

1 International Criminal Court
2 Trial Chamber IX
3 Situation: Republic of Uganda
4 In the case of The Prosecutor v. Dominic Ongwen - ICC-02/04-01/15
5 Presiding Judge Bertram Schmitt, Judge Péter Kovács and
6 Judge Raul Cano Pangalangan
7 Trial Hearing - Courtroom 3
8 Thursday, 23 November 2017
9 (The hearing starts in open session at 9.31 a.m.)
10 THE COURT USHER: [9:31:31] All rise.
11 The International Criminal Court is now in session.
12 PRESIDING JUDGE SCHMITT: [9:31:54] Good morning, everyone. And I wait
13 a second till Mr Witness understands everything too, yes. Good morning, everyone.
14 And a special good morning to Mr Nyero. I wanted to wait until the light is on at
15 your seat so that you understand me. Welcome in the courtroom again, Mr Nyero.
16 Could the court officer please call the case.
17 THE COURT OFFICER: [9:32:26] Good morning, Mr President, your Honours.
18 The situation in the Republic of Uganda, in the case of The Prosecutor versus Dominic
19 Ongwen, case reference ICC-02/04-01/15.
20 And for the record, we are in open session.
21 PRESIDING JUDGE SCHMITT: [9:32:40] Thank you.
22 And I ask for the appearances of the parties, Mr Elderfield first.
23 MR ELDERFIELD: [9:32:44] Good morning, your Honour. Julian Elderfield for
24 the Prosecution, with Colleen Gilg, Benjamin Gumpert, Yulia Nuzban and
25 Ramu Fatima Bittaye.

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1 PRESIDING JUDGE SCHMITT: [9:32:52] Thank you very much. Mrs Hirst.
2 MS HIRST: [9:32:54] Good morning, Your Honours. For the Legal Representatives
3 of the Victims, Megan Hirst with James Mawira.
4 PRESIDING JUDGE SCHMITT: [09:33:01] Mr Narantsetseg.
5 MR NARANTSETSEG: [9:33:02] Good morning, Mr President, your Honours.
6 Orchlon Narantsetseg with Ms Caroline Walter.
7 PRESIDING JUDGE SCHMITT: [9:33:08] Mr Obhof.
8 MR OBHOF: [9:33:10] Good morning, your Honours. Happy Thanksgiving to
9 everyone today.
10 Today we have Mr Michael Rowse, Chief Charles Achaleke Taku, Abigail Bridgman,
11 Mr Dominic Ongwen and myself, Thomas Obhof.
12 PRESIDING JUDGE SCHMITT: [9:33:20] Thank you very much.
13 I have to admit that it escaped my attention that today is Thanksgiving Day.
14 I don't assume -- yes, Mr Nyero, you want to say something, please.
15 WITNESS: UGA-OTP-P-0125 (On former oath)
16 (The witness speaks English)
17 THE WITNESS: [9:33:40] I can see here the --
18 PRESIDING JUDGE SCHMITT: [9:33:42] Please talk.
19 THE WITNESS: [9:33:43] The language has not been put right.
20 PRESIDING JUDGE SCHMITT: [9:33:54] Okay. Thank you very much. So the
21 court usher will help you with that. Thank you for the information.
22 And in the meantime I think I can simply say that the legal representatives will not
23 question this witness. Yes, they are nodding.
24 So when we have fixed this, I would give the floor to the Defence, and which is
25 impersonated by Mr Obhof today, especially impersonated by Mr Obhof, I have

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1 to say.

2 MR OBHOF: [9:34:22] Thank you, your Honour.

3 Before we start today, your Honour, the Defence would like to add or would like to
4 request to add a small audio portion inside of its questioning with the witness today.
5 It is approximately 30 seconds long. It is from audio track UGA-OTP-0235-0038,
6 track 01.

7 PRESIDING JUDGE SCHMITT: [9:34:55] Do we have translation for that?

8 MR OBHOF: [9:34:56] Yes, the Prosecution does have a transcript for it, which is
9 UGA-OTP-0274-0004 at 0014-0015. We do not have them inside the binders yet. We
10 were waiting for permission before we pass those parts out.

11 PRESIDING JUDGE SCHMITT: [9:35:19] I don't assume that there is an objection by
12 Mr Elderfield.

13 MR ELDERFIELD: [9:35:23] No objection.

14 PRESIDING JUDGE SCHMITT: [9:35:23] Then we can do it like that. And, of
15 course, but the Bench would also like to follow them when it comes to that. So
16 perhaps you give us then a transcript or it might be displayed, that it is enough
17 I think for us, might it be displayed on the monitor.

18 MR OBHOF: [9:35:37] It will be during second session, so that's why.

19 PRESIDING JUDGE SCHMITT: [9:35:43] Okay. Then we have enough time to
20 prepare for that.

21 So please, Mr Obhof, you can start.

22 MR OBHOF: Thank you, your Honour.

23 QUESTIONED BY MR OBHOF:

24 Q. [9:35:50] Good morning, Mr Witness.

25 A. [9:35:52] Good morning.

1 Q. [9:35:55] Now, Mr Witness, you took your first course specialising in police
2 communications in 1995, but yet you didn't start intercepting until mid-to-late 2003.
3 Could you explain why you started the intercept work so late?

4 A. [9:36:31] Your Honour, it is true. In 1995 Feb, I qualified as a radio operator and
5 transferred to different places. I didn't know about the intercepts, not until in 2003,
6 when I was transferred to Kamdini and then get to learn about rebel communication.

7 MR ELDERFIELD: [9:37:18] Excuse me, sorry. Your Honour, the record says "I did
8 -- did know -- I didn't know about the intercepts". Just to clarify.

9 PRESIDING JUDGE SCHMITT: [9:37:27] I think he said "I didn't." Yes.

10 MR OBHOF: [9:37:31] Yes, I would also agree with that.

11 PRESIDING JUDGE SCHMITT: [9:37:34] Yes, yes. No, I think we have understood
12 it correctly. Thank you, Mr Elderfield.

13 MR OBHOF: [9:37:50]

14 Q. [9:37:50] Mr Witness, during your studies or during the courses that you took
15 about knowing the rules and regulations of police radio communication and how to
16 operate a VHF radio, is it fair to assume that your training did not involve an
17 understanding of how military units communicate?

18 A. [9:38:17] Your Honour, I don't know what you meant by "military".

19 PRESIDING JUDGE SCHMITT: [9:38:21] Perhaps you could explain a bit, yes.

20 MR OBHOF: [9:38:25]

21 Q. When the police communicate via radio, do they use names like Victor Charlie
22 or Charlie Bravo?

23 A. [9:38:40] Yes, they do.

24 PRESIDING JUDGE SCHMITT: [9:38:47] And I think I should really take so much
25 time to correct myself when I say of course you do not impersonate the Defence, but

1 you personate the Defence especially. I think so much time has to be -- please
2 continue, Mr Obhof.

3 MR OBHOF: [9:39:02] No problem. I understood.

4 PRESIDING JUDGE SCHMITT: [9:39:03] That was simply that sometimes you do
5 not know every word and the meaning of the words. Please continue.

6 MR OBHOF: [9:39:15]

7 Q. [9:39:15] Mr Witness, yesterday you mentioned cue cards or codes. What are
8 these cue codes?

9 A. [9:39:27] Cue codes are codes used mostly in Morse code. And when I talk of
10 Morse code here I talk of the study of dots and dashes where only sounds are used,
11 no talking.

12 Q. [9:40:06] Mr Witness, yesterday you mentioned that you had some problems
13 decoding the LRA communications. Now, we understand if the LRA started talking
14 in miles, homes and doors, were you able to decode those messages?

15 A. [9:40:33] I beg for your repeat.

16 Q. [9:40:36] It's okay. Yesterday you were discussing how you could not decode
17 some of the coded messages that the LRA were sending. I'm going to walk through
18 several different steps of codes and ask you about them. If someone was speaking
19 and saying "Going to mile 22, home 4, door 3", would you be able to decode
20 a message that continues in that fashion for about two or three minutes?

21 A. [9:41:14] It may not be possible unless I have the format.

22 Q. [9:41:26] Were you able to understand some of the proverbs used by the LRA?

23 A. [9:41:39] I was able to understand some.

24 Q. [9:41:47] Mr Witness, yesterday you mentioned that you started intercepting the
25 messages around July of 2003 and your statement says August. Is that just a mix up

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1 of months or was there a short period of about a month where you listened but did
2 not transcribe and decode the message?

3 A. [9:42:24] In July 2003, I would only listen and write nothing. By July I started
4 writing on my own without anybody's instruction.

5 PRESIDING JUDGE SCHMITT: [9:42:41] I would like to ask you something,
6 Mr Nyero, that this month when you only listened, was this deliberately done by you
7 so to get - how could I formulate - to get a feeling for what you are going to hear and
8 later on trying to write down?

9 THE WITNESS: [9:43:05] I was only listening.

10 PRESIDING JUDGE SCHMITT: [9:43:08] I understand.

11 Please, Mr Obhof.

12 MR OBHOF: [9:43:11]

13 Q. [09:43:11] Now, Mr Witness, were you the first person to start doing intercepts
14 for the police or, to your knowledge, was this done before you starting doing it?

15 A. [9:43:27] I was not the one, there were others.

16 Q. [9:43:32] When you say "others", is it anybody that was on the list that was
17 provided to you by the Prosecution yesterday?

18 A. [9:43:41] No.

19 MR OBHOF: [9:44:00] Your Honour, maybe we might be able to go into private
20 session for about 90 seconds to two minutes.

21 PRESIDING JUDGE SCHMITT: [9:44:06] That's very exact but of course we do that.
22 Private session for about 90 seconds or two minutes.

23 (Private session at 9.44 a.m.)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Open session at 9.46 a.m.)

12 THE COURT OFFICER: [9:46:00] We are back in open session, Mr President.

13 MR OBHOF: [9:46:06]

14 Q. [9:46:06] Now, Mr Witness, to the best of your knowledge did the person we just
15 mentioned who worked before you at Kamdini, did he ever write down anything
16 in -- similar to your fair notes?

17 A. [9:46:22] No, he didn't.

18 Q. [9:46:26] Did he leave lists or codenames for you in the office?

19 A. [9:46:34] No, he did not.

20 Q. [9:46:47] Mr Witness, in your statement when you were discussing how you
21 started intercepting LRA communications, you stated that you were chosen by the
22 chief of communications directorate in Kampala to intercept and the purpose was to
23 fight against the insurgency in northern Uganda. Now, were the police officers
24 taking an active role in the fight against the LRA?

25 A. [9:47:29] I didn't know that, but I only received the instruction.

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1 Q. [9:47:36] Mr Witness, do you know if the training for military is different than
2 the training for Ugandan police?

3 A. [9:47:52] Yes, I know there is some difference.

4 Q. [9:48:04] Did you ever receive any type of military training, Mr Witness?

5 A. [9:48:11] Yes, I did.

6 Q. [9:48:19] When did you receive this training, Mr Witness?

7 A. [9:48:28] I received it in 1994, during my initial training.

8 Q. [9:48:40] Did you also receive any type of paramilitary training in 2014 or 2015?

9 A. [9:48:50] No, I didn't.

10 Q. [9:48:58] Can you explain to Court why you did not receive paramilitary training
11 at that time, Mr Witness?

12 A. [9:49:08] I was sick.

13 Q. [9:49:19] And please don't take -- because everything we are saying is being
14 translated to Acholi, I tend to pause for long after we are done with the
15 question/answer.

16 A. [9:49:32] Thank you.

17 Q. [9:49:33] So I do apologise about that, Mr Witness.

18 Now, Mr Witness, you shared your reports generated with person number 1 on the
19 list; is that right?

20 A. [9:49:55] Yes, I shared.

21 Q. [9:50:02] And that was with the special branch; am I correct, Mr Witness?

22 A. [9:50:07] Yes, he was.

23 Q. [9:50:15] What role did the special branch play in relation to the LRA?

24 A. [9:50:29] The role of the special branch was to gather intelligence.

25 Q. [9:50:41] Was it to gather intelligence generally or was it to gather intelligence

1 for Prosecution?

2 A. [9:50:54] Your Honour, it was their main duty. I don't know whether they do it
3 or they did it for prosecution, or for any other reason?

4 Q. [9:51:26] Now, Mr Witness, did the special branch ever send information your
5 way, ie human intelligence, that would help you with your intercept work?

6 A. [9:51:40] I beg for your -- you could give the answer -- the question again.

7 Q. [9:51:50] I can say it in the form of an example: You would send information to
8 your boss, would your boss ever send intelligence that they collected down to you to
9 help you with your work?

10 A. [9:52:08] No, your Honour.

11 Q. [9:52:22] Mr Witness, you stated in your first statement that the radio you use
12 was installed due to great insecurity at that time in the Murchison Falls area. When
13 you're discussing this radio being installed, do you mean for the person who came
14 before you or for you, for your intercept work?

15 A. [9:52:54] The radio was not installed for intercept purposes.

16 Q. [9:53:11] Could you please explain to the Court why the radio was installed then,
17 Mr Witness?

18 A. [9:53:23] I would only say the radio was installed to assist in trying to curb
19 insecurity in Murchison Falls National Park and the surrounding areas. Kamdini is,
20 up to now, the nearest to the park.

21 Q. [9:54:19] So it would be fair to say that place is like Pakwach and Alero, didn't
22 have an intercept operation, it was merely Kamdini?

23 A. [9:54:40] Pakwach had communication. But very far from the entry into
24 the park.

25 Q. [9:54:55] So when you are the Murchison Falls park you are referring to the

1 eastern border of the park and not the western border, which is literally across the
2 Nile River from Pakwach; am I correct?

3 A. [9:55:14] Pakwach is to the west and Kamdini is to the east. And it is -- it was
4 the only police unit nearby.

5 Q. [9:55:48] Now, Mr Witness, yesterday you stated that, in your fair notes, that you
6 would write down anything that related to plans, attacks and operational reports.
7 Now, when you're doing intercept operations, would you write down things like
8 threats from Joseph Kony to his commanders?

9 A. [9:56:22] Yes, I would.

10 Q. [9:56:30] Would you write down issues dealing with, or when commanders
11 report to Joseph Kony their dreams?

12 A. [9:56:48] I would request you to explain what it means by the dreams.

13 Q. [9:56:55] In the mornings, at either the 8 a.m. or 9 a.m. radio call time, would you
14 sometimes hear different persons reporting the dreams that they had during their
15 sleep at night to Joseph Kony?

16 A. [9:57:16] Your Honour, I don't, I don't recall.

17 Q. [9:57:35] Now you also stated in your statement that when the LRA spoke in
18 codes that you did not understand, that you let them out of your report. Did you at
19 least note some of these coded languages in your report?

20 A. [9:57:56] I did not.

21 Q. [9:58:00] Yesterday you stated that interception was a seven day a week, seven
22 day a week job, but yet in your statement at paragraph 58, tab 1 of the Prosecution
23 binder, you explain that a three-day delay in writing a report is possibly a result of
24 you returning from the weekend. So was the radio being manned by you seven days
25 a week or was it five days a week, Mr Witness?

1 A. [9:58:42] I remember somewhere I mention that in my absence number 2 in the
2 list would do the job, in my absence.

3 Q. [9:59:05] So does that mean number 2 would do it regularly on Saturdays
4 and Sundays?

5 A. [9:59:11] He would do.

6 Q. [9:59:18] And just so we're clear, you would man the radio five days a week and
7 he would operate it two days a week?

8 A. [9:59:30] What I meant is he would do it in my absence.

9 Q. [9:59:42] If we use a calendar week as a seven-day week and not a work week,
10 a five-day week, on the average how often were you physically at the radio?

11 A. [10:00:00] I would be seven days in a week.

12 Q. [10:00:19] Did you sometimes use the radio to listen to the Voice of America and
13 BBC, Mr Witness?

14 A. [10:00:26] Yes, please.

15 Q. [10:00:34] Is it possible that during those times the LRA could have had
16 communication that you missed because you were listening to a public broadcast?

17 A. [10:00:44] I would listen to BBC, Voice of America only when the rebels were not
18 communicating.

19 Q. [10:01:05] Did Voice of America and BBC operate on the same frequency as the
20 LRA, Mr Witness?

21 A. [10:01:14] No, they -- no, no. Different frequencies.

22 Q. [10:01:30] Now if you use the radio to listen to a different frequency, like
23 Voice of America or BBC, how would you know that the rebels were not
24 communicating on a different frequency at that time, Mr Witness?

25 A. [10:01:50] The rebels had their schedules. And I would tune to their frequency

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1 at such schedules.

2 Q. [10:02:29] Did the rebels always stick to the same times, Mr Witness, or did they
3 change?

4 A. [10:02:43] It is true that they did change the time. And change of time would be
5 communicated earlier, that at such-and-such an hour you open and I would take note
6 of that.

7 Q. [10:03:15] Now, Mr Witness, would the LRA use different frequencies
8 simultaneously?

9 A. [10:03:48] Yes, they would.

10 Q. [10:03:51] Is it possible on any radio whether it be a Codan, an Icom or Racal to
11 listen to two separate frequencies at once?

12 A. [10:04:12] I have no knowledge to that effect.

13 Q. [10:04:14] Just so we're clear, it's not possible on the Codan 8528 that you used,
14 right?

15 A. [10:04:22] I said I have no knowledge about that.

16 PRESIDING JUDGE SCHMITT: [10:04:31] Did you ever, during your time when you
17 intercepted, did you ever listen to conversations on different levels?

18 MR OBHOF: [10:04:45] Different frequencies.

19 PRESIDING JUDGE SCHMITT: [10:04:46] Different frequencies? Did you ever do
20 that?

21 THE WITNESS: [10:04:50] At the same time?

22 PRESIDING JUDGE SCHMITT: [10:04:51] Yes.

23 THE WITNESS: [10:04:52] No.

24 PRESIDING JUDGE SCHMITT: [10:04:53] No. I think, Mr Obhof, that, at least,
25 practically answers the question.

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1 MR OBHOF: [10:05:00]

2 Q. [10:05:00] Mr Witness, when the LRA reported the change of communications
3 times, did they discuss that in normal speak or did they use coded messages to relay
4 the new communication times?

5 A. [10:05:25] The rebels used to speak in Acholi. And they would use 24-hour
6 basis procedure, which some people may not know. When they need to meet again,
7 apart from other scheduled times, they would announce it, they would make it open,
8 but on a 24-hour basis, not 12-hour basis.

9 Q. [10:06:39] Now, Mr Witness, did person number 1 or person number 2, when
10 they would meet with you and discuss your fair notes, did they ever suggest what to
11 focus on whilst you were listening to the LRA?

12 A. [10:07:04] No.

13 Q. [10:07:13] Did they ever tell you not to include certain things inside of your
14 fair notes?

15 A. [10:07:27] Number 1 instructed me never to put my name on the fair note and
16 never to sign it. Those are the two things I can remember he instructed me not to do.

17 Q. [10:08:00] Did they ever ask you to, person number 1 or person number 2, to
18 clarify or to better elaborate anything inside of your fair notes?

19 A. [10:08:21] Person number 2 never had access to my fair notes. Person number 1
20 was a recipient of all my reports. And I don't think, if I've not forgotten, calling me
21 for explanation. I don't think.

22 Q. [10:08:54] Now, Mr Witness, was the regional special branch officer also
23 conducting an intercept operation?

24 A. [10:09:13] The regional special branch officer had an operator who would do the
25 intercept five times a week. And depending on power, if no power available no

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1 intercept. And over the weekend they would not work.

2 Q. [10:09:56] Do you know if they wrote down fair notes like you did?

3 A. [10:10:02] I don't know.

4 Q. [10:10:07] And how did you know that they were conducting intercept
5 operations?

6 A. [10:10:14] Number 1 told me.

7 Q. [10:10:21] Mr Witness, you also stated that if there was no power they would not
8 conduct their operations. Now, what happened if power went out at Kamdini, could
9 you conduct your operations?

10 A. [10:10:40] Kamdini had a solar panel for supplying power and was constant.

11 Q. [10:10:52] So what would happen during the times when the LRA would
12 communicate between 1800 and 19 -- or, sorry and 2100 when there is no sun in
13 Kamdini after 1900, if there was no power?

14 A. [10:11:18] Up to now the battery which receives power from the solar is still
15 there. And it was very easy to use this stored power during night.

16 Q. [10:11:46] How long would this battery work, Mr Witness?

17 A. [10:11:50] I beg your pardon?

18 Q. [10:11:51] If you needed to use this battery for a couple days, would it last for 6
19 hours, 12 hours, 2 hours?

20 A. [10:12:07] The power was constant, just constant.

21 Q. [10:12:13] So you never lost power at the police station while you were
22 conducting intercepts?

23 A. [10:12:23] No, I did not.

24 Q. [10:12:33] Mr Witness, did you ever include anything from human intelligence in
25 your fair notes?

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1 A. [10:12:47] I don't recall that.

2 Q. [10:12:55] Mr Witness, who used the nickname Bunga during '03 and '04?

3 A. [10:13:08] I can't recall now.

4 Q. [10:13:15] If I said somebody by the name of Okwonga Alero, does that refresh
5 your memory, Mr Witness?

6 A. [10:13:26] Yes, I do remember him.

7 Q. [10:13:33] And was that a nickname that he would use?

8 A. [10:13:41] Okwonga is a surname in Acholi language, but Alero is a place in the
9 current Noya district.

10 Q. [10:14:14] We can always turn to tab 5 of the Prosecution binder. First page is
11 0175-0309, it is on page 0312. It says "Annex C" on the top right. At the very top of
12 the page it reads: "Lieutenant Colonel Okwonga - 27/6". Is this the person who
13 used the nickname Bunga during '03 and '04?

14 A. [10:14:59] I had already answered that I don't recall.

15 Q. [10:15:27] Now, Mr Witness, at Prosecution tab 4, UGA-OTP-0037-0002 at
16 page 124, which is from 23 May 2004, you wrote:

17 "Origins of defectors and reception centres/areas of defectors are still their targets for
18 destruction."

19 Now, Mr Witness, considering this is in your fair notes, would this be something that
20 you would have heard and recorded during your intercept operations?

21 A. [10:16:23] I don't know whether it is in my reports, but --

22 PRESIDING JUDGE SCHMITT: [10:16:27] Perhaps we show it to the witness.

23 I think this would be the fair procedure.

24 Just wait, Mr Witness, till it is on the screen and then you can read it.

25 MR OBHOF: [10:16:37] It is the third dash, the third hyphen.

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1 PRESIDING JUDGE SCHMITT: [10:16:44] Yeah, yeah, I've seen it.

2 And of course Mr Nyero would not recall everything what he has written down, but
3 it might help if he sees it personally what is there and that he at least can state, "Yes,
4 I have written this down and ..."

5 MR OBHOF: [10:17:07]

6 Q. [10:17:07] Is this your handwriting, Mr Nyero?

7 A. [10:17:11] The handwriting is mine.

8 PRESIDING JUDGE SCHMITT: [10:17:22] Perhaps you repeat the question.

9 MR OBHOF: [10:17:23]

10 Q. [10:17:23] Mr Witness, these of course are copies of your fair notes.

11 A. [10:17:30] Yes, yes.

12 Q. [10:17:31] And the dates, which goes back two further pages, 23 May 2004. The
13 fact that you have written this in your fair notes, this would mean that you heard it
14 during your intercept operation, correct, Mr Witness?

15 A. [10:17:50] Yes, your Honour.

16 Q. [10:17:53] And down below we also see the handwritten timestamps from 1830
17 to 2130 hours. Now, Mr Witness, would that mean that conversation was taking
18 place during that time?

19 A. [10:18:18] It means the conversation took place between 1830 and 2130 hours on
20 the date put down.

21 Q. [10:18:30] During your operations during these late evening and night hours did
22 the LRA operate on the same frequency during the day and night or was there
23 a different frequency during this extended late hours?

24 A. [10:18:48] They would use the same frequency.

25 Q. [10:19:01] Now, Mr Witness, after -- sorry. In your first statement at tab 1, in

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1 paragraph 34, that sometimes LRA -- you say that sometimes LRA would change
2 their call signs after a breakdown of the equipment.

3 Now, if their call signs were changed, how do you know who was speaking on
4 the radio?

5 A. [10:19:36] Change of call signs was mainly for security reasons, to conceal
6 identity, and it is done from time and again. But voices don't change much. Voices
7 can only change when a new communication equipment is in place that can bring
8 change of voice.

9 Q. [10:20:30] So is that to say that changing to a different brand or style of radio
10 might actually change the way the voice sounds?

11 A. [10:20:42] Yes, your Honour.

12 Q. [10:21:05] Mr Witness, you related a story about person -- about giving your list
13 of call signs to person 1 to confirm your list. Did person 1 ever give you the
14 list back?

15 A. [10:21:38] He did not.

16 Q. [10:21:43] Did you keep a copy of this list?

17 A. [10:21:48] No, I did not.

18 Q. [10:22:04] Did you ever rewrite this list, Mr Witness, from memory?

19 A. [10:22:14] I would not.

20 Q. [10:22:30] Mr Witness, yesterday you identified somebody, and I'm sorry for the
21 pronunciation, Layom Cwiny, L-A-Y-O-M, C-W-I-N-Y, you identified that as
22 Joseph Kony.

23 And, Mr Witness, do you remember a call sign called Lam Dogi?

24 A. [10:23:11] Yes, I did recall.

25 Q. [10:23:18] Do you remember or recall who or what the real life name of the

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1 person named Lam Dogi was?

2 A. [10:23:34] This has been long ago. I can't recall. But I recall the call sign.

3 Q. [10:23:48] If I said the name Ben Acellam, does that sound familiar, Mr Witness,
4 as the person who used Lam Dogi?

5 A. [10:23:57] Does not sound strange to me because he was one of the commanders.

6 Q. [10:24:33] If we could turn to Prosecution tab 5 -- sorry, my mistake, Prosecution
7 tab 4 and the page number is 0053.

8 PRESIDING JUDGE SCHMITT: [10:24:48] It should again be displayed --

9 MR OBHOF: [10:24:50] Yes.

10 PRESIDING JUDGE SCHMITT: [10:24:51] -- for Mr Nyero.

11 MR OBHOF: [10:25:23] Now, we're waiting for it to be displayed, sorry.

12 PRESIDING JUDGE SCHMITT: [10:25:32] It is one of the fair notes, I think.

13 MR OBHOF: [10:25:34] Yes, that's correct.

14 PRESIDING JUDGE SCHMITT: [10:25:35] Because there was the witness statement.

15 MR OBHOF: [10:25:38] If you were -- highlight into the paragraph below i, below
16 right there where it has the hyphen in the middle of the page that starts, "At
17 about 1845 ..."

18 Q. [10:25:59] To read it:

19 "At about 1845 hrs Colonel Ongwen Dominic Wanyama informed

20 Oringa Sisto Abudema and other commanders present that a commander called

21 Ben and using call sign 'Lam Dogi' ..."

22 Now, this is in your handwriting, Mr Witness, correct?

23 A. [10:26:23] Yes, your Honour.

24 PRESIDING JUDGE SCHMITT: [10:26:24] I think he has already done this work. I

25 understand that you repeat it, but I think the witness would simply, as we have come

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1 to know him since yesterday, would simply say, "No, I have not written this down", if
2 it was not the case. I think we simply can just take as determined.

3 Please continue.

4 MR OBHOF: [10:26:46] Thank you.

5 Q. [10:26:55] In your first statement, Mr Witness, you said that until somewhere
6 in 2005 only Ongwen was still on the radio himself regularly.

7 Was Mr Ongwen regularly on the radio from when you first started listening in July
8 of '03 until 2005?

9 A. [10:27:26] I request for the display of that.

10 PRESIDING JUDGE SCHMITT: [10:27:30] I think the last one was about the call sign
11 and you wanted to verify it, Mr Obhof, I would have assumed, and now you are
12 asking a general question?

13 MR OBHOF: [10:27:40] Yes.

14 PRESIDING JUDGE SCHMITT: [10:27:40] So this cannot be displayed. It was the
15 question if you recall if Mr Ongwen was regularly on the radio during the
16 time -- could you please repeat it, Mr Obhof.

17 MR OBHOF: [10:27:53]

18 Q. [10:27:54] Was Mr Ongwen regularly on the radio between July of 2003 and
19 somewhere in 2005?

20 A. [10:28:10] That has been a long time, but if it is in my, my reports, I don't deny it.

21 PRESIDING JUDGE SCHMITT: [10:28:21] So it would simply have to be reflected in
22 the notes. I think we can understand it like that. And it is understandable also that
23 Mr Nyero does not recall who, of all the people that were speaking on the radio, were
24 in a time between one -- we are talking about a period of one and a half year, have
25 been speaking. I think that's understandable.

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1 MR OBHOF: [10:28:43] Well, it is and it's a very good answer too. If I wrote it
2 down, I thought he was speaking.

3 Q. [10:29:00] Now, you also stated that Kony or Kony was loose in his conversation,
4 and if I am not mistaken, and please correct me if I am wrong, that means that he
5 used to use names and not call signs; is that right, Mr Witness?

6 A. [10:29:13] Yes, your Honour.

7 Q. [10:29:22] Have you ever considered that this might be a scare tactic used by
8 Joseph Kony to expose the identities and making it harder for persons in the LRA to
9 escape, especially noting the paragraph we read from May 2004?

10 A. [10:29:48] I don't think, but the fact is he had been loose and would call some
11 commanders using their own name.

12 I need some ex -- some clarification.

13 Q. [10:30:28] Be my guest, Mr Witness.

14 A. [10:30:32] Kony himself actually would make it easy to me and to me to
15 understand the first name of some of his commander by calling it the way the Acholi
16 call some first name, like Vincent. In Acholi they call it Binany, that is B-I-N-A-N-Y.
17 Second one is first name Dominic. In Acholi they call it Odomi, and that is how he
18 was calling some of these commanders and it would be very easy to me to know that
19 it is true he is meaning so-and-so.

20 Q. [10:31:43] But is it also true, Mr Witness, that any Catholic mission, any military
21 or ISO operator with a radio could listen to the frequencies they were speaking, they
22 would also hear those -- they could also hear those communications?

23 A. [10:32:06] Thank you.

24 Q. [10:32:08] I'm really sorry we're at Court, but does "Thank you" mean yes?

25 A. [10:32:17] Pardon?

1 Q. [10:32:18] I was asking if anyone, say a Catholic mission, UPDF officer, an ISO
2 officer, or merely anybody with a Codan or Icom, would they not also be able to hear
3 the same exact message?

4 A. [10:32:36] They would.

5 Q. [10:33:09] Mr Witness, during your time as an intercept officer you discovered
6 approximately three channels that the LRA communicated on; is that correct?

7 A. [10:33:20] Yes, it is.

8 Q. [10:33:22] Now, Mr Witness, is there any reason to believe that the LRA could
9 have talked on other channels other than these three, whether it be for a protracted
10 period of 30 minutes or for a short one- or two-minute conversation?

11 A. [10:33:41] Yeah, because I didn't have all that -- the frequencies. I had only the
12 three. Others were not known to me. So it could have been possible.

13 Q. [10:33:58] And we just recently noted and discussed that sometimes the LRA
14 would talk late, would talk into the night. Were there ever times when they would
15 talk late into the night, even close to midnight?

16 A. [10:34:15] I beg your pardon?

17 Q. [10:34:19] Would the LRA sometimes talk late into the night, up to 2300 or
18 zero hour?

19 A. [10:34:30] They would.

20 Q. [10:34:34] If they did and they had something to report, would you write that
21 down in your fair notes, Mr Witness?

22 A. [10:34:50] I would write what they communicated and would follow the same
23 format like others.

24 Q. [10:35:06] Mr Witness, the 1830 to 2100 hour communication period, do you
25 remember how long that was used?

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1 A. [10:35:19] I don't recall.

2 Q. [10:35:30] If I said that it was around 2006 when they stopped using that time
3 slot, does that refresh your memory, Mr Witness? Around April 5 and April 6?

4 A. [10:35:46] It would remind me.

5 Q. [10:36:01] Mr Witness, how audible were the LRA communications that you
6 listened to?

7 A. [10:36:13] The communication was audible enough. That is what we call the
8 signals strength. But at times I would encounter atmospheric interference.

9 Q. [10:36:40] Mr Witness, what caused atmospheric interference?

10 A. [10:36:46] Weather.

11 Q. [10:36:54] And by weather, do you mean rain?

12 A. [10:36:59] Rain and windy period.

13 Q. [10:37:06] Could the presence of clouds without rain cause interference,
14 Mr Witness?

15 A. [10:37:13] At times.

16 Q. [10:37:17] Could the fact that it was a clear and very sunny day also cause
17 interference, Mr Witness?

18 A. [10:37:24] No, does not.

19 Q. [10:37:34] Mr Witness, during this time frame in '03 to '06, how often does it rain
20 in northern Ugandan during the rainy season?

21 A. [10:37:56] Rainy season in, in Uganda begins by March and at times up to early
22 December or late November.

23 Q. [10:38:13] Now, in those first few months, March, April and May, how heavy is
24 the rain?

25 A. [10:38:26] It's not so much heavy. Much rain is experienced from July, August,

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1 September, October and November halfway.

2 Q. [10:38:51] Now, if you could, we would like to look at tabs, defence tabs 10
3 and 11. Those are 0254-1657 and 0254-1659, both starting UGA-OTP. And because
4 we are looking at two pictures, Mr Witness, it might be easier if you grab the small
5 defence binder that is on your table.

6 Mr Witness, the photograph we are looking at right now, that's the mast that you
7 used to place your antenna.

8 A. [10:39:48] Is the one.

9 MR OBHOF: [10:39:50] Could you please turn to 1659 for the witness.

10 Q. [10:40:29] Mr Witness, this is the same mast, correct?

11 A. [10:40:36] Yes, it is.

12 Q. [10:40:37] Now, which one of the two that are inside the picture, the one that is
13 closer and larger or the one that is further away, which one would your antenna
14 sit on?

15 A. [10:40:57] Your Honour, during my operation I had only one antenna. So
16 I don't know when this photograph was taken because I had only one antenna. And
17 it was for the high frequency base set.

18 Q. [10:41:24] Do you remember how high into the air your antenna sat?

19 A. [10:41:42] It was roughly over 7 metres.

20 MR OBHOF: [10:41:57] If the court usher could please turn to Prosecution tab 9. It
21 is 0254-1658.

22 Q. [10:42:30] This is the photograph you identified with the Prosecution yesterday,
23 which is a few metres closer but still shows both masts. But with your estimation
24 of 7 metres into the air, would you say that the large pole is the one which your
25 antenna sat, Mr Witness?

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1 A. [10:42:58] Yes, your Honour.

2 Q. [10:43:14] Mr Witness, from the photograph we saw yesterday, you used the
3 Codan 8528; is that correct?

4 A. [10:43:30] What do you mean by those figures?

5 MR OBHOF: [10:43:50] If the court usher could please turn to Prosecution tab 8.
6 That's 0254-1650.

7 Q. [10:44:43] This radio, Mr Witness, the one you identified as yours, this is the
8 Codan 8528; is that correct?

9 A. [10:44:55] It is correct, the one on the right.

10 Q. [10:44:59] Did you ever use the Codan 9480?

11 A. [10:45:07] No. The one on the left is for VHF. The one on the right is for HF,
12 which I used.

13 Q. [10:45:25] Yes.

14 A. [10:45:29] And the one on the left, I am sure, was installed after I left the place.

15 Q. [10:45:40] Now, Mr Witness, did you ever use the Icom radio?

16 A. [10:45:46] No, I have never.

17 Q. [10:45:48] The Codan is the only one that you used, and this Codan, the 8528, the
18 only one that you used during your operations at Kamdini?

19 A. [10:46:02] The only one.

20 Q. [10:46:04] You also mentioned at paragraph 9 of your first statement an
21 ANRISTU radio. Could you explain what that is?

22 A. [10:46:15] An ANRISTU radio is also an analogue radio which I used in Gulu,
23 Kitgum, but not in Kamdini.

24 Q. [10:46:44] From your training and experience, which radio worked better, the
25 Codan or the ANRISTU?

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1 A. [10:46:53] Codan works better.

2 MR OBHOF: [10:47:07] Your Honour, I am about ready to go to a next section and
3 according to my notes, I only have about an hour left.

4 PRESIDING JUDGE SCHMITT: [10:47:13] Okay. Then I think we can have a coffee
5 break, and why not extend it a little bit beyond the usual. So until 11.30.

6 MR OBHOF: [10:47:22] And I can guarantee that we will be done by 1.

7 PRESIDING JUDGE SCHMITT: [10:47:26] Thank you very much, Mr Obhof.

8 THE COURT USHER: [10:47:28] All rise.

9 (Recess taken at 10.47 a.m.)

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

11 THE COURT USHER: [11:31:16] All rise.

12 PRESIDING JUDGE SCHMITT: [11:31:37] Now, Mr Obhof, please continue.

13 MR OBHOF: [11:31:46] Thank you very much, your Honour.

14 Q. [11:32:35] Or still good morning, Mr Witness. I hope you had a good break.

15 I don't -- it's working now.

16 And I would like the court usher to please pull up Prosecution tab 4, it's 0037-0032,
17 sorry, 0002 at 0032. At page 0032, sorry about that, I fumbled around with my
18 numbers.

19 Now, Mr Witness, this is a fair note of yours from 28 August 2004. And at the very
20 top it reads, again:

21 "At 0950 hours, Lieutenant Colonel Ocan Labongo informed Otti Vincent that Major
22 Acellam Ben with his group on 24/08/04 attacked Orum in Kitgum district and
23 recovered two SMG rifles from the UPDF."

24 Now, Mr Witness, again you've confirmed this is your handwriting?

25 A. [11:34:01] Yes, it is.

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1 Q. [11:34:02] Yes. Does this mean that there was a reporting cycle from Major
2 Acellam Ben to Lieutenant Colonel Ocan Labongo and then directly to Otti?

3 A. [11:34:18] That was it.

4 Q. [11:34:20] Wouldn't the SOP of it be Lieutenant Colonel Ocan Labongo reporting
5 it to Dominic Ongwen, who you said was his brigade commander?

6 A. [11:34:38] The intercept was at that time and it was Lieutenant Colonel
7 Ocan Labongo informing Vincent Otti what Major Ben Acellam with his group
8 on 24 August 2004 did in Orom, Kitgum district.

9 Q. [11:35:12] Thank you. Mr Witness. If you could turn, same document,
10 page 0076, and this is partially why we wanted him to flip through the entire
11 documents yesterday to check out all of his handwriting, which you did, we were
12 very grateful for that, Mr Witness. Thank you for doing that.

13 A. [11:35:35] Okay.

14 Q. [11:35:51] Now here we have at 1920 hours, on 24 June 2004 that:

15 "... Ocan Labongo informed Colonel Ongwen Dominic that a commander using the
16 call sign 'Lamdogi' informed him to inform Colonel Ongwen that his group
17 ambushed UPDF patrols on Rackoko-Lagile road on a date not mentioned and below
18 items were recovered."

19 Now what you note down at the very bottom though, at the very last tick mark,
20 Lam Dogi we've already discussed is Ben Acellam, "... has a radio set which can't use
21 the usual frequency but uses another frequency and his particulars not yet known."
22 Now we apologise, we wanted to play you an audio from this but we were unable to
23 find this.

24 So in this passage, Mr Witness, am I correct that you discussed that he is using a radio
25 which at that time you could not find the frequency?

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1 A. [11:37:29] Your Honour, definitely.

2 Q. [11:37:34] So does that mean there might have been channels which certain
3 people from the LRA used which might not have been detectable to somebody
4 intercepting their communications?

5 A. [11:37:52] Yes, your Honour.

6 Q. [11:38:04] Now, if Joseph Kony had a radio which operated on the same
7 frequency as Acellam Ben, as Lam Dogi, would it be possible that he could receive
8 orders directly from Joseph Kony without those orders being intercepted,
9 Mr Witness?

10 A. [11:38:26] Could have received.

11 Q. [11:38:41] Now we'd like to play an audio. I'd like somebody to please turn it
12 over to me.

13 Now, Mr Witness, I am going to play you a very short audio clip. I have placed
14 the Prosecution-made transcript of the audio clip at the very back, it's the last page of
15 the binder which has the yellow soft back.

16 THE COURT OFFICER: [11:39:09] May I have the level of confidentiality, please.

17 MR OBHOF: [11:39:12] I assume this can be played public because all the other radio
18 transmissions it does not talk specifically about this witness or any other witness. So
19 it could be played to the public.

20 For the record, the audio recording is UGA-OTP-0235-0038, track 1. The transcript
21 now which was prepared by the Prosecution is UGA-OTP-0274-0004, at page 0015.

22 Now, we are starting from approximately paragraph 266 and we are running
23 approximately till row 272, 273.

24 PRESIDING JUDGE SCHMITT: [11:40:11] And with regard to Mr Nyero, what can
25 we expect, what do you want to ask him, or do you want him to listen or take notes or

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1 whatsoever?

2 MR OBHOF: [11:40:18] Really what we're looking for, your Honours, and Mr Nyero,
3 is that if you hear call signs, specifically if you do hear Lam Dogi's name, Lam Dogi's
4 call sign in there. Now, also if there is any instructions of what Lam Dogi wants
5 people to do or what people want him to do.

6 PRESIDING JUDGE SCHMITT: [11:40:36] And we -- I think we are aware of the fact
7 again that we are talking about an intercept that has been taken some 12/13 years ago.

8 MR OBHOF: [11:40:48] The approximate date is the morning of 30 April 2004.

9 PRESIDING JUDGE SCHMITT: [11:40:52] Was not so bad with the 13 years, I think.
10 Okay, so please continue.

11 MR OBHOF: [11:41:06] And for clarity too we are using the enhanced version
12 because for the transcript is for the enhanced version even though in my opinion the
13 other one is actually audible too, so.

14 (Playing of the audio excerpt)

15 MR OBHOF: [11:41:55]

16 Q. [11:41:56] Mr Witness, did you hear the call sign Lam Dogi during
17 that 20-second clip?

18 A. [11:42:00] I have heard.

19 Q. [11:42:03] Were there any instructions either given by Lam Dogi or given to
20 Lam Dogi?

21 A. [11:42:16] I didn't do audio recording, your Honour. And I don't know when
22 this audio recording was done, the time, frequency. So I can't talk much about that.

23 PRESIDING JUDGE SCHMITT: [11:42:36] Of course, Mr Nyero, you can only talk
24 about what you - and I assume you hear it for the first today - what you have heard.
25 And you said already you heard this call sign, as I have understood it, or the

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1 name -- not the name, the name.

2 And so we can continue, perhaps you can ask if he had heard other things.

3 But nobody expects from you, so to make it absolutely clear, expects from you that
4 you can translate it for us and have captured everything what has been said. But
5 simply if you heard something that you recognised, then you can tell us.

6 MR OBHOF: [11:43:14]

7 Q. We're not asking you to authenticate it or say whether or not you believe the
8 audio is real, just to help Court determine the content, because inside of this room
9 I believe there are only two people who can speak Acholi.

10 I will replay it for you one more time, Mr Witness.

11 (Playing of the audio excerpt)

12 MR OBHOF: [11:44:24]

13 Q. [11:44:24] Now, Mr Witness, at the beginning when I played, at the very
14 beginning when I started, was there a request for Lam Dogi to go there if he was
15 available?

16 A. [11:44:35] Yes, please.

17 Q. [11:44:38] And did Lam Dogi respond that he was available?

18 A. [11:44:44] I didn't hear any response.

19 Q. [11:44:45] Okay. Since it's very short maybe one last time and then we'll call it
20 quits.

21 PRESIDING JUDGE SCHMITT: [11:44:52] Since it is short, why not?

22 MR OBHOF: [11:44:55] Thank you, your Honour. And thank you, Mr Witness.

23 PRESIDING JUDGE SCHMITT: [11:44:56] You know, we are in an indulgent mood,
24 so to speak. So please. But the last time.

25 MR OBHOF: [11:45:04] Yes.

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1 (Playing of the audio excerpt)

2 MR OBHOF: [11:45:26]

3 Q. [11:45:28] Could you hear it there, Mr Witness, or --

4 A. [11:45:30] I heard.

5 Q. [11:45:31] Yes. And it was -- sorry, for the clarity?

6 A. [11:45:34] It was a move to another frequency.

7 Q. [11:45:39] Thank you, Mr Witness. I do appreciate your indulgence in this
8 impromptu audio listening.

9 PRESIDING JUDGE SCHMITT: [11:45:45] Thank you very much, indeed.

10 THE WITNESS: [11:45:48] Thank you, your Honour.

11 MR OBHOF: [11:46:08]

12 Q. [11:46:08] Mr Witness, in tab 1 of your -- in tab 1 of the Prosecution binder,

13 page 56, paragraph 55 of your statement, you were asked about what the LRA

14 discussed on the radio and you mentioned you remembered them talking about

15 Pagak, Lukodi and Barlonyo and attacking a convoy in Adjumani. Mr Witness, do

16 you remember when Barlonyo was attacked?

17 A. [11:46:56] I don't remember now.

18 Q. [11:46:57] Do you remember if you listened to the LRA intercepts talking about

19 the attack at Barlonyo.

20 A. [11:47:12] I don't recall now. It is a long way.

21 PRESIDING JUDGE SCHMITT: [11:47:14] And if he has heard something, he would
22 have taken it into the notes, it would be reflected in the notes, perhaps.

23 MR OBHOF: [11:47:23] We'll leave it there. Thank you.

24 Q. [11:47:43] Now at tab 4, Prosecution tab 4, my apologies again. Again it's at
25 page 0122, first numbers being 0037.

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1 And I will wait for the court usher to bring it up.

2 PRESIDING JUDGE SCHMITT: [11:48:09] Perhaps we can in the meantime also say
3 and thank you court usher and court officer for being so quick in displaying these
4 different documents because this is really -- I have it here in my view in front of my
5 eyes, so this is not easy to bring it up so quick that we have such a smooth proceeding
6 here. Thank you.

7 I think it is now displayed, Mr Nyero.

8 MR OBHOF: [11:48:51] Yes.

9 PRESIDING JUDGE SCHMITT: [11:48:53] Mr Obhof will tell us where he wants
10 exactly to go.

11 MR OBHOF: [11:49:03] Sorry, in all the commotion I forgot to turn my own binder to
12 that page. It looks like our court ushers did a very good job.

13 PRESIDING JUDGE SCHMITT: [11:49:16] Of course I would have an idea, but it's
14 your examination.

15 MR OBHOF: [11:49:19] Yes.

16 Q. And this is from 23 May 2004. You wrote down there:

17 "The details of the attack on Lukodi are not ready since 'Tem Wek Ibong' did not
18 appear on air. The commanders who were responsible for the attack were
19 Major Olak Tulu and Captain Ocaka Alex. Check the lists with you for confirmation
20 of their particulars."

21 Again, Mr Witness, we know this is your handwriting and these fair notes are what
22 you would have heard on your radio?

23 A. [11:50:14] Yes, please.

24 Q. [11:50:15] And this does not come from outside intelligence, human intelligence
25 or Mega FM or anything of the like, it's from your intercepting operation?

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1 A. [11:50:27] That much is not easy to confirm right now because during that time
2 I would listen to the radio you told me, compare with intercepts and the New Vision
3 newspaper, I would compare. So I don't recall exactly whether the source was from
4 intercept, Mega FM or from the New Vision newspaper, this particular point.

5 Q. [11:51:16] But considering you used the word or the phrase "Tem Wek Ibong"
6 instead of Sinia brigade or Ongwen Dominic, would it be fair to assume that you were
7 discussing about something over the intercepts, Mr Witness?

8 A. [11:51:35] When was this? Because I wanted to note down there.

9 Q. [11:51:40] It was 23 May 2004.

10 A. [11:51:44] And the report written?

11 Q. [11:51:47] That's the date of the report, Mr Witness.

12 PRESIDING JUDGE SCHMITT: [11:51:50] 24th, 24 May, I think.

13 THE WITNESS: [11:51:55] In this particular point I don't know who was particularly
14 using this call sign.

15 PRESIDING JUDGE SCHMITT: [11:52:01] Perhaps also if we look at it, just let
16 me -- I'm also not sure, of course. But there is a -- the sentence as it reads, "Tem Wek
17 Ibong did not appear on air" that -- and perhaps you listen, Mr Nyero, and can
18 comment on it, that seems to be an information that a person would have if he had
19 listened to the radio communication.

20 The second sentence, "the commanders who were responsible" is a sort of an
21 evaluation, an assessment, so perhaps there might be the little bit exactly the dividing
22 line, so to speak. So you have heard what I have said, Mr Nyero. Of course it's
23 a long time ago. Would you like to comment on that, what I have said?

24 THE WITNESS: [11:52:50] Yeah. Your Honour, I do agree with you. It's a long
25 time and it's not easy right now to remember.

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1 PRESIDING JUDGE SCHMITT: [11:52:59] I think we have to leave it at that,

2 Mr Obhof.

3 MR OBHOF: [11:53:04]

4 Q. [11:53:06] Now, Mr Witness, around this time in '04 the New Vision was owned
5 by the government of Uganda; is that right?

6 A. [11:53:20] Yes, it is right.

7 Q. [11:53:23] Do you know at this time who owned Mega FM?

8 A. [11:53:29] I don't know.

9 Q. [11:53:41] If we could turn to tab 5, please, 0175-0312. And you can see there
10 too, Mr Witness, that you have Major Olak Otulu written as in Whisky/Gilva brigade.
11 Is that correct, Mr Witness?

12 A. [11:55:00] Your Honour, yesterday I made it clear that annex C and Gilva were
13 not my handwritings.

14 PRESIDING JUDGE SCHMITT: [11:55:12] He has indeed answered that. And even
15 if we look with our own eyes at the handwriting, you could even see that it's not the
16 same handwriting.

17 MR OBHOF: [11:55:26]

18 Q. [11:55:27] Mr Witness, to the best of your knowledge was there a police
19 investigation about Lukodi?

20 A. [11:55:37] I beg your pardon?

21 Q. [11:55:38] To the best of your knowledge was there an investigation performed
22 by the Ugandan police about the attack on Lukodi?

23 A. [11:55:50] I don't know, because Lukodi then falls under Gulu and Kamdini then
24 was under Apach district, so I didn't know anything.

25 Q. [11:56:19] Mr Witness, in your statement at paragraph 55, in the first one, you

1 were asked about what the LRA discuss on the radio, and you responded, "I heard
2 ordering by Kony and other commanders and I heard reporting."

3 Can you summarise for the Court how Joseph Kony treated those under him, at least
4 in the verbal sense?

5 A. [11:57:02] Which, which code, 50?

6 Q. [11:57:10] 55. Not codes, that you, during your intercept operations, that you
7 would hear Joseph Kony ordering commanders and you heard commanders
8 reporting to him. Do you know -- sorry, it is paragraph 54, not paragraph 55.

9 Can you summarise the way that Kony treated those underneath him? Was he a nice
10 commander? Did he talk sweet to them? Did he threaten them? Or was his
11 personality all over the place?

12 A. [11:58:09] Joseph Kony would warn those under him for any doing that didn't
13 please him and would laud those who did things which pleased him. He would
14 do it.

15 Q. [11:58:42] So the type of discussion we saw earlier today about the destruction of
16 the hometowns of persons who escaped is not uncommon?

17 A. [11:59:00] Where exactly, because I don't understand?

18 PRESIDING JUDGE SCHMITT: [11:59:11] I think this refers to one of the fair notes
19 that we have seen. But it was a little bit en passant, I think. Perhaps we should
20 have to refer to it again.

21 MR OBHOF: [11:59:32]

22 Q. [11:59:32] It's from 23 May 2004 at 0037-0124.

23 It says:

24 "Origins of defectors and reception centres/area of defectors are still their targets for
25 destruction."

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1 So would something like this, a threatening of the destruction of the origins of the
2 defectors --

3 A. [12:00:04] That was there?

4 Q. [12:00:15] Yesterday also you seemed rather hesitant to name Joseph Kony by
5 name and you merely called him the LRA leader. Is there any reasoning behind that,
6 Mr Witness?

7 A. [12:00:30] I am not hesitant, because LRA leader had only one leader, who was
8 Kony himself. If I say LRA leader, to me I mean Kony himself.

9 Q. [12:00:49] And also at Prosecution tab 1, page 0056, paragraph 56, you say that
10 you heard Sam Kolo convincing Kony to sign a ceasefire and you summarise that
11 Kony did not trust Museveni, but you describe it as a long story. Can you assist the
12 Court and explain what you mean by "a long story"?

13 A. [12:01:26] The discussion was between Sam Kolo and Kony Joseph. Sam Kolo
14 was the spokesperson of the LRA and indeed convinced Kony over the
15 communication to have the document signed, but Kony told Kolo that he didn't trust
16 Museveni. If I'm to explain more, he said amnesty was in place. Why then ICC?
17 So he would not sign that document for the peace talk.

18 Q. [12:02:40] Mr Witness, is it also true that Sam Kolo escaped the LRA under the
19 cover of darkness after long discussions with the government of Uganda?

20 A. [12:02:57] Your Honour, I don't know whether he had been in contact with the
21 government of Uganda, but I know he gave up the war.

22 Q. [12:03:22] Finally, back again to 0037, at 0151. Starting there we see number, the
23 Roman numeral IV.

24 PRESIDING JUDGE SCHMITT: [12:04:17] You mean starting from "The fourth
25 order"?

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1 MR OBHOF: [12:04:21] Yes, where you see "The fourth order".

2 Q. [12:04:26] Again, the date is on or around 12 April 2004, order from Kony:

3 "The fourth order was directed to Otti Vincent to arrest and persecute defiant

4 commanders. He further stated that persecution/killing of such defiant commanders
5 should be immediately or after seeking his advice."

6 Mr Witness, from your experience as an intercept operator, what qualifies a defiant
7 commander?

8 A. [12:05:05] Commanders who don't or who did not follow his instructions.

9 Q. [12:05:19] My final question, Mr Witness, similar to the one I asked just a few
10 minutes ago, these were normal threats made by Joseph Kony to everybody in the
11 LRA; is that correct?

12 A. [12:05:33] In this particular, in this particular note, number IV, it was only to the
13 commanders. But the general threat had been there, even on those who tried
14 to escape.

15 Q. [12:05:54] Mr Nyero, I thank you very much for coming up such a long distance
16 and for speaking with us and testifying before the Court.

17 MR OBHOF: [12:06:02] Now, your Honour, this ends the Defence's questioning of
18 the witness.

19 PRESIDING JUDGE SCHMITT: [12:06:06] Thank you very much, Mr Obhof.

20 Mr Nyero, that concludes your testimony.

21 On behalf of the Chamber I would like to thank you, also for having taken it upon
22 you to come to this faraway Court, and we would like to thank you that you help us
23 to establish the truth. And of course we wish you a safe trip back.

24 THE WITNESS: [12:06:29] Thank you, your Honour.

25 (The witness is excused)

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- 1 PRESIDING JUDGE SCHMITT: [12:06:33] This concludes also the hearing for today.
- 2 The hearing is adjourned, and we start on Monday, 9.30 with 414.
- 3 THE COURT USHER: [12:06:42] All rise.
- 4 (The hearing ends in open session at 12.06 p.m.)