:39:59] When the LRA killed people, they say "doing" or "number one." So if

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 they say "Go and do everyone number, number, number," it means go and kill. Go
2 and kill, go and kill.

3 When they are talking about injury, they on the side of the civilian, they do not hide,
4 they just talk openly. But on their side they don't openly talk about injuries. They
5 just say "I just simple, simple bruises or injuries." That is what I can say. Thank
6 you.

7 Q. [14:40:51] Thank you. Let's move on to talk about TONFAS or the coded
8 communications that you've talked about previously. How did the LRA use
9 TONFAS to conceal their message?

10 PRESIDING JUDGE SCHMITT: [14:41:11] Has the witness not said something about
11 that already?

12 MR ELDERFIELD: [14:41:14] I'm going to show the witness a document in
13 a moment. I just -- that explains the technique of how to do it.

14 PRESIDING JUDGE SCHMITT: [14:41:24] My only little worry is that if we call for
15 a narrative answer, so to speak, that it might extend a little bit, so that you perhaps
16 quickly come to a document that you want to show because the witness has already at
17 least addressed in general outlines what TONFAS meant, if I have recalled it
18 correctly.

19 MR ELDERFIELD: [14:41:44] I am guided. I'll go straight to the document.

20 Q. [14:41:48] Mr Witness, can you please open your binder at tab 13. The ERN is
21 0025-0173 and this document can be shown to the public.

22 Mr Witness, do you recognise this document?

23 A. [14:42:27] Yes, I recognise this writing, although the heading is not clear. But I
24 understand that this is what I was talking about. This is TONFAS, is the way the
25 LRA organises their TONFAS.

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 Q. [14:42:50] Can you explain to us, using the document in front of you, how the
2 LRA write the TONFAS and how they use it to conceal the message?

3 A. [14:43:16] I did not get your question very clearly. Is how they write it or how
4 they use it to send their communication?

5 Q. [14:43:27] Can you answer both questions, please?

6 A. [14:43:37] First of all, this is one way that the LRA writes their TONFAS, just as
7 it is.

8 In another way they write using names of people. They can also write in reference to
9 names of mountains or hills or rivers or lakes. They can also write in reference to
10 names of countries like Kenya, Uganda, Sudan, America, plus others. This is just
11 a few examples of how they would write.

12 And then when they are using figures they mix figures. They can pick, for instance,
13 number 18, and they write 10, 9, or they write anything. But mostly when they are
14 writing figures they write in a red ball pen just to create a difference. They can write
15 anywhere, even when it doesn't make sense, but once it is written in red they usually
16 understand.

17 For instance, when they are speaking it will say "I knock my head or I hit my head"
18 because it means red. That is how they -- that's when they're referring to figures.

19 Then secondly I can talk about how they send their message using this TONFAS.

20 I don't have a pen, but if I am allowed to write something then I can -- so that it can
21 make sense, then I could write. But if I am not allowed to use a pen, then I can find
22 another way of explaining it.

23 So how they use TONFAS, they have a kind of style, as I'm going to narrate. The
24 serial numbers that you see from 1 up to 30, the LRA does not refer to serial numbers
25 as it is. They call -- they refer to it as miles, as miles. And when they are

1 communicating, you listen to what they are saying, they would say "Go to these
2 miles," and once they say "Go to this mile," don't use any calculator or any other thing.
3 They are actually referring to that serial number from 1 up to wherever it will end.
4 For instance, if I can give an example, they can say, I am going to use only one, "Go to
5 mile 11, and when you go to mile 11 you'll find several houses." These "houses"
6 means homes or words. So if they say "mile 11," there are like five houses and the 5
7 could mean D-O-K, which is one house. With a small dash could be C-E-N, that's
8 another second house. O-W-E-K-O is house number 3. And R-U-D-A is house
9 number 4 or home number 4.
10 And the last, the last one, which is O-M-O-K-O, is house number 5. So in house
11 number 5 in miles 11.
12 So I am only giving number 11 as an example. So if Kony or any commander or Otti
13 is sending a message to say other LRA units or commanders, then they would say,
14 they would call the name of that TONFAS is -- is not very clear, the writing is not
15 clear, so I can't say it properly. But if you could get another TONFAS with a clear
16 heading, it would be easy for me to understand, because I don't know which
17 TONFAS we are using because it is not clear.
18 So if the Court could get for me another TONFAS, but if they want me to use this,
19 there is no problem.
20 MR AYENA ODONGO: Excuse me.
21 PRESIDING JUDGE SCHMITT: Mr Ayena.
22 MR AYENA ODONGO: Yes. I'm not too sure whether we are reading from the
23 same page when he talks about a particular TONFAS. We want to follow. What is
24 he talking about?
25 PRESIDING JUDGE SCHMITT: [14:49:30] Now I think we have a problem. I have

1 now Acholi interpretation I think of your speech. So I would ask you please to start
2 again what you said. I did not get it, simply because of the interpretation.

3 MR AYENA ODONGO: [14:49:45] Your Honours, I am not sure we are reading
4 from the same page, because he is talking about TONFAS, and he is talking about
5 a particular one which he doesn't understand very well and referring and requesting
6 that he should be given another one. So what is he talking about?

7 PRESIDING JUDGE SCHMITT: [14:50:04] I think we should, we should -- perhaps
8 the Prosecution should make clear what this exercise is about, what you want to get
9 out of the witness here. I would understand, and perhaps I am wrong, you can
10 correct me, that it's sort of an exemplary exercise what you are doing. But then it
11 would of course be a good thing to help the witness a little bit and tell him what we
12 are exactly talking about. So it is correct what you are saying.

13 MR AYENA ODONGO: [14:50:32] Much obliged, your Honours.

14 PRESIDING JUDGE SCHMITT: [14:50:34] Thank you.

15 MR ELDERFIELD: [14:50:36] Your Honour, you are correct, I would just like to ask
16 the witness to help us understand his interpretation of TONFAS in a general sense
17 using this as an example.

18 PRESIDING JUDGE SCHMITT: [14:50:45] But the problem, what Mr Ayena
19 addressed was that the witness asks if he can have a little -- if you can help with this
20 sheet of paper, this document that has been put to him. So I don't know why he
21 does not have the headline. Or if you could put it to him or whatsoever or take
22 another one. It is perfectly clear that we cannot go through all of these for 46
23 different expressions because we would sit here to explain that until the end of this
24 week. So I understand it, as I said, as exemplary exercise.

25 MR ELDERFIELD: [14:51:24] I'm happy to move on if your Honours are.

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 PRESIDING JUDGE SCHMITT: [14:51:28] Yes.

2 MR ELDERFIELD: [14:51:29] Yes.

3 Q. [14:51:39] Mr Witness, how long did it take you to understand TONFAS like this
4 document and others?

5 A. [14:51:55] The use of TONFAS is dependent on a particular situation. It could
6 take like five days. It could use it like for a week. Because the TONFAS are quite
7 many. Today we can use one and then tomorrow we are using another TONFAS.
8 And sometimes you can use five different TONFAS on the same day. So it depends
9 on if there are many communications at that time. Thank you.

10 Q. [14:52:37] Witness, are you saying that the LRA used multiple TONFAS they
11 might change every day. For example, is that what you're saying?

12 A. [14:52:53] There are days that they can use like 10 different TONFAS. They can
13 pick only one word from a TONFAS or they can pick two from another TONFAS.
14 So -- but there are times that they can use one TONFAS if they are stable and -- so the
15 reason why they use many TONFAS depends on the condition they are in. There are
16 some TONFAS where they have written the ranks or army ranks like private or lance
17 corporal, so in that case they don't use it quite a lot to send a message, they can pick
18 only one word and then they go to the next TONFAS. In some TONFAS it is just
19 figures and you can't use it. Thank you.

20 PRESIDING JUDGE SCHMITT: Mr Ayena.

21 MR AYENA ODONGO: [14:53:50] I am totally lost. Can we pick one of these, for
22 instance, number 2, gweno ngeyo laput yibe, if they take these here to be TONFAS,
23 can you explain to us so that we follow.

24 PRESIDING JUDGE SCHMITT: [14:54:10] Mr Ayena, I think we do it for matter of
25 order in the courtroom that I take over this question because it's a good question and

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 put it to the witness.

2 So please answer it.

3 But normally it's the questioning of course at the moment of Mr Elderfield, but I

4 accept that this is really -- perhaps might help us forward so that we understand at

5 least one of these. This is the purpose I think of your question.

6 So please, Mr Witness, could you just take, pick one of these numbers and explain

7 what the line means on the right side of these numbers, please. Why not take

8 number 2.

9 THE WITNESS: [14:55:03] (Interpretation) I want the Court to understand this

10 clearly. Number 2 which is referred to by the counsel, that gweno ngeyo laput yibe

11 is not the title of the TONFAS. The title of the TONFAS is up on top which is not

12 clearly -- that heading which is not very clear on the top. So it means that from

13 number 1 up to 30, all fall under one TONFAS which is written up on top. The

14 TONFAS is the one which is written on top on the heading of the document is the

15 name of the TONFAS. But the rest which is down here is now what is used to

16 communicate so they can write anything which is not meaningful at all. But

17 sometimes they write things which are not clear which have no meaning. So that is

18 why it is important --

19 PRESIDING JUDGE SCHMITT: [14:56:12] Mr Elderfield, would you please give it

20 another try. Now I am also a little bit lost. I have also not understood it. Of

21 course we understand that the name of the TONFAS is represented in the headline,

22 yes. But what does it concretely mean then what is on this sheet of paper? And

23 this could perhaps be made clear by referring to one of the lines there. This is I think

24 the purpose of the question.

25 MR ELDERFIELD: [14:56:54]

1 Q. [14:56:56] Mr Witness, I want you to go to number 2, line 2 in this document.

2 Forget the fact that the title is not clear. Can you tell us how you, using line 2, would
3 spell the LRA jargon word waya if you were an LRA commander speaking in
4 TONFAS.

5 A. [14:57:40] I want people to understand clearly, the example in number 2, when
6 you see number 1, 2, 3, there is no C, there is no letter C which is in that word. So
7 that's why when this TONFAS is written, they don't send the message just anyhow.
8 Waya is a civilian. So if they want to send any message describing waya, then it has
9 to start with W at the beginning. So when you look at the second, the second row, at
10 the beginning of the word there is no W. At the beginning of each of those words
11 there is no W. So it should be waya. And then we have to get the difference
12 between waya and then wire, which is the English word of waya, which is the civilian,
13 and then there is the wire which is black and red.

14 Q. [14:59:05] Witness, I'll stop you there. Can you explain to the Court using any
15 short word that you would like how you would use this document, use this TONFAS
16 document to spell out a word?

17 A. [14:59:40] Should I use any other word apart from number 2? Because there
18 I don't see W in the serial number, number 2. So I need to find another area where
19 I can find a word beginning with W. Unless you want me to use any word to
20 describe a waya from this TONFAS.

21 MR AYENA ODONGO: [15:00:12] Excuse me, Your Honours. For onward
22 movement, maybe I will go to another one with a W so that he -- gwok woto ka ma
23 gibolle iye cogo, which is --

24 PRESIDING JUDGE SCHMITT: [15:00:31] What is now --

25 MR AYENA ODONGO: [15:00:33] -- number 19.

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

- 1 PRESIDING JUDGE SCHMITT: [15:00:34] Can you explain now what you are doing
2 now at the moment, perhaps.
- 3 MR AYENA ODONGO: [15:00:39] He is saying he needs a list somewhere where
4 there is W. So there is W in 19.
- 5 PRESIDING JUDGE SCHMITT: [15:00:49] Okay, good. Good.
- 6 MR AYENA ODONGO: [15:00:52] And then number 20.
- 7 PRESIDING JUDGE SCHMITT: [15:00:53] No, I have understood.
- 8 MR AYENA ODONGO: [15:00:55] And then number 16.
- 9 PRESIDING JUDGE SCHMITT: [15:00:57] Yes. So you are very quick --
- 10 MR AYENA ODONGO: [15:01:02] Yes.
- 11 PRESIDING JUDGE SCHMITT: [15:01:03] -- I have to say. So this answers even the
12 question. But I like personally really the word "waya" because it's so short, so it
13 should not be too difficult now to find in any of these lines indeed W and so on so
14 perhaps we give it now the last try. But then we move on, please.
- 15 MR ELDERFIELD: [15:01:30]
- 16 Q. [15:01:30] Mr Witness, perhaps using any of the lines can you please spell
17 waya -- explain to the Court how you would spell waya using any of the lines?
- 18 A. [15:01:48] Thank you. I will use number 19. In order to write waya with
19 TONFAS I will use number 19. When the LRA is writing waya, this is how they go
20 about it:
- 21 They will tell you go to mile 19, and that's the serial number 19. At serial number 19
22 you find many homes. Among the many homes leave the first one, go to the second
23 one. At the second house, you find the word woro. The first one, the first house
24 has Gwok, the second house has woro. When the LRA is sending a message, they
25 will tell you "Go to mile number 19. Go to the second house. At the second house

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 take the first one." And when we are talking about take the first one, it means take
2 the first letter, referring to W. The people who are receiving the message will note
3 down W.

4 They will go on. At the same mile, 19, there are many homes. But the third house,
5 the third house, at the third house take the second letter. At number 19 there are
6 many houses, go to the third house and take the second letter, which means A. This
7 means that the receiver of the message will write -- has initially written "W" and he
8 will now -- he or she will now write "A".

9 And further, they will tell you: Go to number 19. At the second last house, go to
10 the second last -- the second last house and you have the word Iye. And they will
11 tell you to go to the second last house and take the last word, which is Y. So
12 whoever is receiving the message writes Y, the letter Y. So three letters now.

13 Then they will tell you, at the same mile, mile number 19, there are a number of
14 houses, there are several houses, but out of the several house there is the first house,
15 the second house. There is one which is written KA something. So at the third
16 house take the last one, take the last door, which means A or A. So this will make
17 sense or it will make a sentence or a word. So you can make up the word "waya"
18 using this format.

19 But if the LRA wants to further confuse it, they will say *mbele yake, which means
20 that the person would have understood waya is the word, but *mbele yake is
21 a another message. So " *mbele yake over" is another message, which means that there
22 is a space there. So they continued sending the same message using the same format.

23 Q. [15:05:56] Mr Witness, thank you. I will stop you there. Can I also ask you to
24 perhaps speak a little slower for the interpreters.

25 I'm going to move away from TONFAS now. So can I ask you to close your binder.

1 Mr Witness, going back to your experience listening to the LRA, how were you able to
2 recognise which commanders were speaking?

3 A. [15:06:46] It was through instructions. The person who -- my instructor was
4 somebody who worked in the LRA for a long time and he is the one who thought me
5 about voice recognition. Luckily, there were also a number of returnees who had
6 escaped from the bush and they were previously signallers. And there were quite
7 a number of them.

8 On most occasions they are the ones who, in case of any doubt regarding the identity
9 or the voice recognition of a certain commander, they were the ones who would come
10 and tell us that this is so-and-so's voice, this is so-and-so's voice. So when we
11 compare the voices then it makes sense.

12 Further on, in addition to the training that I received, they also taught us how to
13 recognise voices. If, when you're -- after the instructions, after the training you have
14 to take an exam and during the exam we are given a number of voices, so you have to
15 identify the different voices and say this is so-and-so's voice. Thank you.

16 Q. [15:08:10] From your experience listening to the LRA could you recognise
17 Dominic Ongwen's voice?

18 A. [15:08:26] Not only Dominic Ongwen, but all LRA.

19 Q. [15:08:35] Let's focus on Dominic Ongwen. How often would he talk on the
20 radio? Perhaps how many times every week or every month would you hear
21 Dominic Ongwen?

22 A. [15:08:56] Dominic was a commander who was quiet. He did not like talking
23 so much. He would only talk when he did something or there was an achievement.
24 He would only talk about important things. If he went on a mission and he was
25 successful then he would talk about that mission. Thank you.

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 Q. [15:09:18] From your experience listening to the radio, do you know Dominic
2 Ongwen's position in the LRA?

3 A. [15:09:35] Well, it depends on the promotion, because when Kony was
4 promoting people he would actually openly pronounce this on air. He would say
5 so-and-so has been promoted to such-and-such a rank. It is not difficult because
6 promotions are something that are spoken in plain language. The promotion, the
7 promotion, Dominic's promotion that was communicated on radio, I heard that and I
8 also have it on record, I wrote it down. Thank you.

9 Q. [15:10:17] Can you remember the rank or position he was promoted to on that
10 occasion and, if so, when was it?

11 A. [15:10:33] On one occasion -- if I look up the records I can verify this. I do not
12 know if they can actually play a voice recording, but there was an occasion that Kony
13 promoted people.

14 The way he promoted people on that occasion was different from the normal way.

15 Kony told Otti that "I would like to increase ranks", but he did not specify the number
16 of ranks or the number of people that were being promoted, but he did say a number
17 of ranks. Otti was a major general.

18 So on one occasion, Kony told Otti "Take a pen and write down the promotion. I am
19 not going to openly state, but when I call your name you will know that I have added
20 one stone, you are one rank higher. I am not going to say this person is being
21 promoted from this rank to this rank, but each person knows their rank. So if you
22 hear your name among the names that I am reading out, then you will know that you
23 have been promoted one step higher."

24 Let me give you an example. If for example you have one stone, then you know that
25 you are a lieutenant and you have two stones. If for example you are a sergeant or

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 a corporal, if I call your name then you have been promoted. So I know maybe other
2 people don't understand but some people don't -- some people do. But if I recall
3 how Kony promoted Dominic, I remember Otti saying, "Please write down
4 Layom Cwiny." Kony himself was on -- was on air as well. He asked "Did you
5 write this?" "Yes, yes, your -- the rank has been increased." So that means that he
6 was promoted from lieutenant general to general.
7 He told a number of people, "State your name." So once you state your name, he
8 states your name and then, once he states your name, you know that you have been
9 promoted one rank higher.
10 So Dominic's name was among the names in that group. At the time Dominic was
11 a colonel and I think that was the time when he was promoted to brigadier. He did
12 not actually say it directly, but there was an implication, it was implied that once your
13 name is called then you are one rank higher. So at the time he was -- you know that
14 if you are a lieutenant colonel you go up to colonel.

15 PRESIDING JUDGE SCHMITT: [15:13:20] I think this answers the question.

16 Please continue.

17 MR ELDERFIELD:

18 Q. [15:13:25] Thank you, Mr Witness. I will just stop you there and move to
19 a completely different area in fact. I want you to focus on the times, on any times
20 that you have met with ICC staff in Gulu. Do you recall any occasions when you
21 have done that?

22 A. [15:13:53] Yes. ICC staff members came to Gulu to me on a number of
23 occasions. I cannot recall. And actually a number of people. I remember
24 Christine Chung, I remember Boye, I remember Brown. I remember Peter, Peter
25 Koler (phon) or Scholar (phon). I am not sure about the pronunciation of his name.

1 Q. Mr Witness, I'll just --

2 PRESIDING JUDGE SCHMITT: [15:14:17] I think the names are not so important
3 here. Perhaps we leave them out, the names, and you continue with your
4 questioning.

5 MR ELDERFIELD: [15:14:27]

6 Q. What did you do or what happened when the ICC staff came to meet you for
7 the first time in Gulu? I want you to focus on any records that you would have
8 produced and what they were interested in?

9 A. [15:14:53] When the ICC came to Gulu, our superiors in Kampala brought them
10 to Gulu to the office where I was based. I was told, I was instructed to give the ICC
11 staff members all the documents relating to the war in northern Uganda. I was
12 instructed to give them any document that they requested, but the ICC were not
13 concentrating on certain things, so whatever it is that they asked I gave them, I gave it
14 to them. I asked them whether -- they asked me whether I should give them -- they
15 wanted books, I photocopied the books and I gave it to them because the order had
16 come from above.

17 Q. [15:15:47] You said that you helped ICC staff with what they wanted. Were
18 you ever given anything by the ICC? Did you ever receive anything from the ICC
19 that helped you in your work?

20 A. [15:16:08] The only thing that I recall having received from the ICC, they came
21 to me, I informed them of the -- they asked me what problems I have in the office and
22 I told them that there were no ongoing operations at the time, and we were using
23 recorders, recorders that were redundant at the time, and I told them that the
24 communications were far and less in-between. If I recall, the ICC gave me a recorder.
25 They gave me a small recorder and I signed for it. And that's the one thing that I

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 recall having received from the ICC because they, they realised that it was important
2 for me to record the communication. So I recall the ICC gave me a recorder to record
3 the communication intercepts between the LRA. That's what I recall.

4 Q. [15:17:16] By "recorder" you mean tape recorder for the sound recordings,
5 correct?

6 A. [15:17:25] (Speaks English) Yes, tape recorder, yes.

7 Q. [15:17:29] Mr Witness, I am going to move now to the last area of testimony that
8 I wanted to cover with you.

9 Your Honour, we are moving fairly quickly. I have got nine sound recordings to
10 play and I plan to do it in the same way that we have done with the other witnesses.

11 PRESIDING JUDGE SCHMITT: [15:17:48] We should not change procedure.

12 MR ELDERFIELD: [15:17:51] It is has been working very well.

13 Q. Before I get into the sound recordings, Mr Witness, do you remember any
14 occasions where the ICC played sound recordings to you in interviews in Uganda?

15 A. [15:18:25] Yes, they did. A number of voices.

16 Q. [15:18:28] We will get into the details and to the tapes in a moment, but before
17 we do can you explain to the Court generally what happened in those interviews
18 when they came and asked you to listen to sound recordings?

19 A. [15:18:56] They came to me and asked me to listen to the recordings and confirm
20 whether I do recognise the voices and understand them. I told them that yes, I do
21 understand everything. They did not want several voices, they only wanted
22 a specified number of voices. I told them that I know several voices but they only
23 wanted a specified number of voices. They would play a certain part, ask me
24 whether I understood it, I would tell them "Yes, I do understand," then they would
25 play another part and ask me whether I understood it and they would say "Yes, I

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 understood." And that is how the procedure worked.

2 Q. [15:19:39] During the process were you shown any documents, did you look at
3 any documents while you were listening to the sound recordings?

4 A. [15:19:53] I was given a document to read, most of the documents are
5 documents that I had signed. Those documents I signed confirming that I was, I was
6 happy with those documents so I signed them.

7 Q. [15:20:11] When you first saw the documents, before you had signed it, were
8 those documents accurate?

9 A. [15:20:29] Yes, I felt the information in the documents were accurate. There are
10 certain excerpts on the tapes; for example, when the -- we had bad weather and it
11 wasn't translated properly or it wasn't heard properly. Some of these places were
12 left blank, but whatever was audible, yes, I did understand.

13 Q. [15:20:57] When the document was inaccurate or there was inaudible, what did
14 you do? What were you asked to do?

15 A. [15:21:14] They asked whether, whether I understood, then they replayed it.
16 I was told, "If you understand it, confirm that you understand. If you don't
17 understand, tell us you don't understand." There are certain places that I did correct
18 because I understood what they are saying, but there are certain places that I did not
19 understand and I was actually advised not to correct anything that I did not
20 understand properly.

21 Q. [15:21:42] And did you make those corrections on the document itself?

22 A. [15:21:54] Yes. Precisely.

23 Q. [15:21:59] About how many times would you say you were able to listen to each
24 sound recording?

25 A. [15:22:18] The ICC came to see me in Uganda on a number of occasions. To my

1 recollection it was more than three times.

2 Q. [15:22:30] Sorry. That's my fault. I want to know, before you signed

3 a document, that you were happy with it, about how many times had you listened to

4 the sound recording that related to that document, if you can recall?

5 A. [15:22:55] More than three or four times that I listened, it was replayed.

6 (Redacted)

7 (Redacted). They asked me whether I do recall all those things and I did

8 confirm that I do recall. And I signed. There were certain amendments that I was

9 asked to make and I did sign the documents because I informed them that I do recall

10 that information.

11 Q. [15:23:29] I would like to turn to the first sound recording now.

12 Mr Witness, I am going to play you a sound recording and ask you a few questions

13 about it.

14 The ERN of this one is 0239-0123, the excerpt is of track 2 from 23.24, to 24.30.

15 Can I --

16 THE COURT OFFICER: Evidence channel 2.

17 MR ELDERFIELD: Thank you. Can I also ask the court officer to go and show the

18 witness how to adjust the volume for his headphones in case the sound recording is

19 too loud or too soft. And can I also please ask that you check his screen is blank.

20 For the record, these rolling transcripts are public. This one and the next eight

21 sound recordings, the transcripts are public. And the documents that we will be

22 looking through with the witness are confidential and can't be shown in public.

23 Sorry, I should have also asked, Mr Witness, do you have a pen and paper in front of

24 you? When I play the sound recording, please feel free to take notes. I am going to

25 ask you to summarise what's on it after it's finished.

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 (Playing of the audio excerpt)

2 MR ELDERFIELD:

3 Q. [15:26:54] Mr Witness, do you recognise any voices on the sound recording you
4 just heard?

5 A. [15:27:06] Yes, I do.

6 Q. [15:27:08] Whose voices?

7 A. [15:27:16] First of all, Dominic called Otti. He called Otti, but Otti -- it was not
8 very clear and Otti asked, "Who is that?" He responded "Tem. Over."

9 Otti asked, "Who attacked Lukodi?" Otti asked Dominic, "Who attacked Lukodi?"

10 Dominic responded, "That was me. Over."

11 And he said, "I heard what people said. I heard that it was -- I heard that -- I heard
12 about what happened."

13 So it was Dominic reporting that he had attacked Lukodi.

14 Q. [15:28:00] And who asked "I heard about what happened"? Who was asking
15 what happened?

16 A. [15:28:11] Otti Vincent.

17 Q. [15:28:14] Do you remember the specifics, any specific details about what
18 Vincent Otti asked?

19 A. [15:28:29] Otti asked Dominic who attacked Lukodi. Lukodi is a village in
20 Uganda, in northern Uganda. Dominic responded, "That was me. Over." Odomi
21 is Tem Wek Ibong. He is the one who responded, "That was me. Over."

22 But some people are clear, some people are not clear. But the important thing that I
23 heard, the two voices that I recognise are Dominic Ongwen's and Otti Vincent.

24 MR ELDERFIELD: [15:29:11] Your Honour, I would like to replay a very small
25 section of the tape, approximately 10 seconds. The witness hasn't covered it in his

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 summary and I think it's important.

2 Mr Witness, I am going to replay a small portion of that clip, about 10 seconds and I
3 would like you to help us understand who says what on this portion.

4 (Playing of the audio excerpt)

5 MR ELDERFIELD: [15:30:20]

6 Q. [15:30:21] Can you tell us what happened in that small clip there?

7 A. [15:30:36] I heard Ocen, Tabulay's signaller, the deceased Tabulay's signaller.

8 He said, "I heard that they burned more than 100 houses. Over." He was
9 communicating with another signaller, but I did not hear the person's name and they
10 were referring to the same attack on Lukodi.

11 Q. [15:31:01] So how many people spoke in that small portion?

12 A. [15:31:20] (No interpretation)

13 MR ELDERFIELD: [15:31:31] I didn't hear an English translation for that. Perhaps
14 the translation booth can help with that last sentence or if need be we can ask the
15 witness.

16 THE INTERPRETER: [15:31:43] The interpreter requests the witness to repeat his
17 answer.

18 MR ELDERFIELD: [15:31:49]

19 Q. Mr Witness, can you please say that again?

20 A. [15:32:04] Can you repeat once. Can you play the tape once more, because it is
21 not very clear?

22 (Playing of the audio excerpt)

23 MR ELDERFIELD: [15:33:15]

24 Q. [15:33:15] Can you tell us whose voices you heard and what they said?

25 A. [15:33:24] This was -- these were the voices of Ocen and that of Dominic. Ocen

1 was telling Dominic saying that "I have heard what happened. I heard that you
2 burnt a lot of houses." So here Dominic is talking with Ocen, Major Ocen.

3 Q. [15:33:46] Mr Witness, please turn to your binder, to tab 16.

4 The ERN is 0132-0093. And the binder contains an excerpt of the transcript of the
5 relevant pages of the transcript. This is a confidential document.

6 Mr Witness, do you see your initials at the bottom right of the first page?

7 A. [15:34:29] Yes, I do.

8 Q. [15:34:33] Can you please turn the page and this is the first page of the excerpt
9 marked 0102. Mr Witness, can you focus your attention on the first line of that
10 page where there is handwriting and that occurs about two-thirds of the way down
11 the page. Next to the typed word "Tem" on the left there is the word written "Dom"
12 what's that?

13 A. [15:35:14] This was during the verification exercise because people thought
14 perhaps I had forgotten all this information so we were doing some verification
15 exercise and they realised that I could still recall all these people. Tem means
16 Dominic, Wat Pa Dano means Otti. All these writings with a pen indicate where
17 I was confirming the questions being asked by the ICC staff concerning the radio
18 communication. So these writings were my corrections. I wrote myself these
19 words before signing and I did confirm it even now. Thank you.

20 Q. [15:36:05] So why did you write "Dom" next to the sentence "Wat Pa Dano Tem,"
21 why did you write "Otti" next to the next sentence, "Go ahead."

22 A. [15:36:26] Can you repeat the question, please?

23 Q. [15:36:29] It may seem obvious to you, but can you just please explain to us why
24 you have written on the left-hand side "Dom" and "Otti" next to those sentence?

25 A. [15:36:56] Here it was not well written, because it should be "Tem Wat Pa Dano."

1 Here Otti was calling Dominic. The communication was between Tem Wek Ibong
2 and Wat Pa Dano, in other words, Tem Wek Ibong, Wat Pa Dano is calling. That is it.

3 That means that Otti was calling Dominic. He didn't write "Tem," he didn't write.

4 He wrote that "Tem Wat Pa Dano," that means that Tem, this is Wat Pa Dano calling.

5 Q. [15:37:44] So who said that sentence, who said that line, "Wat Pa Dano Tem"?

6 A. [15:37:56] That was Otti calling Dominic. "Tem Wat Pa Dano." That means

7 Wat Pa Dano was the person calling Tem. Otti was contacting Dominic. It is like

8 a communication. Most civilians here haven't learned anything about

9 communication. One can say Zero Alpha Papa Two. Zero Alpha, this is Papa Two.

10 Actually, that shows the same thing.

11 Q. [15:38:45] I will stop you there. I will stop you there. Would you like to make
12 a clarification or a change to this transcript then? In fact, where it says "Dom" on the
13 first line it should say "Otti"? Is that what your answer is?

14 A. [15:39:09] According to the recording which has been done just here "Tem Wat
15 Pa Dano," that means that it was Otti who was calling Dominic, it was Otti who
16 started calling Dominic.

17 Then, yes, it was Otti calling Dominic saying "Tem Wat Pa Dano," so Otti was calling
18 Dominic in that first line in that first recording. That means Otti was the one calling
19 Dominic. Thank you.

20 Q. [15:39:44] For the record, that timestamp the witness is talking about is 23.32.

21 Mr Witness, can you please turn over the page, and that page is marked 0103. In the
22 top right-hand corner of the page there are some handwritten words. Can you tell
23 us what those words are?

24 A. [15:40:33] Yes, I can tell you what that means.

25 Q. [15:40:40] What does it mean?

1 A. [15:40:46] Here it means, it means fayi kafayi. That means soldiers. The LRA
2 *called soldiers kafayi. That's their word which they use for soldiers. They called
3 soldiers kafayi. That means that one was a kafayi. He is trying to say that my
4 soldiers, he is saying: My soldiers, but who are going to come back, my soldiers who
5 are coming back today, today. I had sent my soldiers, those are soldiers I'd sent, I'd
6 deployed, and they are coming back today.
7 This is what it means. Here they've used the word "year," but in the LRA jargon
8 "year" is "today." Thank you.

9 Q. [15:41:56] Who --

10 PRESIDING JUDGE SCHMITT: [15:41:58] Perhaps to understand for the Chamber,
11 so this would have to be substituted or inserted at line -- yes, at what line, please,
12 Mr Witness? What you just explained to us, who says this and where would we
13 have to put it on the transcript, at which line, for example?

14 THE WITNESS: [15:42:32] So the writings made by me using a pen, I do recall that
15 in all the audios, these writings represented what Dominic was saying. He was
16 saying: My soldiers who are going to come back today.

17 PRESIDING JUDGE SCHMITT: [15:42:50] No, Mr Witness, perhaps I have not
18 worded it correctly, my question. What you explained to us was your handwriting,
19 and your handwriting is on the top of this page on the right side. So we do not
20 know where it belongs to when we look into the transcript. You see what I mean?
21 Where should it belong to, this what you have been writing down with your own
22 pen?

23 THE WITNESS: [15:43:24] (Interpretation) I am following. You know, what has
24 been communicated is different from what has been written. So I don't know how to
25 explain that, how you'd like me to explain this, because according to this voice as I

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 know it, this was Dominic's voice who was saying that these were my soldiers.

2 As I said, the LRA called soldiers kafayi. They were my soldiers, but they'll come

3 this year, meaning they will come back today. The soldiers I've deployed will come

4 back today. That means those who were put on operations had not yet come back

5 and they would come back today. That is what Dominic was saying as per the

6 excerpt which was shown to me.

7 PRESIDING JUDGE SCHMITT: [15:44:24] I want to give it another try perhaps.

8 Really it was not clear enough. You see that you have this page in front of you that

9 gives the impression, the printed words give the impression that they show a certain

10 sequence of things that people have talked to each other. And now comes your own

11 pen writing into place. And the question of the Chamber is where would we have to

12 insert it, so to speak, in which part of this sequence of one person speaking to another,

13 then the other person speaks, then again another person? Where would you insert it

14 on this page what you have written with your handwriting? This is another try.

15 THE WITNESS: [15:45:16] (Interpretation) I summarised these writings as per the

16 interview I was going through. That's why I summarised all those things very

17 briefly. So I don't know how I should explain this.

18 PRESIDING JUDGE SCHMITT: [15:45:38] I think then, Mr Elderfield, you should

19 perhaps give it another try or just move on.

20 MR ELDERFIELD: [15:45:42] (Microphone not activated)

21 Q. Mr Witness, you have said that the person who said that was Dominic. On

22 that page, on the top left, you have written "Dom" twice in handwriting. The first

23 one next to the words "Me, over," and the second one, the second time you have

24 written "Dom" is about two lines under that.

25 Does that help you tell us where in the transcript that sentence fits?

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 A. [15:46:43] The way it has been written here, I just follow the way the messages
2 came in, because here they said "Please repeat. It is me, over." That means it is me,
3 Dominic, over. It is written clearly.

4 There are some questions which are technical and I am not understanding very well,
5 because if I am asked what I wrote and what I verified, I said that the kafayi who are,
6 who are his soldiers, and they -- that will happen this, this year, this was Dominic's
7 voice. So I just wrote here in summary. If you repeat the tape you will find that it
8 is quite the same thing, no difference.

9 MR ELDERFIELD: [15:47:43] Your Honour, can I play a small portion to help
10 orientate the witness, and I can read out the timestamps, and that may help to clarify
11 for you where exactly in this --

12 PRESIDING JUDGE SCHMITT: [15:47:58] This is a last time that we hear a portion
13 of this intercept, and a short portion, please, a short portion. And I have two
14 follow-up questions to that.

15 MR ELDERFIELD: [15:48:20] So, your Honour, this portion is about from 23.45
16 to 23.56.

17 (Playing of the audio excerpt)

18 MR ELDERFIELD: [15:48:47]

19 Q. [15:48:49] Mr Witness, the sentence that we were talking about, did it fall in that
20 portion of the transcript -- sorry, that portion of the sound recording?

21 A. [15:49:09] This thing is very clear, this was Otti talking with Dominic. That's
22 why I am saying, I am saying it is Dominic who is talking with Otti, talking with
23 Dominic. Otti is laughing over what Dominic has done, and he told -- Dominic said,
24 it is his soldiers, "Kafayi are just coming back today." And then Otti said, "Confirmed,
25 I have understood." So that is the meaning, nothing else. So this is

1 a communication between Otti and Dominic, they are talking about the attack.

2 Q. [15:49:53] Thank you. I am going to move on from that.

3 Sorry, you had two questions, your Honour.

4 PRESIDING JUDGE SCHMITT: [15:49:59] I have two questions.

5 Please, Mr Witness, go back to the page 102, just one page. And then the last line,
6 please. And there at least in the transcript we read "Not very clear."

7 And then please turn over again to the next page, 103, and to the second line where
8 we have again "Not very clear." What does that mean, "Not very clear?"

9 THE WITNESS: [15:50:51] (Interpretation) As I said, as I said earlier, with radio calls
10 sometimes there is interference and when there is interference you cannot talk and
11 understand just like the way we are talking face to face because sometimes the
12 weather is not good so if the weather is not good, for someone to talk clearly
13 you cannot force weather to be -- to change. So that is not the signaller's mistake or
14 the speaker on radio, but it is due to weather problems.

15 PRESIDING JUDGE SCHMITT: [15:51:25] Of course we are not speaking about
16 anybody's fault, but in the transcript there is ascribed to a certain person a certain
17 statement and then it is said it is not very clear. So the question would be: Does
18 not very clear mean in this context unclear or does it mean somewhat clear or
19 whatsoever? Do you understand what I mean? Does clear mean you could
20 understand what has been said?

21 THE WITNESS: [15:51:57] (Interpretation) Yes, I have now understood. Where it is
22 written "not very clear," that means that the sentence has been -- has not been smooth
23 and cannot be all heard. There are some words which cannot be deciphered. So it
24 is just like a network sometimes with mobile phones, the network is not clear so it's
25 similar to that. Thank you.

- 1 PRESIDING JUDGE SCHMITT: [15:52:30] Thank you. I have a further question.
- 2 We stay on this page, 0103, and there we have I think at line 1, 2, 3, 4, 5, 6, 7, 8, at line
- 3 8 we have here "Tem," and we have heard from you Tem is Dominic, you ascribe it to
- 4 Dominic, and he is supposed to say "I heard, I heard that they burned more than 100
- 5 houses."
- 6 And I'm referring to what you said on the transcript page of today, 98, line 3, "These
- 7 were the voices of Ocen and that of Dominic. Ocen was telling Dominic, saying that
- 8 'I have heard what happened and now I heard that you burned a lot of houses.'" So
- 9 here Dominic is talking with Ocen.
- 10 So we have the transcript, it looks a little bit like as if Tem is saying that he heard
- 11 from somebody else who had burned houses and what you told us as a summary
- 12 what you heard was that he tells other people that he burned houses. So I would
- 13 like to understand what, in your opinion, has been said.
- 14 THE WITNESS: [15:54:06] (Interpretation) I want this part to be well understood.
- 15 When the LRA is talking, sometimes the -- everybody wants to speak. They have no
- 16 procedures. Any signaller may come in at any time. So here it was Ocen talking
- 17 with Dominic, a communication between Ocen and Dominic.
- 18 As I said, these people just come in anyhow without any order, but we are able to
- 19 distinguish by identifying their voices. One person may be calling Dominic, one
- 20 person may be calling Otti in one minute, so one has been skilled and listen to decide,
- 21 to distinguish who said what to who. Thank you.
- 22 PRESIDING JUDGE SCHMITT: [15:54:56] But would you say that the transcript that
- 23 you see on this page and on the other page reflects what has been said, in your
- 24 opinion? What you have heard, of course, not what you have said.
- 25 THE WITNESS: [15:55:25] (Interpretation) Yes, it reflects the audio recording.

Trial Hearing
UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 PRESIDING JUDGE SCHMITT: [15:55:31] Mr Elderfield.

2 MR ELDERFIELD: [15:55:33] Just one more question, your Honour. There is some
3 handwriting that we haven't talked about, three lines on the right. I'll just ask about
4 that.

5 Q. Mr Witness, on that same page, 0103, there are three handwritten lines of text on
6 the right. Can you tell us what those are?

7 A. [15:56:03] This was my interpretation for those who were interviewing me.
8 "Timme" means you are coming back, because I was responding to the people who
9 were interviewing us. When one says "time" that means "coming back". And
10 "kafayi" means "soldiers". And "mawaka" means "day". This was according to the
11 questions asked by the people who interviewed me. When it was written "timme"
12 that means "coming back". When it is written "kafayi" that means "soldier". When
13 it is written year, it means day. So that was my interpretation because I know very
14 well that there are Acholi speaking people who are here who may not be able to
15 interpret it properly. So that's why I had to do the interpretation so that people may
16 understand what kafayi stands for and what the others stand for. But for us we do
17 know that. Thank you.

18 MR ELDERFIELD: [15:57:16] I am finished with this transcript now. I just need to
19 put on the record I played three portions of sound recording just then. I gave the
20 timestamps for the first and the third one. The second one was from 23.55 to 24.05.

21 PRESIDING JUDGE SCHMITT: [15:57:35] Thank you.

22 And I think this would conclude today's hearing, but didn't the Prosecution want to
23 read something into the record?

24 MR ELDERFIELD: [15:57:46] Yes. Thank you, your Honour.

25 PRESIDING JUDGE SCHMITT: [15:57:49] I wanted to remind you of that so that we

Trial Hearing
UGA-OTP-P-0003

(Private Session)

ICC-02/04-01/15

1 have it then. But for this we would have to go into closed session, I think.

2 So we go into closed session.

3 (Private session at 3.58 p.m.)

4 THE COURT OFFICER: [15:58:10] We are in private session.

5 PRESIDING JUDGE SCHMITT: [15:58:21] So please, Mr Elderfield.

6 MR ELDERFIELD: [15:58:23] Thank you, your Honour. So tab 1, which is a list of
7 persons that we're using in public session to hide their identities, on the left is a list of
8 names and on the right is their code. And I'm going to read out firstly the name and
9 secondly the code that the witness has been referring to in public session.

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Open session at 3.59 p.m.)

17 THE COURT OFFICER: [15:59:24] We are back in open session, Mr President.

18 PRESIDING JUDGE SCHMITT: [15:59:37] Thank you very much.

19 And this also concludes today's hearing.

20 Thank you very much Mr Witness. And a very special thank you to the interpreters
21 who had an extremely difficult job today.

22 So we see each other tomorrow at 9.30.

23 THE COURT USHER: [15:59:52] All rise.

24 (The hearing ends in open session at 3.59 p.m.)

25 RECLASSIFICATION REPORT

Trial Hearing
UGA-OTP-P-0003

(Private Session)

ICC-02/04-01/15

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