

Trial Hearing
WITNESS: UGA-OTP-P-0339

(Open Session)

ICC-02/04-01/15

1 International Criminal Court
2 Trial Chamber IX
3 Situation: Republic of Uganda
4 In the case of The Prosecutor v. Dominic Ongwen - ICC-02/04-01/15
5 Presiding Judge Bertram Schmitt, Judge Péter Kovács and
6 Judge Raul Pangalangan
7 Trial Hearing - Courtroom 3
8 Wednesday, 22 November 2017
9 (The hearing starts in open session at 9.33 a.m.)
10 THE COURT USHER: [9:33:44] All rise.
11 The International Criminal Court is now in session.
12 PRESIDING JUDGE SCHMITT: [9:34:05] Good morning, everyone, and especially
13 good morning to Mr Witness, not only because you have come again into this
14 courtroom, but also I have been informed that you did a lot of work yesterday
15 afternoon, and we have really to laud you for your work and for your testimony work,
16 which is exceptional. I think I can say that and everybody in the courtroom will
17 agree with me.
18 I ask for the appearances for -- no. First of all we call the case. We should not
19 forget that.
20 THE COURT OFFICER: [9:34:42] Good morning, Mr President, your Honours.
21 The situation in the Republic of Uganda, in the case of the Prosecutor versus Dominic
22 Ongwen, case reference ICC-02/04-01/15.
23 And for the record, we're in open session.
24 PRESIDING JUDGE SCHMITT: [9:34:56] Thank you very much.
25 For the appearances of the parties, Mr Black first.

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1 MR BLACK: [9:34:59] Good morning, your Honours. Colin Black for the Office of
2 the Prosecutor with Julian Elderfield, Benjamin Gumpert, Paul Bradfield and Ramu
3 Fatima Bittaye.

4 PRESIDING JUDGE SCHMITT: [9:35:12] And for the Legal Representatives of
5 Victims, Mrs Hirst.

6 MS HIRST: [9:35:13] Good morning, your Honours. Megan Hirst with James
7 Mawira and Anushka Sehmi.

8 PRESIDING JUDGE SCHMITT: [9:35:18] Thank you.
9 Mr Narantsetseg.

10 MR NARANTSETSEG: [9:35:19] Good morning, Mr President, your Honours.
11 Orchlon Narantsetseg with Ms Caroline Walters.

12 PRESIDING JUDGE SCHMITT: [9:35:24] Thank you.
13 And for the Defence, Mr Obhof.

14 MR OBHOF: [9:35:26] Good morning, your Honour. Today with the Defence we
15 have Chief Charles Achaleke Taku, Ms Abigail Bridgman, Mr Dominic Ongwen and
16 myself. And counsel sends his apologies, he's at home right now. He just had a
17 recent family -- a death in his family, and so he is helping preparing for the burial
18 right now.

19 PRESIDING JUDGE SCHMITT: [9:35:45] So give him our best wishes from the
20 Bench.

21 Before you can start with your questioning, Mr Obhof, I would like to address the
22 next witness, how we handle that. I've been informed that there have been special
23 instances regarding Witness P-125, which would make it really human and advisable,
24 so to speak, to start with this witness today and finish him tomorrow so that he can
25 go back home. I don't want to elaborate on that.

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1 I have been informed that you, Mr Obhof, will be finished with your examination at
2 midday, after the second session; is that correct?

3 MR OBHOF: [9:36:25] Barring an act of power outage, yes, I'll be done at 1300.

4 PRESIDING JUDGE SCHMITT: [9:36:33] I think we trust in your power, I would say.
5 So I'm quite confident, frankly speaking.

6 So what we are doing then is we extend the afternoon session to two hours and we
7 will finish this witness, the next one, P-125 tomorrow. So I think this is the best. I
8 have heard that you have all agreed to that, that we strive to do that. And this also
9 means that our current witness will finish at midday.

10 So, Mr Obhof, please continue.

11 MR OBHOF: [9:37:02] Thank you, your Honour.

12 Your Honour, I'd like to go into a short private session for about five to seven minutes,
13 please.

14 PRESIDING JUDGE SCHMITT: [9:37:15] Private session.

15 We always say this so that the gallery knows what they can expect, if it makes sense
16 to stay in the audience in the gallery or not. So five to seven minutes private session.

17 (Private session at 9.37 a.m.)

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10 (Open session at 9.44 a.m.)

11 THE COURT OFFICER: [9:44:29] We're back in open session, Mr President.

12 MR OBHOF: [9:44:32]

13 Q. [9:44:32] Mr Witness, I'm going to look into that, talk about that a little bit

14 further about Mr 8. And it says in paragraph 41 of your statement in the second to

15 last complete line, "I did not get on with him very well."

16 Now, Mr Witness, your interview was conducted in English and you read through it

17 in English and admittedly you have been operating in English for approximately two

18 decades. Are you now saying that this sentence in which you read over and signed

19 at the back on page 0749 is not correct and was initialled at the bottom of page 0738?

20 A. [9:45:35] What I know, what I wrote in the logbook, I wrote in English. What I

21 listened to, I listened to everything in Acholi and wrote them in the logbook in

22 English.

23 Q. [9:45:53] Thank you, Mr Witness, but this isn't about the logbook. This is about

24 your comprehension in conducting your interview in English, having your statement

25 written in English.

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- 1 PRESIDING JUDGE SCHMITT: [9:46:06] No. It's about person --
- 2 MR OBHOF: About the --
- 3 PRESIDING JUDGE SCHMITT: -- person number 8, which the witness knows and is
- 4 obviously not comfortable talking about these matters. Simply to interpret it. I
- 5 think everybody senses it in the courtroom here, and he gets -- you can give it another
- 6 try, but then I think we move to another point.
- 7 MR OBHOF: [9:46:29] I think we can move into a private session. Maybe he might
- 8 feel more comfortable discussing it there, if you don't mind.
- 9 PRESIDING JUDGE SCHMITT: [9:46:35] Okay, yes. Why not?
- 10 MR OBHOF: [9:46:36] Yes.
- 11 PRESIDING JUDGE SCHMITT: [9:46:36] We go to private session shortly.
- 12 Mr Black is rising. Before we go to or after?
- 13 MR BLACK: [9:46:45] It doesn't matter.
- 14 PRESIDING JUDGE SCHMITT: [9:46:46] Then we discuss it in open session.
- 15 MR BLACK: [9:46:48] Okay. My apologies. I just thought it might -- since the
- 16 witness does read English, maybe it would be, it would facilitate this questioning if he
- 17 could actually look at his statement himself and see it. I don't know that --
- 18 MR OBHOF: [9:46:59] It's on evidence 1.
- 19 MR BLACK: [9:47:01] Okay. I don't know if he's able to look at that, but it might
- 20 assist, your Honour.
- 21 PRESIDING JUDGE SCHMITT: [9:47:04] That would assist indeed. So we go to
- 22 private session and the witness may have it on the screen.
- 23 (Private session at 9.47 a.m.)
- 24 (Redacted)
- 25 (Redacted)

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20 (Open session at 9.53 a.m.)

21 THE COURT OFFICER: [9:53:40] We are back in open session, Mr President.

22 PRESIDING JUDGE SCHMITT: [9:53:46] And we all know that everybody here in
23 this room, in his life and perhaps also nowadays, we have to live and work together
24 with people and continue doing that.

25 Please, Mr Obhof.

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1 MR OBHOF: [9:54:01] Thank you.

2 Q. [9:54:02] Now, Mr Witness, you mentioned, when we talked about it just today,
3 about training number 8 on how to do the interceptions and how to write in the
4 logbooks. Now, Mr Witness, how did you train number 8 to write in the logbooks if
5 he did not comprehend English?

6 A. [9:54:23] Everything that we learn during our training, we use language. But
7 you must know how to write in English because the people that we work with up in
8 other -- and hierarchy of the rank do not understand Luo. So if you work in
9 interception operations, you need to be able to know Luo.

10 Q. [9:54:58] From what you saw in 2001, Mr 8 was able to write and complete
11 paragraphs to report on his listening in English, Mr Witness?

12 A. [9:55:12] I know that he listens well and understands and also he writes well.
13 And I even trained him. That's why he came to know and understand the intercept
14 operation.

15 Q. [9:55:37] Thank you, Mr Witness. Now, Mr Witness, yesterday we talked
16 about your travels, how you were sent -- originally starting off in Gulu, sent to
17 Achol-Pii, then to Soroti, to Lira and then back to Achol-Pii.

18 Now, Mr Witness, if the logbook you were not -- that you were writing in was not
19 finished when you were transferred, did you send that logbook to Gulu or did you
20 take it with you?

21 A. [9:56:19] When I travel and the logbook is not used up all, I go along with it
22 until when I know that it has been completed. Then I take it to Gulu and to be
23 transferred to Kampala.

24 Q. [9:56:39] And just for posterity, I would like to turn to Defence tab 5. That's
25 UGA-OTP-0197-1866 at page 1978. And I'll wait until it comes on the screen so the

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- 1 witness can -- even though he has his binder, but I'll wait until it comes on the screen.
- 2 Now, Mr Witness, this is not the right page. Page 1977, please.
- 3 PRESIDING JUDGE SCHMITT: [9:57:38] I think it should now be on the display,
- 4 Mr Witness.
- 5 MR OBHOF: [9:57:41] Yes.
- 6 Q. [9:57:42] Now, Mr Witness, this is your handwriting, correct?
- 7 A. [9:57:45] Correct.
- 8 MR OBHOF: [9:57:51] If the court usher could please turn to page 1079. Sorry --
- 9 PRESIDING JUDGE SCHMITT: [9:58:06] 1979.
- 10 MR OBHOF: [9:58:07] 1979.
- 11 Q. [9:58:12] And, Mr Witness, here on the right-hand side it reads "01 Jan 04" and
- 12 it's still your handwriting, correct?
- 13 A. [9:58:29] Correct, that's my handwriting.
- 14 Q. [9:58:36] And the final page is page 1982 of the same document, please. Now,
- 15 at the top of the page, that does read "Monday 23 Feb 04" in your handwriting,
- 16 Mr Witness, right?
- 17 A. [9:59:09] Yes, that's my handwriting.
- 18 Q. [9:59:12] So this would have been the book that you travelled with from Soroti
- 19 to Lira?
- 20 A. [9:59:26] I wrote this when I was in Lira in 2004.
- 21 Q. [9:59:33] Now, Mr Witness, these logbooks were considered highly secret; is that
- 22 correct?
- 23 A. [9:59:44] Yes.
- 24 Q. [9:59:47] And when they were completed, you would send the logbooks to
- 25 either Gulu or Kampala with a very trusted person, right, Mr Witness?

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1 A. [10:00:03] Correct.

2 Q. [10:00:08] So this is the same, Mr Witness, even when you were moving from
3 station to station, they wouldn't want to keep these very secret books secret, but they
4 would let you travel the 125 kilometres from Soroti to Lira?

5 A. [10:00:30] When a book is not completed, you go with it, and especially if I
6 haven't yet got the time to send it, because there are points where I need some
7 references, so I need to use it. So when I finish using, when I finish doing my work,
8 then I send it. Sometimes I need the book to do something. So if I have not yet
9 completed my job or if I've not finished completing noting what I'm supposed to do,
10 then I go with it, because I use this for reference purposes.

11 Q. [10:01:04] And could we all please turn to Prosecution tab 19. That's
12 UGA-OTP-0255-0228 at page 0231. And I'll wait for the court usher to bring it up.
13 Mr Witness, yesterday at page 48, line 3 to 10, the Prosecutor Mr Black asked you if
14 this was handwriting along with another page and you confirmed. But in your
15 statement at page 0747, paragraph 93j, you stated that this was not your handwriting.

16 A. [10:02:21] I stated that this was my handwriting. If you paid attention to what I
17 was saying, it is my handwriting. If anybody wants to examine it, they can go ahead
18 and do so. This is my handwriting. If you follow, if you pay close attention, it is
19 my handwriting.

20 Q. [10:02:47] I have, Mr Witness. And that's why I'm referring your statement.
21 If the court usher could please turn to his statement at tab 1, page 0747, 0747. And
22 could you zoom in on the letter "j" please in the third paragraph.

23 And I read, Mr Witness:

24 "UGA-OTP-0255-0228 at 0231 (UPDF 16). This is not my handwriting. I do not
25 know whose handwriting it is."

1 So it's your statement today that what Wilfred just showed a few minutes ago is in
2 fact your handwriting, Mr Witness, with no slant?

3 A. [10:04:36] There are certain things that I'm looking at right now, and they appear
4 to be errors because I do know what I wrote down. And if somebody looks at the
5 two, compares the two different handwritings, the person will be able to ascertain
6 that they're both mine.

7 PRESIDING JUDGE SCHMITT: [10:05:03] And of course, when we exercise this, that
8 we go to former statements, it is simply to try to clarify potential contradictions. But
9 we have the witness here in the courtroom, and the witness says today and said
10 yesterday "This is my handwriting", we have to take this as it is. It is not -- we have
11 to be clear about that it is not -- that a live testimony is not here, we have had this very
12 often, to simply confirm what has been said in former statements or might have been
13 said in former statements.

14 So we have to take it. He says this is his handwriting today.

15 MR OBHOF: [10:05:46]

16 Q. [10:05:46] Mr Witness, did you ever sign, initial, or write your name inside of
17 the logbooks in which you wrote?

18 A. [10:05:55] No, I did not, I did not sign the book. The person who signs the
19 book is the person who actually reads through the book.

20 Q. [10:06:12] And once you were -- or, sorry, not you. Once all books were
21 completed, whether it's from Achol-Pii, Gulu, Soroti, Lira, they would be sent to be
22 housed in either Kampala or in Gulu, correct, Mr Witness?

23 A. [10:06:34] That's correct. The things are kept in a safe, in a safe place in Gulu or
24 at the main headquarters in Kampala. All documents are sent there. So when
25 people look for the documents they go to the relevant places and they find the

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1 documents. If the documents are not kept there, people will not find them when
2 they need them.

3 Q. [10:06:58] Thank you, Mr Witness.

4 Your Honour, now we're going to play the audio that the witness very kindly and
5 dutifully listened to last night; if somebody could switch it over to evidence 2 for my
6 computer, I can play it for everyone.

7 PRESIDING JUDGE SCHMITT: [10:07:15] And we hear some four minutes, if I recall
8 it correctly from yesterday?

9 MR OBHOF: [10:07:21] It's 3.37 -- or, 33 seconds, sorry.

10 PRESIDING JUDGE SCHMITT: [10:07:25] I was not so bad. No? As I said,
11 roughly four minutes.

12 MR OBHOF: [10:07:30] Yes.

13 THE COURT OFFICER: [10:07:40] May I ask for the level of confidentiality? Can it
14 be played publicly?

15 MR OBHOF: [10:07:45] This one can be played publicly, yes. It's going to be
16 starting at roughly 6.46, yes.

17 (Playing of the audio excerpt)

18 PRESIDING JUDGE SCHMITT: [10:11:54] Thank you. I think, I don't know if
19 this -- this was not an enhanced version?

20 MR OBHOF: [10:11:59] No.

21 PRESIDING JUDGE SCHMITT: [10:11:59] But it was clearly audible.

22 MR OBHOF: [10:12:01] Yes, it was not an enhanced version, it's an original.

23 PRESIDING JUDGE SCHMITT: [10:12:04] It was very, for my ears at least, it was
24 very good audio.

25 MR OBHOF: [10:12:15] For the record, that was tab number 2, UGA-OTP-0141-0005

1 at page 0006, track 01, Defence tab 2.

2 Q. [10:12:41] Now, Mr Witness, without getting into the specifics of the entire
3 conversation, what was the gist of the discussion between the two people?

4 A. [10:12:51] The two people discussing their operations.

5 Q. [10:13:18] Sir, during operations does the LRA normally say the word Ajwaka as
6 much as they were talking here?

7 A. [10:13:27] That is the way Kony speaks. That's the way he was thinking. I do
8 not know what he was thinking about. I do not know his thoughts. He was
9 speaking to his subordinates. I don't know what he was talking about.

10 Q. [10:13:53] Who was Joseph Kony talking to, Mr Witness?

11 A. [10:13:59] I cannot recall this instant.

12 Q. [10:14:17] Would you like me to play a bit of the ending again, Mr Witness, to
13 see if your voice recognition comes in handy?

14 PRESIDING JUDGE SCHMITT: [10:14:30] But it is the audio that the witness has
15 listened to yesterday.

16 So perhaps if you recall when you listened to it yesterday several times, Mr Witness,
17 who the other person or any other person might have been, and I've understood that
18 Kony was one of them.

19 MR OBHOF: [10:14:50] That is correct.

20 THE WITNESS: [10:15:00] (Interpretation) I heard Kony's voice, but I cannot
21 remember the name of the other person at this moment.

22 MR OBHOF: [10:15:08]

23 Q. [10:15:11] So what you're saying is you cannot remember the name of one of the
24 five indicted persons in the original arrest warrant from July of 2005, Mr Witness?

25 PRESIDING JUDGE SCHMITT: [10:15:26] I think I would rephrase the question.

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1 We would have to clarify, I think, if he does not remember or does not recognise.

2 That might be a difference. We should be clear that we are talking about the same
3 things.

4 Mr Witness, did you recognise any other voice apart from Kony's voice, just in
5 general speaking, and then we can go further.

6 THE WITNESS: [10:15:56] (Interpretation) I listened to it, but I still do not
7 recognise the voice properly.

8 PRESIDING JUDGE SCHMITT: [10:16:04] Okay. I think that's something different.

9 MR OBHOF: [10:16:07]

10 Q. [10:16:07] If I said the name Raska Lukwiya, does that ring a bell, Mr Witness?

11 A. [10:16:16] Yes. Lukwiya was in the LRA. He was one of the LRA
12 commanders.

13 Q. [10:16:29] Was his voice one of the voices you heard during that selection of
14 audio, Mr Witness?

15 A. [10:16:38] Well, please, you need to pardon me a bit because there are some
16 people who left the LRA, there are others who are deceased. And it's been a while
17 since I listened to some of those voices. So it's a little bit difficult to recognise it right
18 now. There were several commanders.

19 PRESIDING JUDGE SCHMITT: [10:17:09] This is exactly something that I would
20 like to, wanted to inquire. When have you listened to the voices of any LRA
21 commanders the last time on the radio? When have you been active in that regard?

22 THE WITNESS: [10:17:45] (Interpretation) The last time that I listened to the LRA
23 was (Redacted)

24 PRESIDING JUDGE SCHMITT: [10:17:53] But of course, when it comes to voice
25 recognition, we are speaking about people's voices quite a while ago. So I think you

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1 can go on, Mr Obhof, but we have to keep that in mind, of course. So I think this
2 was recorded 2003 or '04?

3 MR OBHOF: [10:18:14] It's alleged 6 February 2004.

4 PRESIDING JUDGE SCHMITT: [10:18:16] Okay. So we have nearly 14 years ago.
5 So we have to keep that in mind and should not push too far with the witness in that
6 respect.

7 MR OBHOF: [10:18:34]

8 Q. [10:18:34] Now, Mr Witness, we printed out copies of your transcription from
9 yesterday.

10 PRESIDING JUDGE SCHMITT: [10:18:42] Please tell us a little bit what has
11 happened here. What we are reading here, tab 8.

12 MR OBHOF: [10:18:46] Yes. Yes.

13 PRESIDING JUDGE SCHMITT: [10:18:47] So inform the Chamber, please, what is
14 going on.

15 MR OBHOF: [10:18:50] Tab 8 is the Ringtail -- or the eCourt copy of the document
16 that Witness 339 produced yesterday while listening to the radio.

17 PRESIDING JUDGE SCHMITT: [10:19:01] Okay.

18 MR OBHOF: [10:19:02] Where there are check marks, those are areas where the
19 corresponding paragraph in the Defence tab 3 are correct.

20 PRESIDING JUDGE SCHMITT: [10:19:13] So the blue handwriting on the left side
21 under the line "original" is, so to speak, the annotation of the witness?

22 MR OBHOF: [10:19:26] Correct.

23 PRESIDING JUDGE SCHMITT: [10:19:27] Okay.

24 Mr Witness, is that correct, when you see that in front of you, the blue handwriting
25 where it says on the left side of the pages "original," and below "original" blue

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1 handwriting, that is yours; is that correct?

2 THE WITNESS: [10:19:46] (Interpretation) Yes, it is. I wrote it.

3 PRESIDING JUDGE SCHMITT: [10:19:52] And to --

4 MR OBHOF: [10:19:54] I will then ask about the last two pages as well.

5 PRESIDING JUDGE SCHMITT: [10:19:58] Yes, please do that, Mr Obhof.

6 MR OBHOF: [10:19:59]

7 Q. [10:20:00] Now, Mr Witness, on the last two pages of this document that's -- and
8 this is, sorry, UGA-REG-0001-0021. On the last two pages, 0035 and 0036, they have
9 English translations of what was written.

10 Now, Mr Witness, is this what you wrote or did an ICC interpreter do this?

11 A. [10:20:34] They played out the recording, and I was asked to write it, to write
12 something down, and I wrote it down.

13 Q. [10:20:48] But what I mean, Mr Witness, did you write the English translation
14 for what you wrote in the boxes?

15 A. [10:20:59] No, I did not translate it. I was given something and I wrote it down
16 in Acholi. Did I answer your question correctly?

17 Q. [10:21:17] Well, there is no right or wrong answer.

18 PRESIDING JUDGE SCHMITT: [10:21:19] No, no. It's simply what you have done.
19 And if you say you have given your annotations in Acholi or Luo, then it is like that.
20 And the English translation must come from any other source then.

21 MR OBHOF: [10:21:34] One of our fine friends up there.

22 PRESIDING JUDGE SCHMITT: [10:21:37] We have fortunately a lot of them.

23 MR OBHOF: [10:21:40] Yes.

24 Q. [10:21:43] If we could turn to page 0022, and I wanted to ask you, Mr Witness,
25 there is an arrow at 203 pointing towards the annotation. Am I correct in assuming

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1 that arrow means that that annotation should be in box 203?

2 A. [10:22:07] I drew the arrow because I wanted to write in the bottom, in the
3 bottom box, but then I wrote in the top one. I wanted to right in 203, but I wrote in
4 202. So I indicated that that's where it was supposed to be.

5 Q. [10:22:39] Perfect. That's exactly what I thought too. I would have done the
6 same thing.

7 PRESIDING JUDGE SCHMITT: [10:22:44] Indeed, that is nearly self-explanatory.

8 MR OBHOF: [10:22:47]

9 Q. [10:22:47] Now, Mr Witness, I'm going to play this section for you again. It's at
10 approximately 6.51.

11 (Playing of the audio excerpt)

12 MR OBHOF: [10:23:37] I'll play it one more time for you, Mr Witness. What I'd like
13 to hear is after the second lukwiya, in the Defence tab 3, we place the
14 word piny P-I-N-Y. But it was removed from your transcription. So please let me
15 know if you can hear the word piny after the second lukwiya.

16 (Playing of the audio excerpt)

17 MR OBHOF:

18 Q. Mr Witness, did you hear that second piny spelled P-I-N-Y after the second
19 Lukwiya?

20 A. [10:24:23] Yes, I did.

21 Q. [10:24:26] Did you also hear Joseph Kony stammering going "waa waa waa"?

22 A. [10:24:41] Yes.

23 PRESIDING JUDGE SCHMITT: [10:24:46] I think we cannot --

24 THE INTERPRETER: [10:24:51] Interpreter corrects: Stammering how?

25 PRESIDING JUDGE SCHMITT: [10:24:59] Okay. Then first clarify that

1 "Stammering how?" But I think we have heard it so we cannot of course do this
2 process with the whole translation here. But I have a question here when I look at
3 tab 3 of the Defence translation, nowhere is reflected that it is said Lukwiya in English,
4 in the English translation.

5 MR OBHOF: [10:25:19] This doesn't mean the name. This Lukwiya is not the name
6 of the person.

7 PRESIDING JUDGE SCHMITT: [10:25:24] Ah, okay. But still since we had this
8 with different full names, Lukwiya, so to speak, I was interested. So this has to be
9 understood of course.

10 MR OBHOF: [10:25:37] Yes. It's a very, very valid question because I asked the
11 very same of our person who did our translation when I first read it so it's --

12 PRESIDING JUDGE SCHMITT: [10:25:46] Really I think everybody understands
13 that we unfortunately do not understand Acholi. So I thought it is simply a name
14 and not an expression. Okay. Please continue.

15 MR OBHOF: [10:26:00]

16 Q. [10:26:00] I'll play that very briefly 6 seconds so you can hear the stammering,
17 Mr Witness.

18 A. [10:26:08] Could you please help. With respect to the things that you are
19 asking me now, when we speak Luo, there are certain nuances that there are
20 differences. Lukwiya means two things. It means things that people speak. It has
21 a separate meaning. It's also a person's name.

22 So there are certain -- I do not know what it is that I'm being asked to do here, but
23 when you're asking me something, make something clear. There are certain things
24 that I am not here to play a part in, but I'm here to, you know, to say what I'm
25 supposed to, to give the testimony. But if somebody keeps on talking, that does not

1 mean that the person is stammering. So I do not understand, when you say that the
2 person is stuttering, what exactly are you talking about? So please help me out here.

3 PRESIDING JUDGE SCHMITT: [10:27:18] So perhaps we replay, but now for the
4 last time, this short portion again so the witness can hear it. And perhaps he can
5 figure it out himself.

6 And when it comes to this expression or name lukwiya, that was simply something
7 that I as the Presiding Judge did not understand and asked, not you, Mr Witness, I
8 asked Mr Obhof, because in the Defence translation it does not appear as such. So
9 that was not a question that was directed to you. I have to clarify that.

10 So, Mr Obhof, for the last time these 6 seconds.

11 (Playing of the audio excerpt)

12 MR OBHOF: [10:28:11]

13 Q. [10:28:11] This is where Joseph Kony went "waa waa waa".

14 A. [10:28:18] Yes. He is -- Joseph Kony is actually telling people off. It's that
15 these ignorant people, that he's telling off the ignorant people, people who do not
16 understand, these ignorant people. That's what he's talking about. He's telling
17 them off. He's very angry so he's telling people off.

18 Q. [10:28:41] Thank you, it was a great explanation, Mr Witness. Thank you.

19 We'll hold off on all four of them and then just play the second one we have so we can
20 go back some.

21 The second one I am going to play, of course --

22 PRESIDING JUDGE SCHMITT: [10:28:58] And why not, why shall I not understand
23 it now. What does lukwiya mean concretely? What does -- I ask you, Mr Witness,
24 what does lukwiya mean in English?

25 THE WITNESS: [10:29:13] (Speaks English) People who do not understand.

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1 PRESIDING JUDGE SCHMITT: [10:29:15] Thank you very much. That is clear.

2 Very good.

3 MR OBHOF: [10:29:17] It actually fits all of us perfectly because we're lukwiya right
4 now until the witness explained it.

5 PRESIDING JUDGE SCHMITT: [10:29:23] Thank you, Mr Witness.

6 MR OBHOF: [10:29:28] The second session corresponds with 205, and what we're
7 listening for is and where the witness at tab 8 did not add the word maber, the second
8 one, which shows in the Defence corresponding original.

9 (Playing of the audio excerpt)

10 MR OBHOF: [10:30:16]

11 Q. [10:30:16] Did you hear that again, Mr Witness, the second maber, which was in
12 the transcription that was given to you to look at and to correct, but missing from the
13 one which you gave us in tab 8, page 02 -- or 0023?

14 A. [10:30:39] I wrote that. I was, I was given a task to perform. I was given -- I
15 understand that maybe I was given this as a test to do. So if somebody does not
16 understand, then perhaps it should be translated.

17 Q. [10:31:09] Not understand, I'm just asking you whether you heard the second
18 maber in that audio selection, Mr Witness?

19 A. [10:31:20] Yes, I heard it, I heard the word "maber".

20 PRESIDING JUDGE SCHMITT: [10:31:25] This should not, but this should not lead
21 to have a sort of an exam for the witness, please. Of course we all have -- even if you
22 don't understand Acholi, you could hear the second maber.

23 What does maber mean, by the way? Mr Witness, what does maber mean?

24 THE WITNESS: [10:31:50] (Speaks English) maber is clear.

25 PRESIDING JUDGE SCHMITT: [10:31:52] Thank you.

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1 THE WITNESS: [10:32:08] (Interpretation) You can use maber to mean clear or
2 something that is done well or properly.

3 PRESIDING JUDGE SCHMITT: [10:32:15] Thank you. I even heard three maber,
4 but that might have been my ears only. You don't have to listen to it again to verify
5 that, but I had had the impression that constantly maber was said.

6 MR OBHOF: [10:32:33]

7 Q. [10:32:35] Mr Witness, this wasn't necessary -- this audio we played for you
8 wasn't necessarily about military instructions, was it, Mr Witness?

9 A. [10:32:48] In this communication, Kony was quarrelling why his instructions are
10 not being followed. So if whatever he says, whatever good thing he says, instruction
11 he gives, people don't follow. So he is really annoyed because people are not
12 following his instructions. So that is why he used words such as lukwiya piny to
13 express his frustration.

14 Q. [10:33:32] Now, Joseph Kony's instructions on what, Mr Witness? What were
15 the instructions that were not being followed? What did they relate to, Mr Witness?

16 A. [10:33:50] Here Kony was saying whatever good thing he says, whatever
17 instruction he gives, there are these other people who do not follow. That is why
18 there are problems coming up.

19 Q. [10:34:13] Mr Witness, when you listened to the audio yesterday and today, did
20 you not -- did you or did you not hear the word "ajwaka" many times?

21 A. [10:34:24] Yes, it's there.

22 Q. [10:34:29] And so in fact, Joseph Kony was complaining about how the UPDF
23 used witch doctors; is that not correct, Mr Witness?

24 A. [10:34:40] That is what the statement is saying.

25 Q. [10:34:49] Did Joseph Kony also discuss about how all militaries use witch

1 doctors?

2 A. [10:35:01] He said Yoweri Museveni uses ajwaka. He did not mention all
3 soldiers, but he said particularly it is Yoweri Museveni who uses ajwaka.

4 Q. [10:35:17] Now, Mr Witness, you are part of the UPDF. To the best of your
5 knowledge, does the UPDF use ajwakas?

6 A. [10:35:29] I do not know and I have not seen. That was Kony's ideas or views.

7 Q. [10:35:38] Mr Witness, in tab 8 on the Defence tab, you put a check mark in
8 paragraph 224 saying that the Defence translation found at page 0005 in Defence tab
9 number 3 was correct.

10 Now, for everybody, the English translation, from what we provided, was that you
11 are aware that in all wars, all fighting forces have their witch doctors.

12 Is that what section 225 in the Defence tab reads, Mr Witness? I'm sorry, 224,
13 paragraph 224, if somebody could please ...

14 A. [10:36:51] Could you say your question again?

15 PRESIDING JUDGE SCHMITT: [10:36:53] No, the difficulty is, we have here a sign
16 that seems to indicate that the witness has approved that this --

17 MR OBHOF: [10:37:01] Okay. I can move on.

18 PRESIDING JUDGE SCHMITT: [10:37:05] So he -- what I want to say is, there are so
19 many paragraphs, the witness might not relate a certain paragraph with a certain
20 content. That is impossible. He can't do that.

21 MR OBHOF: [10:37:15] But we do have his approval for it, the check mark.

22 PRESIDING JUDGE SCHMITT: [10:37:18] I would say yes. I think what else could
23 this sign mean? It's not a minus, so to speak.

24 MR OBHOF: [10:37:28]

25 Q. [10:37:44] Now, Mr Witness, from you listening on the radio for all those years,

1 did Joseph Kony believe in, or did he at least discuss about, witch doctors and the
2 power of the spiritual elements?

3 A. [10:37:59] I did not even see whether he has spirits. But I only heard that he is
4 possessed.

5 Q. [10:38:12] Exactly what I asked. Thank you, Mr Witness, thank you.

6 Mr Witness, when you were listening on the radio, from what you heard, did the LRA
7 report dreams to Joseph Kony?

8 A. [10:38:39] LRA when they are speaking, they use Luo. Even Kony uses Luo.
9 Everything that they send, they use Luo, not any other language, apart from Luo.
10 They only use Luo.

11 Q. [10:39:00] And when they were speaking Luo, did people who were on the radio
12 talk to Joseph Kony about dreams?

13 A. [10:39:13] Yes, that happens.

14 Q. [10:39:22] Mr Witness, now we have discussed these past two days that you
15 were transferred to the front line a lot. Now, when you were transferred, did you
16 receive official transfer papers?

17 A. [10:39:44] For us, we work with the message, not documents. Like in the army,
18 message is sent from the headquarter to your position where you are, and then your
19 superiors will take required actions to take -- send you to where you are supposed to
20 go. You will have been given transport with protection and you are sent to the new
21 location you are supposed to go to.

22 Q. [10:40:21] If we could, everybody, turn to Defence tab 6, UGA-OTP-0197-0178 at
23 page -- sorry, 1078, at page 1094. Mr Witness, the image on the screen, that is your
24 handwriting, correct?

25 A. [10:41:17] That's my handwriting.

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1 Q. [10:41:29] And the date that's on the right-hand side, which is about half to
2 two-thirds of the way down, that reads December -- or, sorry, 21 September 2003,
3 right, Mr Witness?

4 A. [10:41:40] I can see it.

5 Q. [10:41:53] If we can move to the next page, page 1095, please. Mr Witness, on
6 this date, on the bottom left-hand side you wrote:

7 "... the LRA high authorities have sat down and they have decided to made" - which
8 I'm assuming is just a -- I think it should be "make" - "the following transfers and
9 appointments in the LRA."

10 On the right-hand side of the page, Mr Witness, where it shows the Control Altar
11 general headquarters, do you see Mr Ongwen's name anywhere there?

12 A. [10:42:55] I do not see his name.

13 PRESIDING JUDGE SCHMITT: [10:44:01] And that's not a problem at all. But of
14 course we know why you ask it. But the witness can only -- the witness has written
15 it down obviously in that way and that's it and that's what we have here.

16 MR OBHOF: [10:44:17] Yes.

17 PRESIDING JUDGE SCHMITT: [10:44:18] We could also have looked at it with our
18 own eyes and not have found the name of Mr Ongwen.

19 MR OBHOF: [10:44:25] There is a reason for him reading it all through.

20 PRESIDING JUDGE SCHMITT: [10:44:27] But indeed he knows his handwriting.
21 He might have -- he might be quicker than we are. But it is very neat writing. So
22 it's very good, visible, I would say.

23 MR OBHOF: [10:44:37] Yes, his penmanship is much better than mine.

24 Q. [10:44:42] Now, Mr Witness, on this list of Control Altar general headquarters, I
25 mean, it lists the army commander, deputy army commander, director general of

1 intelligence, and all the way down the line of literally every position that the LRA
2 allegedly has, and Mr Ongwen is not one of these people. Is that a fair assumption
3 from the very detailed list that you wrote?

4 A. [10:45:13] The things concerning the LRA, I do not make them. These are
5 things that were sent through the messages and I only recorded them.

6 PRESIDING JUDGE SCHMITT: [10:45:39] Absolutely fair, fair answer. I have to
7 accept that. And as I said, we have our eyes to read these documents. And of
8 course, the document continues. We would have to look further into it.

9 MR OBHOF: [10:45:59]

10 Q. [10:46:00] Mr Witness, during your time in the UPDF and in the NRA, how
11 many times did you hear about the army commander going and fighting in a battle,
12 actually picking up a weapon and shooting it?

13 A. [10:46:22] That is in the LRA's way of doing things. I even said it is not mine.
14 Because I do not tell them what to go and do. I said I sit in my station. I receive
15 what the LRA is communicating. I write in the book. That's all. Whatever LRA is
16 doing, I do not get into it.

17 I think there are certain things which are confidential which do not touch me. I am
18 only a receiver. I receive and write in the book. The LRA will have made it and
19 communicate on radio, because I do not have anything that I -- you know, any work
20 that I do with them in the LRA. So whether an army commander should go for an
21 operation or not, that is in Kony's hands, not mine. That's according to the LRA plan
22 or how Kony has planned to do things. That could be their plan.

23 Q. [10:47:30] Thank you, Mr Witness. But I'm not talking about the LRA. I'm
24 asking you whether you have ever heard of an army commander in the UPDF
25 charging into battle with a firearm?

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1 A. [10:47:52] That, I cannot answer.

2 Q. [10:47:56] You cannot answer or you have never heard, Mr Witness?

3 A. [10:48:03] I heard, but I cannot respond to it.

4 MR OBHOF: [10:48:12] Your Honour, could we go into private session, please?

5 PRESIDING JUDGE SCHMITT: [10:48:15] Yes.

6 (Private session at 10.48 a.m.)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Open session at 10.49 a.m.)

17 THE COURT OFFICER: [10:49:18] We are back in open session, Mr President.

18 MR OBHOF: [10:49:22]

19 Q. [10:49:23] Now, Mr Witness, further down on this paper, on page 1095, you'll
20 see below - once they pull it up, I'll explain it to you - below the name Jogo Division,
21 you'll see a person on number 4, which says "Major Saidi appointment DAO".

22 If the court usher could scroll down a little bit. Yes.

23 Mr Witness, do you know who or remember who Major Saidi is?

24 A. [10:50:16] I do not know these people physically. I only -- we only hear the
25 names.

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1 Q. [10:50:32] Could you tell us what the abbreviation DAO stands for please,
2 Mr Witness?

3 A. [10:50:43] This stands for division admin officer.

4 Q. [10:50:52] Thank you, Mr Witness.

5 If the court usher could please turn to the next page, page 1096. Now, on the
6 right-hand side of the page where it says Gilva Brigade, there is a number 3.

7 Mr Witness, who is number 3?

8 A. [10:51:48] The Lieutenant Colonel Okwonga.

9 Q. [10:51:52] Does he also go by the name Okwongo Alero?

10 A. [10:51:58] I only call him Okwonga. I do not see the name Alero. But the
11 name Alero is given to a person who comes from that area. Alero could be given to
12 anybody, for example, Opoka Alero. It cannot be only one person.

13 Q. [10:52:29] Now if the court usher could scroll down a little bit further, that's
14 good.

15 Now, Mr Witness, you've written Twingle Brigade. Am I to assume that's Trinkle
16 Brigade, Mr Witness?

17 A. [10:52:51] That's how I wrote it.

18 Q. [10:53:02] Mr Witness, number 3 -- and please, we have to make sure to see all of
19 the right hand. Perfect.

20 Could you please read out what that's there under Twingle Brigade, Mr Witness?

21 A. [10:53:22] Lieutenant Colonel Opio Makas.

22 Q. [10:53:31] And it continues to say 2nd battalion commander transfer from Gilva
23 to Twingle Brigade, correct, Mr Witness?

24 A. [10:53:49] That's it.

25 Q. [10:53:52] Mr Witness, the last one for this page, I believe the last one for this

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1 page is number 5. Do you remember who Captain Arop, the BIO, is?

2 A. [10:54:12] Arop is a defector and is now with the UPDF.

3 Q. [10:54:25] Do you know his full name, Mr Witness?

4 A. [10:54:30] I only know Arop.

5 MR OBHOF: [10:54:42] Your Honour, right now would be a good time for lunch. I
6 can guarantee we'll be done next session. Or it's a good time for a coffee break.

7 PRESIDING JUDGE SCHMITT: [10:54:48] Lunch, lunch would -- no, I think we have
8 understood you. But I would have said lunch would be premature. But yes, I pick
9 that up of course.

10 Then we have the coffee break until 11.30. Thank you very much for the moment.

11 THE COURT USHER: [10:54:59] All rise.

12 (Recess taken at 10.55 a.m.)

13 (Upon resuming in open session at 11.32 a.m.)

14 THE COURT USHER: [11:32:06] All rise.

15 PRESIDING JUDGE SCHMITT: [11:32:22] Mr Obhof, please continue.

16 MR OBHOF: [11:32:27] Thank you very much, your Honour.

17 Q. [11:32:29] Still good morning, Mr Witness. I hope you had some tea or coffee,
18 or something at least, to drink during the break?

19 A. [11:32:42] Yes, thank you.

20 Q. [11:32:43] Mr Witness, before we took our break, I mentioned Arop, who was
21 the BIO in the Twinkle brigade. During your time as an intercept officer, did you
22 ever come to find out what the duties of the BIO in the LRA were?

23 A. [11:33:05] To my understanding, the BIO was the brigade intelligence officer.

24 Q. [11:33:27] Now, in the LRA, was the -- or, what were the duties of the BIO? If
25 you know, of course.

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1 A. [11:33:47] The BIO was tasked with coordinating between the soldiers with
2 respect to operational matters.

3 Q. [11:34:08] And is it correct to say that the BIO, the brigade intelligence officer,
4 would report back to Control Altar to the deputy intelligence officer, Mr Witness?

5 A. [11:34:21] To my understanding, the BIO was somebody who would report to
6 the division IO. So he would get the information and then pass the information on
7 to the division IO.

8 Q. [11:34:52] Thank you, Mr Witness. Mr Witness, during your time as an
9 intercept officer, did you ever come to learn about somebody called Major Adjumani?

10 A. [11:35:06] No, I did not.

11 Q. [11:35:15] Did you ever come to learn about somebody called Acaye Doctor?

12 A. [11:35:23] Yes, I did hear that name.

13 Q. [11:35:28] Do you remember anything about that person, the name Acaye
14 Doctor?

15 A. [11:35:38] No, I have no other knowledge of him.

16 Q. [11:35:47] Now, Mr Witness, I'm going to ask you a few questions about your
17 reporting procedures, which yesterday you were very detailed on how you operated.
18 Now, Mr Witness, who was the division IO during your first time at Achol-Pii?

19 A. [11:36:32] I recall -- I'm trying to think.

20 Q. [11:37:07] If you can't remember, that's okay, Mr Witness. It's been about 13 to
21 14 years.

22 A. [11:37:44] Makogrosi (phon), Makogro (phon).

23 Q. [11:37:49] Now, you then left and then did some -- did a tour in Soroti and then
24 Lira and went back to Achol-Pii in '05. Do you remember who the division IO was
25 in 2005, Mr Witness?

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- 1 A. [11:38:10] It's somebody -- I'm trying to remember the name. I've forgotten, but
2 I do know the person. I'm just trying to remember the name.
- 3 Q. [11:38:26] Mr Witness, if I said Tingira, would that sound correct?
- 4 A. [11:38:32] Tingira came afterwards.
- 5 Q. [11:38:41] When did Tingira become division IO, Mr Witness?
- 6 A. [11:38:49] Tingira became division IO in 2003 while I was in Achol-Pii.
- 7 Q. [11:39:09] And I'm really sorry --
- 8 A. [11:39:12] Sorry, 2002, while I was in Achol-Pii.
- 9 Q. [11:39:16] Okay. Now, I'm really sorry because I know you --
- 10 A. [11:39:20] (Speaks English) Sorry, sorry, sorry.
- 11 Q. [11:39:23] No. That's okay. And I apologise now for asking you this, but
12 there are reasons, and I know you gave very detailed answers yesterday. When you
13 were at Achol-Pii, did you show Tingira your logbooks of the LRA activities, as his
14 job is of division IO?
- 15 A. [11:39:56] Yes, I did. He went through the books.
- 16 Q. [11:40:03] And I'm really sorry again for asking this slightly different question.
17 So he positively would have been aware of the intercept operation at Achol-Pii?
18 And I'm really sorry, like I said. I know it's a similar type answer, but he positively
19 would have been aware of your operations?
- 20 A. [11:40:28] Yes, he would have. As the division IO, he was the person who
21 would advise the division commander. So, yes, he did have knowledge.
- 22 Q. [11:40:46] Now, Mr Witness, during your time at Achol-Pii, did you ever come
23 to know an officer by the name of Patrick Abaho? The last name is spelled
24 A-B-A-H-O, if I'm mispronouncing it. He would have been a second lieutenant
25 intelligence officer in 2003.

1 A. [11:41:16] In 2003, I was already in Soroti. I was not in Achol-Pii. So I do not
2 know.

3 Q. [11:41:29] Now, Mr Witness, during your time as an intercept officer, did the
4 UPDF ever use you to interview or question any captured LRA?

5 A. [11:41:48] Yes, they did. When people come back from the bush, they come to
6 the barracks and we ask them, we try and find out what sort of information they have.
7 And if they do have any information, they'll give it to us.

8 Q. [11:42:16] But just to be clear, did you participate in that or was that just
9 something that went on? Were you personally participating in those interviews and
10 questions or questioning?

11 A. [11:42:29] Yes. Yes, I was.

12 Q. [11:42:39] Mr Witness, was this an integral part of the UPDF's ability to break
13 the TONFAS codes?

14 A. [11:42:55] Could you please repeat your question?

15 Q. [11:43:16] Sorry, Mr Witness.

16 PRESIDING JUDGE SCHMITT: [11:43:18] Simply the information that they got from
17 these interrogations, did this help to crack the TONFAS?

18 MR OBHOF: [11:43:28]

19 Q. [11:43:28] Yes, as the Judge said, was -- the information from these interviews
20 and these questionings, did this play a key role in cracking the TONFAS?

21 A. [11:43:44] No, not really, because most times people who come back from the
22 bush, people who return from the LRA, are actually not very close to the LRA
23 communication. And most times they do not have anything on their persons that
24 will help us with respect to communications.

25 Q. [11:44:10] Mr Witness, we spoke a little bit about this yesterday. What is the

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1 Acholi word for proverbs?

2 A. [11:44:22] It's "caro-lok".

3 Q. [11:44:30] And if we turn to Prosecution's tabs 5, 6 and 7, at the top of every one
4 of those documents, it says "caro-lok". Now, would this instead be a -- these
5 documents that you explain to everyone yesterday on how the TONFAS work, would
6 this not instead be the proverbs you were speaking about later and not a TONFAS?
7 Or please correct me if I am wrong.

8 A. [11:45:14] TONFAS is different. What I talked about yesterday was the
9 TONFAS. I did not refer to the proverbs.

10 Q. [11:45:24] Mr Witness, during the course of your work, how would you know
11 which TONFAS was being used?

12 A. [11:45:40] I know that the TONFAS based on the headings, because before the
13 LRA start communicating, they would actually mention the title. So they would say
14 TONFAS and you would know that this is what they're communicating with.
15 Each TONFAS had a title and you would know that based on that title, they are using
16 the TONFAS. And if the UPDF intercept these things and bring them to us, then we
17 know that this is a TONFAS.

18 Q. [11:46:15] So it's through the listening of the radio when you are doing your
19 intercept operation, you'll write that TONFAS name down, right, Mr Witness?

20 A. [11:46:31] You also write it down. You write down which particular TONFAS
21 are they using. So when they start using the TONFAS, you know that they are using
22 a particular TONFAS.

23 Q. [11:46:48] So without that name, that maybe one second or -- in which that name
24 is being pronounced, you really can't understand what they're saying; is that correct,
25 Mr Witness?

1 A. [11:47:04] No. You do, you do understand, because sometimes the LRA
2 actually use a person's name. They use a person's Christian name and they use a
3 person's surname as well, and they use that to send messages, and you know that
4 they're sending a message.

5 Q. [11:47:28] So if I said that Otti Vincent needs to stop his rapid diarrhoea and
6 meet with Raska Lukwiya to get the medication, without the TONFAS you could still
7 understand what that means, Mr Witness, right?

8 A. [11:47:47] A white T-shirt, he sells a white T-shirt, white T-shirt.

9 Q. [11:48:04] Prosecution tab 9, if you turn to Fiesta Two in the TONFAS, "to stop
10 rapid diarrhoea" means the town of Ywaya. It's about 10 to 15 kilometres south of
11 the south Sudanese border, north of Madi Opei.

12 Mr Witness, if I would have said Fiesta Two before that, would you have known to
13 look at the Fiesta Two TONFAS?

14 A. [11:48:41] If they're talking about waya, that means that they're talking about
15 civilians. They use waya to refer to civilians.

16 Q. [11:48:50] Let me spell it out too. The pronunciation might be my problem.
17 Sorry. Y-W-A-Y-A.

18 A. [11:49:10] That is it.

19 Q. [11:49:13] And that is, are you referring to civilians or would that be referring to
20 the town, which is located just south of the South Sudanese border?

21 A. [11:49:27] No, that's not true. To my understanding and my knowledge, waya
22 means civilian.

23 Q. [11:49:47] So Patiko is a -- it's a location, right, north of Gulu, north of Lukodi?

24 A. [11:50:04] I do not know because I did not go to that location. I was stationary
25 in one place.

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1 Q. [11:50:11] So you're saying you do not know of the town called Patiko about 10
2 kilometres north of Lukodi, which is about 20, 25 kilometres, about 25 kilometres
3 north of Gulu?

4 A. [11:50:31] I do not know Lukodi, but I know a place known as Palaro.

5 Q. [11:50:38] Have you ever heard of a place called Kitgum Matidi?

6 A. [11:50:41] Yes I have. I've heard about the locations, but I have not been there.
7 I've been to Palaro though.

8 Q. [11:50:54] Or Tim-Palo -- Tim-Palukok? I'm sorry, I always mispronounce that.

9 A. [11:51:00] Yes, I've heard about that place.

10 Q. [11:51:03] I think the Chamber understands that.

11 PRESIDING JUDGE SCHMITT: [11:51:05] But it's of course a difference if you have
12 heard of a place or if you have been there.

13 MR OBHOF: [11:51:12] I've been to all the places except for one.

14 PRESIDING JUDGE SCHMITT: [11:51:15] I don't doubt that you have been to all
15 these places, but we are asking the witness here about his knowledge.

16 MR OBHOF: [11:51:20] Just if he knows if they are locations, they are towns.

17 PRESIDING JUDGE SCHMITT: [11:51:23] Yes, it's okay.

18 MR OBHOF: [11:51:26] I'd ask the usher to please pull up Defence tab 7, that's
19 UGA-OTP-0017-0130 on the first page, 0130.

20 Q. [11:52:15] Mr Witness, we know from your statement that you have not seen
21 reports like this; is that correct?

22 A. [11:52:20] No. They hadn't shown that to me before, but I can see it now.

23 Q. [11:52:36] Now, Mr Witness, right there in bold on number 1, it reads "DF
24 Location Results". You told us yesterday that you are trained in DF, correct?

25 A. [11:52:48] Yes, I am.

1 Q. [11:52:52] Now, Mr Witness, could you explain to the Court how DF works?

2 A. [11:52:59] Summarily, DF is a system that is computerised. It's a system that
3 provides us with information very fast with regards to locations and LRA movement.

4 Q. [11:53:33] And when they are doing DF, can you send just one vehicle out or do
5 they have a couple vehicles being sent out?

6 A. [11:53:44] When there is a DF in the field, sometimes you've got three vehicles,
7 sometimes you've got two vehicles. The vehicles go in different directions. One
8 may be deployed to the south, one may be going to the north, but they all go to the
9 same direction, the same direction where the LRA is communicating. So where
10 they're communicating, perhaps they're communicating under a tree. We, people
11 who are looking at the system, will be able to locate you, we'll be able to see you.
12 Your coordinates would immediately appear onto our system and we'd be able to
13 ascertain that the person is in such and such a location.

14 Q. [11:54:37] Now, Mr Witness, is the reason for the multiple vehicles so the
15 computer system can better triangulate where the person is? Or if you don't know,
16 it's okay to say.

17 A. [11:54:56] No. They deployed in pairs.

18 Q. [11:55:07] And at paragraph 22 of your statement, you did state that DF gives a
19 quick answer on enemy locations as you just said now. In your -- from your training,
20 is it accurate?

21 A. [11:55:24] Yes, it is accurate because it provides us with fast results to locate the
22 LRA.

23 Q. [11:55:38] And then looking at the same document, the computer system, this is
24 how it spit the numbers out or this is how it read the numbers out, 031 51 05 for
25 eastings and then northings. Is that the way the system that you were trained on

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1 worked, Mr Witness?

2 A. [11:56:04] Yes, it is, that's how the system works because we use eastings and
3 northings.

4 Q. [11:56:10] Is it also fair to say that you never actually did DF in the field even
5 though you were with the DF teams?

6 A. [11:56:17] That is correct. But I'm knowledgeable in this area because I was
7 using the radios, but I'm knowledgeable in this area.

8 Q. [11:56:40] Mr Witness, as your work as an intercept officer, did you ever come to
9 find out if the LRA knew that the government of Uganda was conducting these DF
10 exercises?

11 A. [11:57:02] No, I do not know that much.

12 Q. [11:57:15] Mr Witness, would you sometimes on the radio hear Labalpiny
13 talking instead of Joseph Kony underneath Joseph Kony's call sign or would
14 Labalpiny have his own call sign?

15 A. [11:57:38] Labalpiny had his own call sign and Kony also had his own call sign.

16 MR OBHOF: [11:57:58] Your Honour, we're going to have to go into private session
17 to add one more name to these lists -- to this list.

18 PRESIDING JUDGE SCHMITT: [11:58:04] Then shortly to private session.

19 (Private session at 11.58 a.m.)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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2 (Redacted)

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6 (Redacted)

7 (Open session at 12.02 p.m.)

8 THE COURT OFFICER: [12:02:29] We are back in open session, Mr President.

9 MR OBHOF: [12:02:38]

10 Q. [12:02:38] Mr Witness, we read off these names and you can see them on your
11 screen. Are there any other errors in these names?

12 A. [12:02:45] You'll excuse me because I said this Mordecai I do not know. When I
13 joined in 1996, I did not find Mordecai.

14 Q. [12:03:07] No, no, no, I understand. I'm saying that this name was here and
15 you're saying you do not know this person and you don't know the names. But with
16 the rest of these names, do you recognise the rest of the names, Mr Witness?

17 A. [12:03:25] The rest I know them.

18 Q. [12:03:33] Mr Witness, who is number 13 on your list, the name we had you
19 write earlier this morning?

20 A. [12:03:56] That one was the one who was the overall in charge of the ISO
21 operations.

22 Q. [12:04:04] Was he also in charge of a DF programme?

23 A. [12:04:14] Yes. They had a DF vehicle, but I do not know if they were using it.

24 But when I first began the interception work, I found the vehicle was there, but I do
25 not know whether they were using it. I could -- I was only seeing the DF vehicle, but

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1 I do not know whether they had the full system and they were using it.

2 Q. [12:04:48] What about number 9, was number 9 in the -- was he in a DF
3 programme?

4 A. [12:04:57] Number 9 came in 2000. And they are the ones who brought the
5 UPDF DF.

6 Q. [12:05:17] So number 9 would have worked on the DF at the time of the
7 document I showed you earlier, which is alleged to have been from April of 2004. So
8 number 9 still would have been working DF at that time, correct, Mr Witness?

9 A. [12:05:33] That is his work. Even up to now, that is what he is still doing.

10 Q. [12:05:49] In your opinion, is there anybody better to talk to about the
11 day-to-day operations of DF than number 9, Mr Witness?

12 A. [12:06:04] The person, the overall person is number 1, but he is number 2. But
13 there are others also that follow, that follow them.

14 Q. [12:06:26] Thank you, Mr Witness. I only have a few more questions, maybe
15 about 10 minutes, and then we'll let you relax for the next couple days. Now, Mr --

16 PRESIDING JUDGE SCHMITT: [12:06:41] We hope Mr Witness will be able to relax
17 even further than only a couple of days, I would say.

18 MR OBHOF: [12:06:47] Yes.

19 PRESIDING JUDGE SCHMITT: [12:06:48] In his future life, I would say.

20 MR OBHOF: [12:06:50] Well, before he has to go back to work.

21 Q. [12:06:55] Mr Witness, what was the height of your pole which the antenna was
22 fixed to in Gulu?

23 A. [12:07:04] I did not measure.

24 Q. [12:07:14] Can you estimate?

25 A. [12:07:20] I cannot estimate. I did not, I did not measure. I found when it was

1 already erected.

2 Q. [12:07:31] Would that also be fair to say about Soroti, Lira and Achol-Pii, that
3 you do not know the height of the pole in which the antenna was attached?

4 A. [12:07:45] The antenna, you can even set it on the ground and I will listen to
5 what I want. Depends on the size and also the training you have got in terms of the
6 communication training. You could even put it on top of a, on top of a house. Or it
7 depends on what you want to do.

8 Q. [12:08:02] And during your DF operations would the antenna sometimes be on
9 the ground, Mr Witness, or would it always be attached to a pole?

10 A. [12:08:12] We can put it on any tree. It depends on the direction which is okay.

11 Q. [12:08:27] I understand you can, but I'm asking did you. Do you remember
12 during your time of intercepting if that antenna was stuck on a pole the whole time or
13 if it was physically removed during different days and place and different locations?

14 A. [12:08:43] We set the antenna depending on the direction to which we want to
15 intercept, conduct our intercept operation. So we would wait for the right time.
16 When it is time to start the intercept work, then we put up. And then if we're done,
17 we take it out.

18 Q. [12:09:13] So the location of that antenna would also determine the quality of the
19 intercepts -- or, sorry, of what you were listening while intercepting, right,
20 Mr Witness?

21 A. [12:09:29] We receive well because we know that, we know the direction and we
22 know that this particular direction has no interference and will give us the clear signal
23 that we need. So we know it.

24 Q. [12:09:44] Mr Witness, you also discussed several different radios. The radios
25 you used during your time, could you give the Court the frequencies in which the

1 radios operate?

2 A. [12:09:59] The one of the LRA or?

3 Q. [12:10:07] Let's first go with the ones of the LRA, what frequencies did they
4 operate?

5 A. [12:10:15] LRA is on frequency 80000, something like that.

6 Q. [12:10:26] And do you know which frequency the radios they had operated?

7 A. [12:10:35] I know, 80 -- 80000. (Redacted)

8 (Redacted) I'll find 80000-something, I will get. There are even others.

9 Q. [12:10:57] So the LRA only operate on one frequency?

10 A. [12:11:04] That is their frequency. If they change we will follow. We will find
11 it out and we'll get. But most times they use 80000. Depending on the situation
12 and the signal and interferences. Sometimes in Central Africa they use high
13 frequency, depending on the weather. Sometimes they use 700, sometimes 9.
14 That's how they do it.

15 Q. [12:11:41] So there is a range, so it could be anywhere from what you said, 7000
16 up to 90000?

17 A. [12:11:51] That is it, that's what I have said.

18 Q. [12:11:57] And do the radios or did the radios that you use, did those ones
19 operate at the same frequencies which the LRA used?

20 A. [12:12:10] We set in their frequency because we know their frequency and we
21 know their time. So we tune in to their frequency.

22 Q. [12:12:27] That's still not the question though. Did your radios operate at all
23 frequencies in which the LRA's radios operated?

24 A. [12:12:43] All, we have all the LRA frequencies. We programme that this is the
25 one they are using. If they change from the one that we have, we look for what they

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1 are using and we change to, we tune to it.

2 Q. [12:13:00] Thank you, Mr Witness. I have no further questions for you.

3 PRESIDING JUDGE SCHMITT: [12:13:04] Thank you very much, Mr Obhof.

4 And this concludes your testimony, Mr Witness. And a special thank you to you on
5 behalf of the Chamber for coming to this far away court for us helping us to establish
6 the truth. And I reiterate what I said in the morning, a special thank you for having
7 listened to this audio recording yesterday and answer the questions today. We don't
8 see this as to be a given that a witness undertakes such tasks. Thank you very much.
9 We wish you a safe trip back.

10 (The witness is excused)

11 PRESIDING JUDGE SCHMITT: We continue then with 125.

12 I think everything is prepared for that, Mr Gumpert?

13 MR GUMPERT: [12:13:48] I was wondering whether we could start, stopping now
14 and start the afternoon session a little earlier.

15 PRESIDING JUDGE SCHMITT: [12:13:55] Exactly that I would also have suggested.
16 We have now the lunch break until 2 o'clock and then we have a two-hour session
17 normally, like we would normally end also on 4 o'clock.

18 THE COURT USHER: [12:14:11] All rise.

19 (Recess taken at 12.14 p.m.)

20 (Upon resuming in open session at 2.03 p.m.)

21 THE COURT USHER: [14:03:23] All rise.

22 PRESIDING JUDGE SCHMITT: [14:03:43] Good afternoon, everyone.

23 I see some changes in the composition. Perhaps, Mr Elderfield, you could help us
24 with the Prosecution.

25 MR ELDERFIELD: [14:04:02] Yes, your Honour. Julian Elderfield for the

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- 1 Prosecution, and the only new face, I believe, is Colleen Gilg.
- 2 PRESIDING JUDGE SCHMITT: [14:04:09] But nevertheless it is a new face.
- 3 And there were some losses with the Legal Representatives.
- 4 MS SEHMI: [14:04:19] Yes, your Honour. Anushka Sehmi, and I'm joined by
- 5 Mr James Mawira.
- 6 PRESIDING JUDGE SCHMITT: [14:04:27] And an addition, I see, on the Defence
- 7 side.
- 8 MR OBHOF: [14:04:29] Thank you, your Honour. With us this afternoon is also
- 9 Michael Rowse.
- 10 PRESIDING JUDGE SCHMITT: [14:04:33] Thank you very much.
- 11 The Prosecution is now calling P-125 as its next witness, and we turn to his testimony.
- 12 P-125 is Mr Nyero.
- 13 Mr Nyero, good afternoon.
- 14 WITNESS: UGA-OTP-P-0125
- 15 (The witness speaks English)
- 16 THE WITNESS: [14:04:46] Good afternoon, your Honour. PRESIDING JUDGE
- 17 SCHMITT: [14:04:48] You know you are going to testify before the International
- 18 Criminal Court, and on behalf of the Chamber, I would like to welcome you in this
- 19 courtroom. And I would like to especially thank you that you have been coming
- 20 under the circumstances and are prepared to testify. Thank you furthermore.
- 21 THE WITNESS: [14:05:04] Thank you, your Honour.
- 22 PRESIDING JUDGE SCHMITT: [14:05:05] Mr Nyero, you have a card in front of
- 23 you with the oath. I would like you to read this out loud so that you are sworn in.
- 24 THE WITNESS: [14:05:18] The oath?
- 25 PRESIDING JUDGE SCHMITT: [14:05:19] Please, yes.

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1 THE WITNESS: [14:05:20] I solemnly declare that I will speak the truth, the whole
2 truth and nothing but the truth.

3 PRESIDING JUDGE SCHMITT: [14:05:35] Thank you very much, Mr Nyero. You
4 are now sworn in.

5 You will testify before this Court in public. However, should it be necessary that
6 certain answers you provide are not given in public, we can go to private session, and
7 everybody here in the courtroom, especially the Judges, will be vigilant in that
8 respect.

9 Some practical matters you should have in mind when giving your testimony. You
10 know that things are interpreted and written down here in this courtroom. So please
11 speak loud and clearly into the microphone, but I have already recognised that we
12 won't have any problems with you in that respect.

13 If you want to address the Court, the Chamber, the Judges, please raise your hand so
14 that we know that you want to address us and we will give you then the word.

15 I think that's enough for the preliminaries, and I give Mr Elderfield for the
16 Prosecution the floor.

17 Perhaps for planning purposes today, I repeat that we will sit until 4 o'clock. And
18 tomorrow we have really said that we finish the testimony of Mr Nyero so that he can
19 go back home on time.

20 We would perhaps have to shorten tomorrow the lunch break so that we
21 have -- because we have to finish at half past 3 tomorrow. So everybody keep this in
22 mind please.

23 Mr Elderfield.

24 MR ELDERFIELD: [14:07:06] Thank you, your Honour.

25 QUESTIONED BY MR ELDERFIELD:

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1 Q. [14:07:11] Good afternoon, Mr Nyero. Can you please say your full name for
2 the record?

3 A. [14:07:19] I am Nyero Patrick Lumumba.

4 Q. [14:07:28] What organisation do you work for?

5 A. [14:07:34] I work for Uganda police force.

6 Q. [14:07:41] What is your rank?

7 A. [14:07:47] I am a sergeant.

8 Q. [14:07:52] Where do you currently work?

9 A. [14:07:57] I currently work at Elegu police station in Amuru district.

10 Q. [14:08:12] What is your role there?

11 A. [14:08:17] I am in charge of communication.

12 Q. [14:08:25] Can you please be more specific. What type of communication?

13 A. [14:08:33] Currently I use voice communication.

14 Q. [14:08:54] And what equipment do you use when you work with voice
15 communication?

16 A. [14:09:00] I use radio communication.

17 Q. [14:09:05] What languages do you speak?

18 A. [14:09:09] I speak Acholi. I speak English. And I also speak a bit of
19 Kiswahili.

20 Q. [14:09:25] Do you also write English?

21 A. [14:09:31] Yes, I do.

22 Q. [14:09:35] Mr Nyero, today I'm going to ask you questions about three broad
23 areas. The first is your work history and training, the second about your -- the
24 procedure you followed when you intercepted LRA radio communications, and
25 finally I'm going to ask you a little bit about LRA radio communication habits based

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1 on your experience listening to them. Do you understand?

2 A. [14:10:07] Yes, I've understood.

3 MR ELDERFIELD: [14:10:15] Your Honour, before I set off, hopefully in front of
4 you there is a piece of paper with two names.

5 PRESIDING JUDGE SCHMITT: [14:10:21] Yes, it is. So you follow the procedure
6 that we have sort of established with the last witness. Very much appreciated. Can
7 you explain it to Mr Nyero and then we continue.

8 MR ELDERFIELD: [14:10:32] Perhaps if we go into private, I'll be able to better
9 explain it.

10 PRESIDING JUDGE SCHMITT: [14:10:34] Yes, and it's also shorter than
11 to -- quicker to explain, not shorter.

12 Private session for a short period.

13 (Private session at 2.10 p.m.)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Open session at 2.12 p.m.)

6 THE COURT OFFICER: [14:12:19] We are back in open session, Mr President.

7 MR ELDERFIELD: [14:12:23]

8 Q. [14:12:24] Mr Nyero, when did you join the Uganda police force?

9 A. [14:12:31] I joined the Uganda police force on 15 November 1993.

10 Q. [14:12:49] Can you please give a brief description of your career, focusing on
11 the postings that you've had from that date until the present?

12 A. [14:13:04] After my enlistment into the Uganda police force, I went for initial
13 police training at police training school Masindi. That lasted for nine months.

14 After the initial training, I was taken to another police training school called Kubuli in
15 Kampala for a specialisation course called signals or communication, which lasted
16 six months. After the specialisation course, I was posted to Kitgum police station,
17 where I worked briefly. That was 1995. I was then transferred to Gulu police
18 station, where I worked for nearly eight years.

19 In April 2002 I was transferred to Acac police station, which was under Gulu district.
20 I worked for one year and two months, two or three months. I was then transferred
21 to Kamdini police station, that was in 2003, where I reported on 1 July.

22 In the year 2010 I was transferred to Bibia police post. And in 2012 I was transferred
23 to Elegu police station, where I am currently attached. Thank you.

24 Q. [14:17:24] What was your rank when you were working in Kitgum -- excuse
25 me, in Kamdini?

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1 A. [14:17:38] Your Honour, when I was at Kamdini I was a police constable.

2 Q. [14:17:52] Were you working in radio communications in your time in all these
3 postings?

4 A. [14:18:02] Yes, your Honour, although at times I used to perform other duties
5 aside.

6 Q. [14:18:17] I want to ask you to give some more detail about the six-month
7 training that you had after your initial training that focussed on signals.

8 A. [14:18:35] The details are the training involved communication disciplines,
9 how to use the machine, how to operate the machine. Two, I studied what is called
10 call signs. In the same time, at the same time we also studied with what is called Q
11 codes. The third was the use of Morse codes. That is M-O-R-S-E codes.

12 Q. [14:20:06] Thank you. I'd like to turn now to the second area and to ask you
13 to focus your mind on the period of time that you intercepted the LRA radio
14 communications. When did you first start to do that?

15 A. [14:20:31] It was immediately after reporting at Kamdini police station. That
16 was July 2003.

17 Q. [14:20:55] Why did you start to intercept the LRA?

18 A. [14:21:09] I started because I got other operators who were doing the same.

19 PRESIDING JUDGE SCHMITT: [14:21:20] May I shortly.

20 Mr Nyero, was this an internal policy of the police at the time or how did it come to
21 the decision that you also intercepted these communications?

22 THE WITNESS: [14:21:35] It was not actually a policy, your Honour, but I got other
23 operators doing it, so I would also listen.

24 PRESIDING JUDGE SCHMITT: [14:21:58] Okay.

25 Mr Elderfield.

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1 MR ELDERFIELD: [14:22:02]

2 Q. [14:22:02] Did it at one point become a policy of the police for you to intercept
3 the LRA?

4 A. [14:22:10] I beg your pardon?

5 Q. [14:22:13] You said that when you started it wasn't a policy by the Ugandan
6 police, and my question is whether at one point in the future it did become a policy
7 for you to intercept the LRA?

8 A. [14:22:33] I don't know whether it will be a policy. That depends on the
9 decision of the authority concerned.

10 PRESIDING JUDGE SCHMITT: [14:22:43] I think we have to take it that the
11 witness simply did the job, so to speak. So I understand it. And there must -- there
12 could also be of course the possibility that it is simply within the mandate of police
13 forces to do it. I don't know.

14 Please continue, Mr Elderfield.

15 MR ELDERFIELD: [14:23:06] Thank you.

16 Q. [14:23:07] Did you receive formal authorisation to continue to listen to the
17 LRA after you started?

18 A. [14:23:14] Your Honour, I would like to tell this Court that
19 on 30 September 2003 I received a verbal instruction from the regional
20 communication, northern region, with its headquarters in Gulu that I was officially
21 authorised to do the job.

22 Q. [14:24:07] What was the purpose for you intercepting the LRA?

23 A. [14:24:17] The purpose was to fight the LRA insurgency.

24 Q. [14:24:34] For the purposes of the intercepts, interception work that you were
25 doing, who was your supervisor? And I would like to remind you, if necessary, to

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1 refer to person number 1 or 2 instead of names, if you need to.

2 A. [14:24:56] My supervisor is not in the two list.

3 Q. [14:25:06] Who were you reporting to in your capacity as an interception, as
4 someone involved in LRA interception?

5 A. [14:25:21] I was reporting to -- I don't know whether I'm allowed to mention
6 the name.

7 PRESIDING JUDGE SCHMITT: [14:25:29] Perhaps we go shortly into private
8 session and you can mention the name then.

9 So private session.

10 (Private session at 2.25 p.m.)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Open session at 2.26 p.m.)

20 THE COURT OFFICER: [14:26:21] We're back in open session, Mr President.

21 MR ELDERFIELD: [14:26:30]

22 Q. [14:26:30] Did you also report to someone who worked in this special branch?

23 A. [14:26:38] It was the duty of the person I've just mentioned the name who
24 would report to number 1.

25 Q. [14:26:57] Person number 1 obviously on the list?

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1 PRESIDING JUDGE SCHMITT: [14:27:00] Yes, really, but that is absolutely clear.

2 I would not see any other possibility of interpretation here. You should not go too
3 far away from the ordinary course of events.

4 Please continue, Mr Elderfield.

5 MR ELDERFIELD: [14:27:19]

6 Q. [14:27:21] How many years in total did you spend listening to the LRA?

7 A. [14:27:33] It took about three and a half years.

8 Q. [14:27:42] Why did you stop?

9 A. [14:27:50] There were two reasons that made me to stop. Number one was I
10 could not get LRA anymore communicating. Number two, I was called for another
11 training in preparation to welcome Queen Elizabeth to Uganda in 2007.

12 PRESIDING JUDGE SCHMITT: [14:28:38] May I ask you to explain a little bit what
13 you meant by "I could not get LRA anymore" so that we can understand what you
14 mean by them.

15 THE WITNESS: [14:28:49] I could not listen to them anymore by that time over the
16 radio.

17 PRESIDING JUDGE SCHMITT: [14:28:52] And what was the reason for that?

18 THE WITNESS: [14:28:56] I can't tell that because I was unable to pick them
19 anymore on air.

20 PRESIDING JUDGE SCHMITT: [14:29:04] Good. Then I think we can have
21 enough fantasy to imagine what it could be and he does not know. Please continue,
22 Mr Elderfield.

23 MR ELDERFIELD: [14:29:18]

24 Q. [14:29:18] Where in Kamdini police station did you intercept from?

25 A. [14:29:25] My office was in a very small house where the radio set was, but in

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1 the police, not outside, a small room.

2 Q. [14:29:52] Can I ask you to please take the black binder that's on your left and
3 open it. I'd like you to open to tab 7, please.

4 THE COURT OFFICER: [14:30:28] May I ask counsel to please read out the ERN
5 for the record.

6 MR ELDERFIELD: [14:30:33] Yes. And can I please ask someone perhaps to help
7 for the first time with the binder.

8 The ERN of tab 7 is 0254-1647. The photograph can be shown to the public, as can
9 the next two.

10 PRESIDING JUDGE SCHMITT: [14:31:01] I think Mr Nyero has found it.

11 Have you found it, Mr Nyero? It is a picture of, I would say, a room.

12 THE WITNESS: [14:31:11] I've seen it.

13 PRESIDING JUDGE SCHMITT: [14:31:12] Yeah, okay. I think we don't need the
14 help of the court usher.

15 THE WITNESS: [14:31:20] And that was my office.

16 PRESIDING JUDGE SCHMITT: [14:31:22] So continue, Mr Elderfield.

17 MR ELDERFIELD: [14:31:25]

18 Q. [14:31:26] The blue door in the photograph, it's not -- can't see it very well, but
19 did that door lock, and if it did, who kept the key?

20 A. [14:31:39] The door to that office was ever locked. And I was the one
21 responsible for the key. In case of my absence, I go back to the list you gave me,
22 number 2 would be with the key.

23 PRESIDING JUDGE SCHMITT: [14:32:16] Now you see, Mr Elderfield, this really
24 works with our list of people we should not mention.

25 MR ELDERFIELD: [14:32:27]

1 Q. [14:32:30] Can you please turn to the next tab, tab 8 in the binder. Just a
2 suggestion, Mr Nyero, at the front of the binder there's a clip and if you release the
3 clip it will allow you to turn the pages more easily.

4 The ERN of tab 8 is 0254-1650.

5 Do you recognise this photograph?

6 A. [14:33:19] Your Honour, I recognise it very well.

7 Q. [14:33:25] Please tell us what it is.

8 A. [14:33:30] It is the radio set I've been using in the intercept.

9 Q. [14:33:43] Can you tell us what brand the radio is?

10 A. [14:33:49] The radio is an analogue radio, high frequency base set. And the
11 name is Codan.

12 Q. [14:34:12] Can I ask you to please turn to the next tab, tab 9. ERN 0254-1658.
13 Can you describe to us this photograph, please.

14 A. [14:34:44] The photograph shows Kamdini police station with an antenna of
15 the radio I was using. And the path or the road behind leads to a bore hole nearby.

16 PRESIDING JUDGE SCHMITT: [14:35:27] Thank you. I think that is enough for
17 the photo. So we have an impression, I think.

18 MR ELDERFIELD: [14:35:34]

19 Q. [14:35:35] Can I ask you to put away the binder.

20 Mr Nyero, what time in the morning did you start to listen to the LRA?

21 A. [14:35:53] At first, the LRA rebels used to start their communication at 8 a.m.,
22 but later on they changed to 9 a.m.

23 Q. [14:36:24] What other times during the day did you listen to their
24 communications?

25 A. [14:36:33] At 11, at 1, at 3, at 6, at 9 p.m. and any other time they assigned.

- 1 Q. [14:37:03] How many days per week did you listen?
- 2 A. [14:37:11] Seven days per week.
- 3 Q. [14:37:19] When the communication started, what did you do?
- 4 A. [14:37:41] What I would do was to have a pen ready and a piece of paper.
- 5 Q. [14:37:58] And what did you do with that pen and piece of paper as you
- 6 listened?
- 7 A. [14:38:04] I would write down in that rough -- in that piece of paper whatever
- 8 I felt was of security interest.
- 9 PRESIDING JUDGE SCHMITT: [14:38:27] Mr Nyero, did you write this down in
- 10 Acholi or in English, or did you translate it immediately, so to speak, or did you write
- 11 the rough notes on the sheets of paper in Acholi?
- 12 THE WITNESS: [14:38:39] Your Honour, I was writing in English, but in shorthand.
- 13 PRESIDING JUDGE SCHMITT: [14:38:48] Okay.
- 14 MR ELDERFIELD: [14:38:53]
- 15 Q. [14:38:54] What do you mean by subjects that were of security interest? Can
- 16 you explain more about what you believed was important enough to write down?
- 17 A. [14:39:07] Results of the operations. Two, orders from LRA leader. Results
- 18 of his orders. And many others.
- 19 Q. [14:39:38] What did you do after the communication had finished?
- 20 A. [14:39:48] I would still get another paper and write a fair copy.
- 21 Q. [14:40:04] In what language did you write the fair copy?
- 22 A. [14:40:14] In English.
- 23 Q. [14:40:18] Did you still record in shorthand or did you write in full sentences?
- 24 A. [14:40:27] I would write in full sentences.
- 25 Q. [14:40:34] How much of the rough note did you record in the fair copy?

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1 A. [14:40:49] Your Honour, I beg him to repeat.

2 PRESIDING JUDGE SCHMITT: [14:40:51] I think that it would have depended,
3 but please repeat your question and perhaps a little bit -- so you had your rough notes,
4 Mr Nyero --

5 THE WITNESS: [14:41:03] Yes, your Honour.

6 PRESIDING JUDGE SCHMITT: [14:41:04] -- where you wrote in shorthand --

7 THE WITNESS: [14:41:07] Yes, your Honour.

8 PRESIDING JUDGE SCHMITT: [14:41:08] -- and then you wrote in full sentences in
9 on the fair copy.

10 THE WITNESS: Yes, your Honour.

11 PRESIDING JUDGE SCHMITT: [14:41:11] Did you transcribe, so to speak, the whole
12 content of the rough notes to the fair copy or did you, in the process, say, oh, this is
13 what I initially wrote down in shorthand is not so important, in the end I skip it? See
14 what I mean? Was it a one-on-one transcription or not?

15 THE WITNESS: [14:41:32] It depended on the sensitivity of the intercept.

16 PRESIDING JUDGE SCHMITT: [14:41:38] Yeah. Mr Elderfield.

17 MR ELDERFIELD: [14:41:40]

18 Q. [14:41:41] What did you do with the rough copy after you had written out the
19 fair copy?

20 A. [14:41:53] I was instructed by the person in number 1, I think you still have the
21 copy, number 1 not to keep any document but to destroy. So every rough copy I had
22 I did destroy.

23 Q. [14:42:20] Did you include information in your fair copy that did not come
24 from the radio? For example, any comments or human intelligence?

25 A. [14:42:40] I don't know how many times but I did include.

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1 Q. [14:42:47] And how would you -- would you indicate or mark the fact that this
2 was different intelligence or your comments, or would you write it all out without
3 markings?

4 A. [14:43:04] I don't recall well, but can easily be detected. And usually I used to
5 put at the last point at the end.

6 PRESIDING JUDGE SCHMITT: [14:43:20] The question would be, Mr Nyeru, if
7 anybody would read your fair notes and they are in English, I think everybody in the
8 courtroom could read them, would such a person who sees the fair note for the first
9 time recognise that we are now going from intercepted material to other intelligence
10 that you included?

11 THE WITNESS: [14:43:46] It can easily be detected, your Honour.

12 PRESIDING JUDGE SCHMITT: [14:43:51] Thank you.

13 MR ELDERFIELD: [14:43:53]

14 Q. [14:43:54] Mr Nyeru, please take the binder again to your left and open it to
15 tab 4. The first page of this binder is marked 0037-0002. And obviously there's
16 many other pages and I'll read those out in the process of questioning.

17 PRESIDING JUDGE SCHMITT: [14:44:26] Not all.

18 MR ELDERFIELD: [14:44:28] No, obviously not all, no.

19 PRESIDING JUDGE SCHMITT: [14:44:31] Because then we would need a lot of
20 time I would say. I have a question before you start.

21 This is very comprehensive, how did you choose the papers here, the rough -- the fair
22 notes, or are these all the fair notes that are in evidence?

23 MR ELDERFIELD: [14:44:48] Your Honour, this is -- these are all the fair copies
24 that we believe the witness has produced and that we've collected.

25 PRESIDING JUDGE SCHMITT: [14:44:57] It was an assumption by first seeing it

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1 now but I wanted to have it confirmed by you. Thank you very much.

2 MR ELDERFIELD: [14:45:05]

3 Q. [14:45:06] Mr Nyero, do you have a page in front of you, the top left you can
4 see a date 4/11/04?

5 A. [14:45:16] Yes, I've seen.

6 Q. [14:45:19] What does that -- what do those numbers mean? What does that
7 date mean?

8 A. [14:45:26] The date the report was written.

9 Q. [14:45:35] Do you recognise your handwriting on this page?

10 A. [14:45:39] Yes, I do.

11 Q. [14:45:43] And can you confirm that it's one of your fair copies?

12 A. [14:45:50] Yes, your Honour, this is one of my fair copies.

13 Q. [14:45:56] Down the bottom at the end there's a 0 with two lines, two vertical
14 lines through it. What does that mean?

15 A. [14:46:18] I don't get you there.

16 Q. [14:46:23] I'll move on. On the top right -- sorry. On the top right of the
17 page there's a faint number 166 in a circle. Can you tell us what that is?

18 A. [14:46:48] I have seen, but what I can tell this Court is that is a filing number
19 which I was not the one who did it. It was done possibly by the person of number 1
20 in the other paper.

21 PRESIDING JUDGE SCHMITT: [14:47:12] And I would assume that it was done
22 after the fair copy has been produced by you.

23 THE WITNESS: [14:47:19] Yes, your Honour.

24 MR ELDERFIELD: [14:47:24]

25 Q. [14:47:24] Mr Nyero, can I ask you now to briefly flick through the pages in

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1 that tab, all the pages underneath the page we're looking at, and I'm going to ask you
2 if you recognise your handwriting in those pages.

3 PRESIDING JUDGE SCHMITT: [14:47:40] Perhaps one or two additional questions
4 to that because it appears that there is a pattern.

5 Mr Nyeru, if you look at this page we are talking about on the bottom to the left side,
6 there is written "end". So I assume you wanted to indicate that what you had
7 intercepted and what you had recorded and written down was complete there and
8 you finished it there. Is my assumption correct?

9 THE WITNESS: [14:48:08] Your Honour, you're very correct.

10 PRESIDING JUDGE SCHMITT: [14:48:11] And then in the middle on the bottom,
11 we have 1130 hours. What is that? It's on the bottom and the last what is
12 recognisable is -- it seems to be 1130 hours.

13 THE WITNESS: [14:48:38] That was the time I concluded writing the report.

14 PRESIDING JUDGE SCHMITT: [14:48:48] And would that mean -- could that also
15 tell us when the communication that you intercepted took place?

16 THE WITNESS: [14:48:58] No, your Honour.

17 PRESIDING JUDGE SCHMITT: [14:49:02] I thought that. So please be indulgent
18 with me. So we have this and you can now flip through the pages with the witness.

19 MR ELDERFIELD: [14:49:11]

20 Q. [14:49:12] Just to pick up on that last answer, how could we determine the date
21 and the time of the communication that you were intercepting, from your fair copy?

22 A. [14:49:23] It is clear that I included in almost all my reports the time I received
23 the information from the LRA.

24 PRESIDING JUDGE SCHMITT: [14:49:47] Perhaps we simply do the exercise with
25 the first one and because -- if I read it correctly here, but help me, the copy that I have

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1 here is not so good, perhaps we can go to the top of this on the screen. That might be
2 better, it would be nice if the court usher could simply scroll it up.

3 So we have here on -- I read it, but correct me, Mr Nyero, if I read it wrong,
4 "On 4 November 2004 at about 0910 hours." Is this correct?

5 THE WITNESS: [14:50:22] Yes, your Honour.

6 PRESIDING JUDGE SCHMITT: [14:50:23] So -- and is it correct to say that simply
7 you recorded, you recorded that and you heard that on 4 November 2004
8 at 10 minutes past 9?

9 THE WITNESS: [14:50:37] Yes, your Honour.

10 PRESIDING JUDGE SCHMITT: [14:50:39] Okay. So I think there is a pattern.
11 We don't have to repeat this for every other document.

12 MR ELDERFIELD: [14:50:44]

13 Q. [14:50:45] Mr Nyero, simply flick briefly through the rest of the documents in
14 that tab and I'm just going to ask if you see your handwriting. You don't have to
15 read them, just move quite quickly through.

16 PRESIDING JUDGE SCHMITT: [14:51:02] Perhaps, because also we have also eyes
17 to see, it would even be easier if Mr Nyero would tell us if there is a document where
18 not his handwriting is on, where anybody else has written it, I would say.

19 MR ELDERFIELD: [14:51:20] While he does that, I'll just read the ERNs into the
20 record.

21 PRESIDING JUDGE SCHMITT: [14:51:25] You can simply, Mr Nyero, simply flip
22 through it while Mr Elderfield is speaking, and if any of these documents does not
23 show your handwriting, you can tell us.

24 MR ELDERFIELD: [14:51:37] 0037-0002. There is 0256-0321, there is 0256-0324,
25 and finally there's 21 documents registered separately, starting with 0151-00, and

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1 these documents end in 02, 03, 05, 06, 08, 11, 15, 16, 18, 19, 20, 21, 23, 25, 26, 28, 33, 35,
2 37, 40 and 42.

3 PRESIDING JUDGE SCHMITT: [14:52:53] I think this will last a while if we ask
4 Mr Nyero to go through all of them.

5 THE WITNESS: [14:53:05] The papers are many.

6 PRESIDING JUDGE SCHMITT: [14:53:06] Indeed, I just mentioned that. There
7 are many.

8 THE WITNESS: [14:53:10] But I remember when we revised this document, I
9 showed him the handwriting which was for number 2 in the other list. It was only a
10 document, a paper. So I don't know whether it is here.

11 PRESIDING JUDGE SCHMITT: [14:53:40] I don't know how many papers.
12 I think we should not wait until the witness has flipped through all of them. There
13 are two possibilities: We have a short break and we let the witness do that during
14 the break or we give him the chance after the session and tomorrow we ask him if
15 there was -- any of the documents was not written by him.

16 MR ELDERFIELD: [14:54:00] Your Honour, may I suggest, we're confident now
17 that the first page is the witness's handwriting, and perhaps the Court and the parties
18 can do amateur handwriting analysis of the rest.

19 PRESIDING JUDGE SCHMITT: [14:54:14] I would accept that if there is no
20 objection by the Defence on that, because otherwise we would have to do the exercise.

21 MR OBHOF: [14:54:21] We're okay with the second option that you gave him,
22 flipping through and just checking out maybe a few random pages, every 10 or 15,
23 because it does appear that he has removed certain ones from there.

24 PRESIDING JUDGE SCHMITT: [14:54:34] No (Microphone not activated). We'll
25 have a break for five until ten minutes and the witness may flip through it in that time

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1 without any hurry, Mr Nyero, and then we come back and you tell us if any of the
2 documents has not been written by you.

3 MR OBHOF: [14:54:52] We were saying we would be happy after the session is
4 over with, not during the session.

5 PRESIDING JUDGE SCHMITT: [14:55:00] (Microphone not activated) not more
6 work for the witness after the session, I thought.

7 THE COURT USHER: [14:55:06] All rise.

8 (Recess taken at 2.55 p.m.)

9 (Upon resuming in open session at 3.04 p.m.)

10 THE COURT USHER: [15:04:09] All rise.

11 PRESIDING JUDGE SCHMITT: [15:04:28] Mr Elderfield, I think you can ask this
12 one question that explains itself I would say, or suggests itself.

13 MR ELDERFIELD: [15:04:39]

14 Q. [15:04:44] Mr Nyero, did you see any pages in there that were not your
15 handwriting?

16 A. [15:04:54] Your Honour, I did not see any single page.

17 Q. [15:05:02] Can you please close your binder. I'm going to ask you a few
18 questions where you won't need it.

19 What did you do with these fair copies once you had written them?

20 A. [15:05:23] I would put in an envelope ready to be sent to the person I had
21 earlier on mentioned the name for the consumption of number 1.

22 Q. [15:05:45] And how did they get to person number 1?

23 A. [15:05:55] Your Honour, there were two ways. The first way was by an
24 officer, I don't know whether it is necessary to mention the name.

25 PRESIDING JUDGE SCHMITT: [15:06:17] I don't think so. Please continue.

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1 THE WITNESS: [15:06:20] Yes. I would hand over to him to take to the person
2 whose name is not here because the police officer used to commute from Gulu to
3 Kamdini. He had no accommodation. Two, in case he was not around, I would
4 entrust any taxi driver to deliver and I would inform the recipient of the number, the
5 registration number of the vehicle whose driver would be taking the letter.

6 PRESIDING JUDGE SCHMITT: [15:07:24] So the recipient would always know
7 that such notes such copies were on their way; is that correct?

8 THE WITNESS: [15:07:32] Yes, your Honour.

9 PRESIDING JUDGE SCHMITT: [15:07:34] And did he ever call back, so to speak,
10 and tell you that one of these messages and these envelopes had not arrived?

11 THE WITNESS: [15:07:44] He never told me because he received all what I sent.

12 MR ELDERFIELD: [15:07:57]

13 Q. [15:07:58] What would happen if any detail of your fair copy required
14 clarification or if your supervisors had questions?

15 A. [15:08:15] Your Honour, it didn't happen.

16 Q. [15:08:23] Where were your fair copies stored?

17 A. [15:08:34] Your Honour, I suspect number 1 could be in better position to
18 answer, because all these went to him.

19 Q. [15:08:52] Did you audio record LRA radio communications?

20 A. [15:08:58] No, I didn't.

21 Q. [15:09:04] I want to talk about person number 2. How did he know how to
22 operate a radio and to listen to the LRA?

23 A. [15:09:27] Before I reported on transfer to Kamdini, he was the caretaker of the
24 radio room and knew about it.

25 PRESIDING JUDGE SCHMITT: [15:09:50] I think that's enough for that.

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1 MR ELDERFIELD: [15:09:53]

2 Q. [15:09:56] Apart from person number 2 did you work with any other
3 colleagues in the Uganda police in your interception procedure?

4 A. [15:10:21] Before my transfer to Kamdini there were people intercepting.
5 I don't know whether it is necessary to mention their names and possibly where they
6 were located.

7 PRESIDING JUDGE SCHMITT: [15:10:36] I don't think this is necessary. I think
8 what would be of interest if, at the time when you were intercepting and writing
9 down the notes, you worked together with other people apart from, let's say, the two
10 persons number 1 and number 2. If that was the case.

11 THE WITNESS: [15:10:57] Thank you. At Kamdini I was with number 2, but at the
12 regional headquarters where number 1 had an office there was somebody. I don't
13 know whether it may be necessary to tell the name.

14 PRESIDING JUDGE SCHMITT: [15:11:31] I think, Mr Elderfield, you should tell
15 me if you find it necessary, but on the face of it I would not say that it is necessary.
16 I think we can continue with that.

17 MR ELDERFIELD: [15:11:44]

18 Q. [15:11:47] Did you ever work with the UPDF in your interception process?

19 A. [15:11:57] Your Honour, I never worked with the Uganda People's Defence
20 Forces during the intercepts.

21 Q. [15:12:08] Did you ever work with the Internal Security Organisation, the ISO,
22 in your interception work?

23 A. [15:12:17] No.

24 Q. [15:12:20] I want to talk about the radio that you used --

25 PRESIDING JUDGE SCHMITT: [15:12:23] Perhaps the third branch we should also

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1 ask him. If you already started it, then we should also if he -- did you ever work
2 with the External Security Organisation, Mr Nyero?

3 THE WITNESS: [15:12:37] No, your Honour.

4 MR ELDERFIELD: [15:12:39]

5 Q. [15:12:42] I'd like to talk now about the Codan radio that you used. What
6 was the range of the Codan? How far away could you intercept the LRA?

7 A. [15:12:59] Are you talking about the range of the frequency?

8 Q. [15:13:07] I'm talking about geographically how far away was it possible for
9 the radio to intercept radio communications?

10 A. [15:13:23] Distance is not the problem here, because at my own time I would
11 also listen to Voice of America, the British Broadcasting Corporation. So I can't tell
12 the distance.

13 Q. [15:13:40] Could you hear people in -- LRA commanders in South Sudan, in
14 southern Sudan?

15 A. [15:13:50] Yes, I would.

16 Q. [15:13:53] What affected the clarity of the radio signal that you heard through
17 the radio?

18 A. [15:14:05] That question needs a technician to answer.

19 PRESIDING JUDGE SCHMITT: [15:14:11] Fair enough.

20 Please continue, Mr Elderfield.

21 MR ELDERFIELD: [15:14:16]

22 Q. [15:14:18] I'm going to move now to the third and final area that I want to talk
23 to you about, and that is your experience of LRA commanders talking on the radio.

24 PRESIDING JUDGE SCHMITT: [15:14:35] And we would of course, going back to
25 the last question of the technician and expert on that, we would not have to ask

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1 Mr Rowse, I think, in that respect. Please continue, Mr Elderfield.

2 MR ELDERFIELD: [15:14:50]

3 Q. [15:14:52] Was the LRA active on the radio in the entire time that you listened
4 to them in the three and a half years from 2003, mid-2003?

5 A. [15:15:07] Yes, they were active.

6 Q. [15:15:12] From your experience listening to them, what ranks of LRA spoke
7 on the radio?

8 A. [15:15:34] I would like to request you to be specific.

9 Q. [15:15:46] Do you remember any persons who spoke on the LRA radio?

10 A. [15:15:56] Apart from the commanders, their radio operators used to talk.

11 Q. [15:16:07] I want to focus on the commanders. What names do you
12 remember? What commanders do you remember spoke on the radio?

13 A. [15:16:18] LRA leader, Joseph Kony.

14 PRESIDING JUDGE SCHMITT: [15:16:25] Others?

15 THE WITNESS: [15:16:27] Others was Vincent Otti, Dominic Ongwen, Lakati,
16 Sam Kolo, Oringa Sisto, Abudema, Okwonga Alero, Opiro Anaka, and others.

17 MR ELDERFIELD: [15:17:15]

18 Q. [15:17:16] How did you identify LRA commanders who spoke on the radio?

19 A. [15:17:30] I was able to identify them or penetrate them simply because the
20 LRA were somewhat loose in their communication and would at times call their
21 commanders using their own name.

22 Q. [15:17:57] Let's focus on Joseph Kony. How did he speak on the radio?
23 What things did he say and how did people act when Joseph Kony spoke on the
24 radio?

25 A. [15:18:14] People would be quiet listening to him as the overall.

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1 Q. [15:18:21] And what sort of things do you remember that he talked about?

2 A. [15:18:32] It is a number of years behind so --

3 PRESIDING JUDGE SCHMITT: [15:18:35] Yeah, I really, I think, and we have a lot
4 of material also, and that really demands a lot of the witness to recall what might
5 have been said 15 years or even more ago and also in -- when you go asking such a
6 general manner, what did he talk about, this, it could encompass a lot of things. So
7 I think we should move on. Unless you have something very specific to put to the
8 witness what you're interested in, of course.

9 MR ELDERFIELD: [15:19:22] No, I'll move on.

10 Q. [15:19:23] You mentioned that others aside from commanders spoke on the
11 radio. Who were those people?

12 PRESIDING JUDGE SCHMITT: [15:19:36] He has already answered that.

13 MR ELDERFIELD: [15:19:39] I was trying to search for the word, "operators"
14 I believe.

15 PRESIDING JUDGE SCHMITT: [15:19:45] "Operators", that's different of course,
16 yeah.

17 MR ELDERFIELD: [15:19:48]

18 Q. [15:19:48] Can you explain what an operator was in the LRA?

19 A. [15:19:51] A radio operator is like me who is speaking, the duty is to switch on
20 the radio and switch it off. So he's the first to handle the set, to switch it on and can
21 communicate to other operators at another unit.

22 Q. [15:20:21] Were operators attached to commanders or were they -- did they
23 have a general role in the LRA?

24 A. [15:20:28] Yes, they were attached to commanders.

25 Q. [15:20:33] Were they permitted to speak independently of a commander or

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1 would they say things that the commander instructed them to speak?

2 A. [15:20:42] Most times they speak on instructions.

3 Q. [15:20:52] Mr Nyero, please take up your binder again on your left and turn to
4 tab 5. The five ERNs in this tab are 0175-0309, there's 0311, 0312, 0314 and 0315.

5 Mr Nyero, do you recognise these documents?

6 A. [15:21:46] Yes, I do.

7 Q. [15:21:47] Whose handwriting do you see?

8 A. [15:21:51] I see my handwriting, but some writings here are not mine.

9 Q. [15:22:00] We'll go through each page in a little more detail. What are these
10 documents?

11 A. [15:22:14] These were lists of LRA commanders from the rank of, or of and
12 above 2nd lieutenant. Which I remember Joseph Kony had ordered for the lists after
13 a promotion was done. And these are very few because I remember the list was so
14 big.

15 PRESIDING JUDGE SCHMITT: [15:23:06] Just for my understanding, Mr Nyero,
16 so what we see here, and I think we have all in all three or even more pages, was this
17 mentioned or read out by Joseph Kony consecutively, in a row so to speak, in one
18 speaking session, let me understand it, and did you take it immediately when he
19 spoke?

20 THE WITNESS: [15:23:34] He ordered his commanders to submit to him, so every
21 commander would come with the list of officers of and above the rank of 2nd
22 lieutenant.

23 PRESIDING JUDGE SCHMITT: [15:23:51] So would it be correct when I say that
24 this is a compilation what the different commanders answered?

25 THE WITNESS: [15:23:59] Definitely, your Honour.

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1 MR ELDERFIELD: [15:24:03]

2 Q. [15:24:05] Mr Nyero, when did you compile this list? Or another way of
3 putting that would be when did Joseph Kony issue that order?

4 A. [15:24:25] I don't remember that.

5 MR ELDERFIELD: [15:24:28] Your Honour, I'd like to request to refresh the
6 witness's memory (Overlapping speakers).

7 PRESIDING JUDGE SCHMITT: [15:24:33] Of course. He said he does not
8 remember so we can refresh the memory, yeah.

9 MR ELDERFIELD: [15:24:40] The passage is tab 1, which is the witness's first
10 statement. The ERN of the statement is 0170-0047, and the paragraph I'd like to
11 refresh from is paragraph 33. Your Honours, I'll focus on the second last line.

12 PRESIDING JUDGE SCHMITT: [15:25:09] Yes.

13 MR ELDERFIELD: [15:25:11]

14 Q. [15:25:12] Mr Nyero, when you gave your first statement to the Prosecution
15 in 2006, so that's during the time you were still in Kamdini, you told the ICC
16 investigators that these lists were compiled from an order, as you have said, that
17 happened in October or November 2003. Does that refresh your memory about the
18 time that Joseph Kony issued this order?

19 PRESIDING JUDGE SCHMITT: [15:26:04] Perhaps we read a little bit more of this
20 paragraph, that might be even be -- I can do it.

21 Mr Nyero, it reads here, the complete paragraph reads:

22 "I also made a list of names and ranks of the LRA officers. One day Kony ordered
23 Otti, Vincent on the radio to compile a list of all the names and ranks of the LRA
24 commanders from 2nd lieutenant to colonel and report these names back to Kony.
25 That happened in the ensuing days and I wrote everything down and was able to

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1 compile a full list myself."

2 And now comes:

3 "This happened in October or November 2003. Tabuley was still alive."

4 If you hear this --

5 THE WITNESS: Yes.

6 PRESIDING JUDGE SCHMITT: -- today is this correct?

7 THE WITNESS: [15:26:52] It is correct, your Honour.

8 MR ELDERFIELD: [15:26:55]

9 Q. [15:26:58] What did you do with these lists once you had made them?

10 A. [15:27:10] Your Honour, I submitted lists to number 1 in the other list.

11 Q. [15:27:17] I'd like you to turn back to tab 5. And we'll just have a look at these
12 lists in some more detail. The first page which has the word "Annex A" on the right,
13 on the top right, has the word "Rupiny" on the left. What's that word mean?

14 THE COURT OFFICER: [15:27:57] May I ask counsel to read out the ERN please.

15 MR ELDERFIELD: [15:28:01] This page is 0175-0309.

16 THE WITNESS: [15:28:18] Can I go ahead?

17 MR ELDERFIELD: [15:28:20]

18 Q. [15:28:21] Yes, please.

19 A. [15:28:22] Rupiny was a call sign for a unit.

20 Q. [15:28:34] Do you recall which unit?

21 A. [15:28:38] I would say it was a unit under the first person.

22 Q. [15:28:59] In the list that you wrote here, is the first person the commander, the
23 overall commander of the unit and the persons under that name are his subordinates?

24 A. [15:29:11] Yes, your Honour.

25 Q. [15:29:15] Can you please turn the page. To the page on your right, that has

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1 the word "Annex B" in the top right, the ERN is 0175-0311, Mr Nyero, what does "Tem
2 Wek Ibong" mean?

3 A. [15:29:42] A call sign for a unit.

4 Q. [15:29:49] And which unit was that?

5 A. [15:29:57] I don't know the name of the unit, but I can see there is slash that
6 word, which is not my handwriting.

7 MR ELDERFIELD: [15:30:11] Your Honour, I'd just like to clarify something in the
8 witness's statement that he's given in reference to the word Tem Wek Ibong.

9 PRESIDING JUDGE SCHMITT: [15:30:20] But that was really helpful, because
10 when I saw it the first time I also thought this is not the same handwriting indeed,
11 Mr Witness. Okay.

12 So please refer -- and where do you want to go in the statement?

13 MR ELDERFIELD: [15:30:33] I'd like to go to tab 2, your Honour, paragraph 20.
14 The ERN of tab 2 is 0175-0300, it's his second statement.

15 PRESIDING JUDGE SCHMITT: [15:31:01] Yes, please go ahead.

16 MR ELDERFIELD: [15:31:02]

17 Q. [15:31:02] The sentence is, Mr Nyero, in your statement to the ICC investigators
18 you've told us that these people on this page were under the command of Tem Wek
19 Ibong, which is a call sign for Commander Ongwen Dominic Wanyama, who is the
20 first name on the list. Does that refresh your memory?

21 A. [15:31:33] Yes, it does.

22 Q. [15:31:42] Can I ask you to please turn back to tab 5 and go back to Annex B.
23 And I will confirm with you that Tem Wek Ibong is the call sign for Dominic Ongwen
24 and he is the commander of this unit on this list; is that correct?

25 A. [15:32:12] Yes, it is.

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1 Q. [15:32:17] Please turn the page to Annex C, ERN 0175-0312. On the top left
2 there's the words "Whisky", and then part of it's cut off, but the next word seems to be
3 Gilva. What does Whisky mean?

4 A. [15:32:46] Whisky had been a call sign.

5 Q. [15:32:53] Do you remember whose call sign?

6 A. [15:33:04] There is that slash, that word written Gilva. It's not my
7 handwriting. I had a list of call signs. And this has been a long time, I have to be
8 refreshed.

9 PRESIDING JUDGE SCHMITT: [15:33:35] And indeed the statement has been
10 made I think in 2006, also the statement is long ago, not only when this might have
11 happened, but also the statement is very long ago.

12 MR ELDERFIELD: [15:33:46] Yes, your Honour, there are certain details in the
13 statement that are so long ago and --

14 PRESIDING JUDGE SCHMITT: [15:33:52] Absolutely.

15 MR ELDERFIELD: [15:33:53] I'd like to then turn to tab 2, paragraph 24.

16 PRESIDING JUDGE SCHMITT: [15:34:25] Yes, please continue.

17 MR ELDERFIELD: [15:34:27]

18 Q. [15:34:28] Mr Nyero, you told ICC investigators that Whisky is the call sign for
19 Ocan Bunia. Does that ring a bell?

20 A. [15:34:37] Which page?

21 Q. [15:34:41] There's no need for you to look at the statement itself, but you can
22 rest assured that you told ICC investigators that Whisky is the call sign for Ocan
23 Bunia and you were referring to the page that we're discussing now. Does that ring
24 a bell?

25 A. [15:35:19] Your Honour, it could have been a mistake since I was ordered not

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1 to keep any record. So if that is the case I apologise for that.

2 PRESIDING JUDGE SCHMITT: [15:35:36] I don't see any mistake here, but simply
3 when the witness does not recall. And also, you know, there would be also not a
4 consistency here. When we look at the page and we have Whisky in the first line on
5 the top, and down the line I don't see Ocan Bunia, for example. Where is Ocan
6 Bunia here on this page?

7 MR ELDERFIELD: [15:36:03] I don't see Ocan Bunia either --

8 PRESIDING JUDGE SCHMITT: [15:36:06] Yes, so.

9 MR ELDERFIELD: [15:36:08] -- your Honour.

10 PRESIDING JUDGE SCHMITT: [15:36:13] So I don't know if we get further here.

11 MR ELDERFIELD: [15:36:15] I'm happy to move on.

12 PRESIDING JUDGE SCHMITT: [15:36:25] Perhaps what would be of interest,
13 these, also when we turn back to the first page here where you, perhaps you recall it,
14 Mr Nyero, where it stands Rupiny. And I think you said this is the call sign for the
15 unit. So these -- on these pages, and on the top always, these call signs, are they call
16 signs for units or for certain people, if you recall it?

17 THE WITNESS: [15:36:58] Call signs are for units and a commander.

18 PRESIDING JUDGE SCHMITT: [15:37:05] Okay. I think there might also
19 be -- this might explain a little bit also why we had this small, not problem, but the
20 small question in issue when it comes to the call sign Sinia or not, or unit or not.

21 MR ELDERFIELD: [15:37:25] I'd just like to ask one more question about these lists
22 of commanders.

23 Q. [15:37:29] You mentioned that someone else's handwriting is on particularly
24 the page that has annex B on the top right. And that's the word "Sinia". Do you
25 know whose handwriting that is?

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1 A. [15:37:48] Annex B and also annex C.

2 PRESIDING JUDGE SCHMITT: [15:37:52] Exactly. You have said that indeed.

3 THE WITNESS: [15:37:56] I can't tell who wrote those.

4 MR ELDERFIELD: [15:38:01]

5 Q. [15:38:06] Thanks. You can put the book, the binder aside now. Can you
6 tell us in more detail how the LRA used call signs?

7 A. [15:38:41] The LRA used call signs first of all to conceal their identity and call
8 signs were subject to change any time.

9 Q. [15:39:04] Why would they change?

10 A. [15:39:09] Call signs are changed because of security reasons: To conceal
11 identity.

12 Q. [15:39:23] When you say "security reasons", what do you mean?

13 PRESIDING JUDGE SCHMITT: [15:39:27] I think he has already explained, he has
14 already answered that. To conceal identity is an answer.

15 MR ELDERFIELD: [15:39:43]

16 Q. [15:39:44] Which commanders and which units received call signs?

17 A. [15:39:50] Call signs are issued to units by a person responsible for
18 communication in the LRA.

19 Q. [15:40:13] And how did you know which commanders had which call signs?

20 A. [15:40:23] Your Honour, I had earlier on mentioned here that LRA commander
21 was loose and would call his commanders by name. So I was able to know that this
22 is so-and-so using this particular call sign.

23 Q. [15:40:53] I'd like to ask you to take the binder up for the last time and turn to
24 tab 6.

25 Tab 6 contains the ERNs 0170-0042, 0043, 0044 and 0045, as well as 0175-0317

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1 and 0318.

2 Mr Nyero, what are these documents?

3 A. [15:42:13] These documents contain LRA call signs by October 2003.

4 Q. [15:42:30] And whose handwriting do you see on this page and also the other
5 pages?

6 A. [15:42:48] Up to which? Up to which here?

7 PRESIDING JUDGE SCHMITT: [15:42:52] Until this tab finishes, so to speak.

8 Must have been some five or six pages.

9 THE WITNESS: [15:43:05] The handwritings are mine. With the exceptions of
10 annex -- the word annex G; that word annex G, annex F, those are not my
11 handwritings.

12 PRESIDING JUDGE SCHMITT: [15:43:32] Absolutely correct, I would say. And
13 I think since we are able to read that and we have this now confirmed by the witness
14 we see that these reflect different points in time, so we don't -- would not have to go
15 through that. But if you have specific questions apart from that you can continue in
16 that respect.

17 MR ELDERFIELD: [15:43:54] Thank you, your Honour. One or two questions.

18 Q. [15:43:58] Firstly, Mr Nyero, why did you keep lists of call signs?

19 A. [15:44:10] I did keep lists of call signs for reference.

20 Q. [15:44:16] How did you compile these lists?

21 A. [15:44:22] I compiled by getting the call signs one by one, then later these lists
22 were able to be made.

23 MR ELDERFIELD: [15:44:40] Your Honour, I'd like to ask the witness about
24 whether he remembers which commanders were assigned some of -- maybe one or
25 two call signs for about three of these pages. And I realise it has been a long time

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1 since the statement so would you permit me to perhaps, if the witness doesn't

2 remember a call sign, put the name of a commander to the witness?

3 PRESIDING JUDGE SCHMITT: [15:45:05] Yes, of course. Why not? We have

4 very often in this courtroom put names to witnesses. And if this rings a bell, it's

5 okay, and if not, we can't help it.

6 MR ELDERFIELD: [15:45:20]

7 Q. [15:45:21] Mr Nyero, on the first page, that's 0170-0042, the list that you

8 compiled of call signs by October 2003, do you remember the commander that had

9 the call sign at number 9, Tango Mike?

10 A. [15:45:46] It's actually long, but if we go to annex F.

11 PRESIDING JUDGE SCHMITT: [15:46:01] Yes, please continue.

12 THE WITNESS: [15:46:03] Number 5, that call sign was being used by LRA leader.

13 MR ELDERFIELD: [15:46:23]

14 Q. [15:46:24] Just to clarify, number 5 is Layom Cwiny, and the LRA leader, you

15 mean Joseph Kony?

16 A. [15:46:32] Yes, your Honour.

17 PRESIDING JUDGE SCHMITT: [15:46:33] But then you can put perhaps, if you

18 want to know who might have been number 9 or any other number, you might put a

19 name, but only if it rings a bell.

20 MR ELDERFIELD: [15:46:44] Thank you.

21 Q. [15:46:45] Mr Nyero, turning back to the first page, do you remember if

22 Tango Mike was a call sign for Joseph Kony?

23 A. [15:46:57] Exactly, your Honour.

24 Q. [15:47:01] Do you remember if the call sign Five Tango was Vincent Otti's?

25 A. [15:47:09] It was long time, but I can't confirm now. It's a long time actually,

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1 but I can confirm number 5 in annex F.

2 Q. [15:47:27] Can I please get you to focus your attention on annex F.

3 That's 0175-0317. At number 13 the call sign is Wat or Wat Pa Dano.

4 A. [15:47:50] I can recall.

5 PRESIDING JUDGE SCHMITT: [15:47:54] Please tell us.

6 THE WITNESS: [15:47:55] That was Vincent Otti.

7 MR ELDERFIELD: [15:48:03]

8 Q. [15:48:03] Can you please turn to the third page, 0170-0045, and these are call
9 signs that you compiled by April 2005. Do you recall number 3, Tiger?

10 A. [15:48:24] Your Honour, I don't recall.

11 Q. [15:48:28] If I said that Tiger was a call sign for Dominic Ongwen, would that
12 ring a bell?

13 A. [15:48:42] I don't recall well.

14 Q. [15:48:49] What about number 19, Lacan Makwo? Would you recall or would
15 it ring a bell if I said that that was a call sign for Joseph Kony?

16 A. [15:49:01] I do recall that.

17 PRESIDING JUDGE SCHMITT: [15:49:11] Mr Elderfield, don't feel yourself in a
18 hurry. If need be, we can also go a little bit beyond 4 o'clock. That's not a problem.

19 MR ELDERFIELD: [15:49:20] Thank you, your Honour.

20 PRESIDING JUDGE SCHMITT: [15:49:22] When we said -- and we have to finish,
21 of course, tomorrow at a certain point in time, but this should not put people too
22 much under pressure, neither you nor tomorrow Mr Obhof. But he will do the best,
23 I think, too.

24 MR ELDERFIELD: [15:49:38] Thank you. I actually expect to finish pretty well on
25 time. I actually feel slightly embarrassed that I might have caused panic and caused

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1 us to sit more than we intended by overestimating how long I would take.

2 PRESIDING JUDGE SCHMITT: [15:49:54] No, I don't think so. No, please

3 continue. It's okay.

4 MR ELDERFIELD: [15:49:57]

5 Q. [15:49:58] Mr Nyero, a final question about these lists, the call signs. Were

6 you ever able or did you ever verify or cross-check the accuracy of these call signs

7 with any other external material or persons?

8 A. [15:50:20] Your Honour, I do recall one time I submitted call signs to number 1

9 in the other first paper to cross-check with the sister forces. He confirmed to me they

10 were correct, but the list remained with him.

11 Q. [15:50:57] By "sister forces", do you mean the UPDF?

12 A. [15:51:01] The UPDF, the ISO, the ESO. So I don't know exactly which sister

13 force he contacted.

14 Q. [15:51:21] Thank you. You can put your binder to the side for the last time.

15 I want to ask about frequencies the LRA -- or the frequencies on which the LRA

16 communicated. How did you know at what frequency to listen to the LRA?

17 A. [15:51:58] On my transfer to Kamdini, I got to know the frequency from

18 number 2, that person number 2, and other frequencies from other operators whose

19 names I think -- I don't know whether it is necessary.

20 PRESIDING JUDGE SCHMITT: [15:52:34] It's simply important that we know that

21 you received information about that. And perhaps it would also be interesting if

22 these frequencies stayed the same or were a longer period or if they changed every

23 once in a while.

24 THE WITNESS: [15:52:49] The fact is, when I came into the system of intercept, I

25 learned of three different frequencies, but I may not recall them well. The first one

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1 was 8866, if I have not forgotten. The second one was 8755, if I have not forgotten.

2 But the third one is off head completely now.

3 PRESIDING JUDGE SCHMITT: [15:53:38] That is very remarkable. This is not a
4 question. It's a comment by me. That is remarkable that you recall that. So I take
5 it from that that the frequency changed sometimes?

6 THE WITNESS: [15:53:49] Yeah, your Honour.

7 MR ELDERFIELD: [15:53:52]

8 Q. [15:53:53] And what did you do when the LRA changed frequencies?

9 A. [15:54:07] I would follow them in the frequency they have gone to.

10 Q. [15:54:13] How did you know that they were about to change frequencies?

11 A. [15:54:18] They used to tell others that "we move to the other house", and the
12 word "other house" means another frequency.

13 Q. [15:54:37] I want to focus your attention on the period 2003, 2004. So
14 approximately three or four or five months after you had started listening. Was
15 there a period of time that you were unable to listen to the LRA because of a difficulty
16 with frequencies?

17 A. [15:55:06] Your Honour, that question is so difficult because I have to refresh
18 my mind.

19 PRESIDING JUDGE SCHMITT: [15:55:14] I think that's not a problem. You can
20 refer Mr Nyero to his statement.

21 MR ELDERFIELD: [15:55:19] Yes, your Honour. Tab 1, paragraph 26, and I'll just
22 read it out:

23 "I can recall" -- this is something you said to ICC investigators, Mr Nyero,
24 in 2006 -- "I can recall that there was a period of time when I was not able to intercept
25 communications because the LRA had changed ... frequency. I didn't know which ...

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1 frequency they used. That was between December 2003 and the 30th of March 2004.

2 In December 2003 the LRA had left the frequency 8866" -- as you recalled, and -- "I

3 found out on March 30th 2004 they used frequency 8755."

4 Q. Does that ring a bell?

5 A. [15:56:15] It's a very good reminder. I made the statement, and it was true,

6 they had moved to 8755.

7 Q. [15:56:28] The final topic I want to talk to you about is about coded language.

8 Do you recall the LRA using codes in their communications?

9 A. [15:56:45] Yes, I do recall.

10 Q. [15:56:48] Can you tell the Court what those codes were and how the LRA

11 used them?

12 A. [15:56:56] The codes I meant in my statement was secret code, secret codes.

13 PRESIDING JUDGE SCHMITT: [15:57:15] Were you able to decipher these codes?

14 THE WITNESS: [15:57:21] No, your Honour.

15 PRESIDING JUDGE SCHMITT: [15:57:23] So I take it from that that the notes that

16 you took were about communication where they did not speak in coded language but

17 in clear language?

18 THE WITNESS: [15:57:37] In clear language.

19 PRESIDING JUDGE SCHMITT: [15:57:39] Thank you.

20 MR ELDERFIELD: [15:57:41]

21 Q. [15:57:42] Just so we have a picture in our head of what codes you're talking

22 about, can you describe how the LRA used the codes? What language did they use

23 when they were talking in codes?

24 A. [15:57:58] They used plain language, but the codes are secret. Unless you

25 have the format, you can't penetrate.

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1 PRESIDING JUDGE SCHMITT: [15:58:19] I think a witness that cannot penetrate
2 and cannot decipher would also not be the right person to ask what exactly -- how the
3 language was coded in the end. And we had other witnesses in that respect, I would
4 say.

5 MR ELDERFIELD: [15:58:35] Thank you, your Honour.

6 Q. [15:58:37] Mr Nyero, that's all the questions that I have for you today.

7 Your Honour, thank you.

8 PRESIDING JUDGE SCHMITT: [15:58:43] Thank you, Mr Elderfield, and you see
9 it's not -- you are not far away from 4 o'clock, but you managed to do it.

10 We thank Mr Nyero for today and wish you a refreshing end of the day, refreshing
11 rest, and we meet tomorrow at 9.30. And I think there is more than enough time also
12 for the Defence compared with what the Prosecution did today.

13 THE COURT USHER: [15:59:10] All rise.

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