

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 1
8 Wednesday, 1 February 2017
9 (The hearing starts in open session at 9.30 a.m.)
10 THE COURT USHER: [9:30:44] All rise.
11 The International Criminal Court is now in session.
12 PRESIDING JUDGE SCHMITT: [9:30:50] Good morning, everyone.
13 Could the court officer please call the case.
14 THE COURT OFFICER: [9:31:02] Thank you, Mr President.
15 The situation in Uganda in the case of Prosecutor versus Dominic Ongwen, case
16 reference ICC-02/04-01/15.
17 We are in open session.
18 PRESIDING JUDGE SCHMITT: [9:31:15] Thank you.
19 I call for the appearances. Mr Elderfield.
20 MR ELDERFIELD: [9:31:19] Good morning, your Honour. Julian Elderfield,
21 Pubudu Sachithanandan, Ben Gumpert, Colleen Gilg, Beti Hohler, Yulia Nuzban,
22 Jasmina Suljanovic, Mari Pilvio, Ramu Fatima Bittaye and Shkelzen Zeneli.
23 PRESIDING JUDGE SCHMITT: [9:31:35] Thank you.
24 Mrs Massidda.
25 MS MASSIDDA: [9:31:38] Good morning, your Honours. Paolina Massidda with

1 Caroline Walter and Orchlon Narantsetseg.

2 PRESIDING JUDGE SCHMITT: [9:31:46] Mr Manoba.

3 MR MANOBA: [9:31:47] Good morning, your Honours. Joseph Manoba and
4 James Mawira.

5 PRESIDING JUDGE SCHMITT: [9:31:51] Thank you.

6 And Mr Ayena.

7 MR AYENA ODONGO: [9:31:56] Good morning, your Honours. I'm

8 Krispus Ayena Odongo. I'm assisted by Charles Taku Achaleke, Thomas Obhof and
9 Gatarama Tharcisse. Our client, Mr Dominic Ongwen, is in court.

10 PRESIDING JUDGE SCHMITT: [9:32:20] Thank you, Mr Ayena. You, of course,
11 have still the floor.

12 MR AYENA ODONGO: [9:32:26] Yes.

13 PRESIDING JUDGE SCHMITT: [9:32:26] I want just to address something, shortly

14 we will have later to decide upon a request via email of the Prosecution, we have all

15 read that. The information entailed in this email could also be used by the Defence

16 in questioning, I would say. So this is just something that -- of course it's your

17 strategy, but we would not have -- no objections from the part of the Chamber to

18 allow you to use this, what was entailed in the email for your examination that is

19 going to come now. I only wanted to say that. If need be, we decide on the request

20 entailed in this email later on, of course.

21 Please, you have the floor.

22 MR TAKU: [9:33:09] Your Honours, very briefly before lead counsel gets up, we do

23 not want that to be seen as if our focus is to impugn the Prosecutor. We've not done

24 that. I've never done that in my life. And that's not our intention. We are just

25 pursuing the evidence. So briefly that's all about the email. Our focus is no way

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1 intended to impugn the reputation or the professionalism of this Prosecutor or
2 investigators. So with that, I think my lead can continue.

3 PRESIDING JUDGE SCHMITT: [9:33:42] Thank you for this clarification, but I think
4 nobody here really has seen it this way. It was absolutely a line of questioning
5 that -- I don't assess it of course, but I wanted only to say that the questions that might
6 arise of what is written down in the email by the Prosecution could also be picked up,
7 formulating it, mutually by the Defence, and I think we know what I'm talking about.
8 Please, you have the floor, Mr Ayena.

9 MR AYENA ODONGO: [9:34:17] Yes. Thank you very much, your Honours.
10 Good morning again.

11 Good morning, Witness.

12 Your Honours, we had some difficulties with, you know, citations of what we wanted
13 to talk about. So I will -- the logical place I shall begin from perhaps will be the
14 attack on Lukodi.

15 WITNESS: UGA-OTP-P-0059 (On former oath)

16 (The witness speaks Acholi)

17 QUESTIONED BY MR AYENA ODONGO: (Continuing)

18 Q. [9:35:04] Witness, you testified that one of the call signs of Dominic Ongwen
19 was Tem Wek Ibong and that he also used 55 as his call sign. And the use of -- you
20 referred to the use of 55 in line 21, page 54 of the edited transcript of 27 January 2017;
21 is that correct?

22 A. [9:35:52] If we are talking about the attack on Lukodi, the call sign Dominic was
23 using was Tem Wek Ibong. The call sign Five Five could have come later and could
24 have been related to something else, but regarding the Lukodi attack, the call sign he
25 was using was Tem Wek Ibong. It was in July.

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1 Q. [9:36:27] Mr Witness, I want to refer you back to page 54, page 54 of the
2 transcript?

3 PRESIDING JUDGE SCHMITT: [9:36:50] Perhaps we wait a second until it is
4 displayed. So it takes a little bit of time to do that, but we are not in a hurry, so we
5 try to -- and I think we have it already.

6 MR OBHOF: [9:37:03] Yes, your Honour. For transcripts I'm pulling it up on
7 evidence 2 for the witness.

8 PRESIDING JUDGE SCHMITT: [9:37:07] Thank you.
9 Please continue, Mr Ayena.

10 MR AYENA ODONGO: [9:37:25]

11 Q. [9:37:25] Mr Witness, you realise that from the question and line 20 you were
12 asked "What's the other one?" And you said "The one in the middle," that is "'55' is
13 also a call sign." And this was in respect to Dominic Ongwen.

14 A. [9:38:11] The question was -- if the question as asked, I need to see the part
15 related to the question, otherwise it will be difficult for me to remember.

16 PRESIDING JUDGE SCHMITT: [9:38:23] That is correct. Perhaps because "what is
17 the other one" does not really put the witness into the position to assess this correctly.

18 MR ELDERFIELD: [9:38:41] Your Honour, the document is at line 4 of that same
19 page, ERN 0053-0082. That's at tab 32 of the Prosecution's binder. And the page
20 itself is page 090, that's at line 8.

21 PRESIDING JUDGE SCHMITT: [9:39:09] It makes the task not easier for the court
22 officers, but we try to display this one too so that we have both reference points.

23 THE COURT OFFICER: [9:39:19] That second document will be displayed on the
24 evidence 1 channel.

25 MR AYENA ODONGO: [9:39:46]

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1 Q. [9:39:46] Mr Witness, could you look at and read lines 23 and 24, page 26 of the
2 Court transcript of 30 January 2017, where you said, "Labalpiny was calling Lima
3 Charlie, which was the call sign that was being used by Dominic at that time."

4 MR ELDERFIELD: [9:40:29] Sorry, your Honour. Have we moved on from that
5 line of questioning and that document?

6 PRESIDING JUDGE SCHMITT: [9:40:40] It would of course be nice if we could stick
7 with one issue and do away with this issue and then move to the next one, okay.
8 But we have now this in front of you, Mr Witness. What do you say? Do you again
9 confirm that this was the call sign that Mr Ongwen used at that time?

10 THE WITNESS: [9:41:15] (Interpretation) I still say that the call sign which was
11 used by Ongwen during the Lukodi attack is the call sign Tem Wek Ibong. As I said,
12 Ongwen had several call signs, including Lima Charlie. Perhaps he could have been
13 using it in other operations. It would be difficult for me to say so. But concerning
14 Lukodi, what I remember very well is the call sign Tem Wek Ibong.

15 MR AYENA ODONGO: [9:41:58]

16 Q. [9:41:59] Of course, Mr Witness, it's not our intention to force you to admit
17 things that you may not remember.

18 Mr Witness, could you look at and read lines 23 and 24, page 26 of the Court
19 transcript of 30 January 2017?

20 A. [9:42:39] I've seen line 23.

21 Q. [9:42:47] Can you read from -- can you read it out, please, 23 and 24?

22 A. [9:43:03] (Speaks English) "Labalpiny was calling Lima Charlie, which was the
23 call sign that was being used by Dominic at that time, that he should now leave his
24 unit and go to another unit, which was Zulu Oscar."

25 Q. [9:43:25] Thank you very much. And, Mr Witness, you confirm that at the

1 same time the call sign Lima Charlie was also being used by Dominic Ongwen?

2 A. [9:43:48] (Interpretation) I think I have already said that Dominic Ongwen
3 used the call sign Lima Charlie. But you asked me a question about Lukodi. It is
4 true Dominic Ongwen used Lima Charlie, but in this transcript, concerning line 23,
5 that one, okay, but if we are talking about Lukodi, let us centre, focus ourselves on
6 Lukodi, because you are confusing me.

7 Q. [9:44:30] Mr Witness, I want you to understand that when we are -- I am now
8 talking about the call signs, the various call signs. Forget about Lukodi for the
9 moment. But I want you to confirm to Court the different call signs which were
10 used by Dominic Ongwen.

11 Again in lines 22 to 24, you said in your answer "One Mike is a call sign. It is
12 Dominic Ongwen's call sign." Is that correct, Mr Witness, at page 40?

13 A. [9:45:41] If I said in court like that, that depends on the way I was asked and the
14 way I answered, and that's how it has been written, because you are now lumping
15 everything together. I thought we would focus first of all on the call sign concerning
16 Lukodi, because yesterday we were talking about Lukodi. Now you are bringing so
17 many things together and that is confusing.

18 PRESIDING JUDGE SCHMITT: [9:46:20] Mr Ayena, I think that the best is really to
19 verify with the witness, obviously he has said it in the past and he said it today that
20 there have been different call signs. So it is of course the question: When were they
21 used? At what point in time were they used? During which time frame? So
22 perhaps you can try to pin it down like this so that the witness knows exactly what
23 time we are talking about with relation to the call signs, the different call signs.

24 MR AYENA ODONGO: [9:46:58] Maybe I'll make it easy for him, to put a general
25 question.

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1 Q. [9:47:04] Mr Witness, could you tell this Court when and how Dominic Ongwen
2 changed and used the different call signs between 2000 and 2005?

3 A. [9:47:19] I already gave an answer to that. I said call signs were -- several call
4 signs were assigned. So right now I cannot remember when a call sign was changed.
5 I can only remember when there has been an operation and the call sign has been
6 used. So that's when I can know that at that time Dominic Ongwen used this
7 particular sign, call sign. But to say that at this period Dominic Ongwen used this
8 call sign is difficult for me.

9 Q. [9:48:08] And, Mr Witness, you told Court that from 2001 there was not much
10 communication to intercept with the LRA; is that correct?

11 PRESIDING JUDGE SCHMITT: [9:48:31] I think we have I had that and it has been
12 clarified, if I'm not completely out of my recollection, that it was 2011. We have had
13 that and you have elaborated that already I would say, not 2001. It has been verified
14 with -- if I'm not -- I don't have of course the transcript now of the spot, but I'm quite
15 sure that it was 2011.

16 MR AYENA ODONGO: [9:49:01] Your Honour, 2011, yes. But also if you look at --

17 PRESIDING JUDGE SCHMITT: [9:49:11] Evidence 2?

18 MR AYENA ODONGO: [9:49:12] Yes. If you look at page 15, lines 2 and 3 of the
19 transcript of 27 January 2011 -- I mean 2017.

20 PRESIDING JUDGE SCHMITT: [9:49:28] If I don't -- this is of course difficult now,
21 but if I don't recall it wrong, exactly this was put to the witness to clarify. But we
22 have so many experienced lawyers and counsel here in the room, perhaps somebody
23 can find the transcript where this has been discussed --

24 MR AYENA ODONGO: [9:49:55] Yes.

25 PRESIDING JUDGE SCHMITT: [9:49:55] -- to prove that I'm wrong or that I'm

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1 correct.

2 MR ELDERFIELD: [9:49:58] Your Honour, I asked this question, it was the second
3 last question I asked in my examination yesterday. The transcript is transcript 38 of
4 the realtime transcript, page 10, and the question starts at line 12 and the answer goes
5 through to line 24.

6 PRESIDING JUDGE SCHMITT: [9:50:23] But let's give the court officers a little bit of
7 time, because this is really for them a very demanding task today.

8 (Pause in proceedings)

9 THE COURT OFFICER: [9:51:15] The document is displayed on the evidence 1
10 channel.

11 PRESIDING JUDGE SCHMITT: [9:51:29] Can we have it a little bit bigger for the
12 ones who wear glasses.

13 And, Mr Elderfield, which line are we talking about?

14 MR ELDERFIELD: [9:51:55] Your Honour, I believe there has been an edited
15 transcript distributed. On page 9 of that edited transcript, the reference is T-38,
16 transcript 38 of yesterday, page 9 from lines 3 to 8. It's where I clarify that what I
17 believe to be a misrecording in the record. And the witness states that in fact it was
18 2011.

19 PRESIDING JUDGE SCHMITT: [9:52:40] Fortunately my recollection did not betray
20 me.

21 So please move on, Mr Ayena.

22 MR AYENA ODONGO: [9:52:56]

23 Q. [9:52:56] Mr Witness, I'll call you back to what happened in Lukodi. And you
24 testified that you recognized Dominic Ongwen's voice after the Lukodi attack
25 reporting that he had carried out an attack on Lukodi; is that correct?

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1 A. [9:53:32] That is correct.

2 Q. [9:53:36] Now, Mr Witness, will you tell Court if you heard his own voice?

3 Was it his own voice that you heard, or could it be that you picked it from what
4 others were saying?

5 A. [9:54:00] I heard his voice because the first person to ask what had happened in
6 Lukodi was Otti Vincent, and if you make a reference there, you will see that he asked
7 "Who attacked Lukodi?" And then he answered "I did. Over." And then he said,
8 "Repeat." And he said, "I did. Over."

9 That was his response. At first he asked, "Tem, who attacked Lukodi?"
10 He answered, "It was me."

11 Then he said, "Repeat, who has attacked Lukodi?"

12 He answered, "Me. I did."

13 And then Vincent laughed.

14 Q. [9:54:54] Now, Mr Witness, you were a subordinate staff in one of the divisions
15 of the UPDF; is that correct?

16 A. [9:55:18] That is true. My office is there. There is one, the fourth division
17 headquarters and also there is another division in Kampala.

18 (Redacted)

19 (Redacted)

20 (Redacted)

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5 PRESIDING JUDGE SCHMITT: [9:57:49] I think when we go further with that we go
6 into private session. I would assume that you follow this line, so I would suggest
7 that we go into private session then.

8 Please go to private session.

9 (Private session at 9.58 a.m.)

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11 (Redacted)

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1 Q. [10:02:57] Mr Witness, since you have recognized the presence of at least some
2 of these intelligence agencies, could it be the case that there is a convergence point for
3 all these intelligence informations gathered?

4 A. [10:03:28] Obviously that must happen because, at the end of the day, the person
5 that consumes this report is up there and all this report goes to one person. So that's
6 what I can say.

7 Q. [10:03:55] Thank you very much, Mr Witness. If this one person to whom all
8 these informations or reports go finally comes out with an intelligence report based
9 on all this information, would I be right to say that that intelligence report would be
10 superior to the individual intelligence report filed by the different agencies?

11 PRESIDING JUDGE SCHMITT: [10:04:44] Mr Elderfield is rising. You have the
12 floor.

13 MR ELDERFIELD: [10:04:48] Your Honour, the witness can't possibly answer that
14 question. The question calls for him to speculate on something outside his
15 knowledge.

16 PRESIDING JUDGE SCHMITT: [10:04:55] No, no, no, no. It's not difficult to decide.
17 As the question was phrased, it's correct, what Mr Elderfield is saying, it calls a little
18 bit for speculation, but you could rephrase it in a way if he has knowledge about it,
19 and if he confirms he has knowledge or not confirm -- if he not confirms, it's over.
20 And if he might confirm, you can continue then. You see, you asked him if and
21 would, this is, of course, really speculative. You would first have to establish or not
22 if he has knowledge.

23 MR AYENA ODONGO: [10:05:32] Your Honours, I thought --

24 Q. [10:05:38] Mr Witness, do you have knowledge that the person you called the
25 final consumer in Kampala would use these various informations and come out with

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1 a solidified intelligence report?

2 A. [10:06:02] When the report is sent, there is what we call the analyst desk, and
3 they follow up on and evaluate this report and they advise on what to do. And the
4 final information that it comes out with is what has been assessed and analysed
5 in-depth.

6 Q. [10:06:45] Thank you very much. And, Mr Witness, do you know whether this
7 in-depth analysed reports would be sent down to the field commanders, the people in
8 the field?

9 A. [10:07:14] Now, that, I don't know, because that will depend on his decision, the
10 decision that he will make. So I can't know because he's my overall supervisor or
11 boss.

12 (Redacted)

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18 (Open session at 10.15 a.m.)

19 THE COURT OFFICER: [10:15:30] We are back in open session, Mr President.

20 MR AYENA ODONGO: [10:15:43]

21 Q. [10:15:43] Now, Mr Witness, where did you get the information? First of all,

22 when did you get this information and where did you get that information that it was

23 Tulu who killed people in Lukodi?

24 A. [10:16:07] According to the way you see I have put my signature down, it's

25 correctly written. Yesterday or the other day, I said my other work relates to

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1 interviewing the people who returned from the bush, and they give us some
2 information that helps us in our work. So this is where I got this information.
3 The overall commander, according to the information we received, was Dominic
4 Ongwen. He was the one in charge of that. But his junior that he sent, the junior
5 that he sent was Tulu. This is what I have written in this part. This was not radio
6 intercept, but this information we got from outside. But the one from the radio
7 intercept is exactly as it is written.

8 Q. [10:17:13] You know, Mr Witness, it is your duty to be very clear about
9 information you are giving to Court. Who killed people in Lukodi? Was it
10 Dominic Ongwen personally or Tulu?

11 A. [10:17:49] The person who killed, who reported, was Dominic Ongwen. And
12 the way he also mentioned it, he said he was the one that attacked Lukodi.
13 After that, even Otti asked him and he repeated and he repeatedly mentioned and
14 gave that information. It's just like when you're in command you just tell your
15 junior that "Go this side or go this side" and then you attack. But the person who
16 planned for the attack and killed was Dominic and was the one who sent the report
17 on radio.

18 PRESIDING JUDGE SCHMITT: [10:18:30] I think we should move to another point.

19 MR AYENA ODONGO: [10:18:33] Yes.

20 Q. [10:18:33] Now, can you tell this Court, Mr Witness, to which unit or brigade
21 Tulu belonged at this time?

22 A. [10:18:43] It's difficult to say that now because there were transfers and I do not
23 remember which date. So to say it was in this brigade or the other brigade is
24 difficult for me. But they were together.

25 Q. [10:19:10] Mr Witness, I want to refer you to tab 88.

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1 PRESIDING JUDGE SCHMITT: [10:19:33] Second binder I would assume?

2 MR AYENA ODONGO: [10:19:36] Yes.

3 Q. [10:19:58] Mr Witness, at page 137 you annotated "OT," that is at timeline 23.41,
4 then "MO" and then "ONG". In answer to the question "Who attacked Lukodi?" the
5 answer in the English translation is "Ah, I am the one."

6 And then you note that the subsequent words were unintelligible; is that correct?

7 A. [10:20:50] As you can see, that part it was unintelligible. But the part that came
8 out clearly, if you were working on radio, when there was clear signal, the response
9 you can see when it is very clear when you read down, going below.

10 So from the communication you can follow and see what was being discussed. So if
11 you come down to the last bit, that's when you can now see clearly that Dominic, his
12 voice was much more clearer and you could pick what he was saying.

13 Q. [10:21:37] Now, Mr Witness, where somebody says "Ah, I am the one" and then
14 the subsequent ones where the words were not correct, will you say that that answer
15 was unequivocal?

16 A. [10:21:55] His response was straightforward, because when you see there was
17 somebody saying "Can you repeat?" that means the signal wasn't clear. He said, "Me.
18 Over". And Otti laughed. If you see there, there is some point written "Laughs."
19 That means at the beginning the signal was not clear.

20 Q. [10:22:34] Now, Mr Witness, when they noted in quotes "unintelligible" words
21 above the segment of the subsequent words, what did you understand that to mean?

22 A. [10:22:49] I understand that they could have missed that bit, but to get it clearly
23 and for you to understand is when somebody says "Can you repeat again?" That's
24 when you can understand. And he repeated. So that means the information that
25 was not clearly heard was repeated.

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1 Q. [10:23:26] Mr Witness, can you show Court where he repeated this? Can you
2 take us to the line where he repeated this?

3 A. [10:23:46] If you look at V14, "Me. Over."

4 Q. [10:23:57] That was in respect to which question?

5 A. [10:24:03] That was on the question about Lukodi who attacked Lukodi. The
6 leading question there was "Who attacked Lukodi?" There was no any other
7 question apart from the question on the attack on Lukodi.

8 Q. [10:24:25] But, Mr Witness, you said he repeated it, meaning somebody must
9 have asked him some question and then he said "Me."

10 A. [10:24:53] I did not understand your question. Maybe you say the question
11 again.

12 PRESIDING JUDGE SCHMITT: [10:25:02] Mr Ayena, there is a question.

13 MR AYENA ODONGO: [10:25:04] Yes.

14 PRESIDING JUDGE SCHMITT: [10:25:05] So he can read it out and interpret it, but
15 there is a question before the second answer is given.

16 MR AYENA ODONGO: [10:25:14] Yes, your Honours, that is what I meant. But,
17 you know, he's --

18 Q. [10:25:22] Can you read that question before the answer "It is me."

19 A. [10:25:33] The question is in line V3, and the timestamp is also there, 23.41,
20 where Otti was asking "Who attacked Lukodi?" And between, in between there
21 Michael Omona, who is a signaller, responded. Then Ongwen said "Ah, that is me."
22 Then there was some -- a noise. Then Otti asked, "Can you repeat again?" Then
23 Ongwen said "Me. Over." Then Otti laughed. "Roger." That's Dominic Ongwen
24 responding. So the conversation continued down. If you follow closely you'll find
25 exactly what I'm talking about.

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1 Q. [10:26:32] Mr Witness, did you succeed in identifying the segment of the answer
2 identified as unintelligible words?

3 A. [10:27:14] I was not the one who translated that part. It was Dominic who said
4 "Me." So it means the part that was not clearly heard, it was actually interpreted by
5 Dominic.

6 That point where you see it's written "unintelligible", that is because of the noise that
7 was coming on radio. So they were not able to get. It was Dominic who now
8 interpreted and said "Me." That is the whole thing.

9 Q. [10:27:45] Now, Mr Witness, let me put this question this way: In your
10 experience, was it possible or were there instances when commanders in the field
11 deceived their bosses about what actually happened in the field, for instance, about
12 casualties?

13 A. [10:28:27] If a commander can now tell a lie to their superiors, then I don't know,
14 because for the LRA they were the other side. And for me, I was the other side.
15 And I was this side. So I couldn't know.

16 Q. [10:29:00] Was it the case, Mr Witness, that sometimes LRA
17 commanders -- Mr Witness, I want for the benefit of Court, I want you to repeat
18 whether or not you are aware that you put in your own statement -- Mr Witness, I
19 want to refer you to your own statement where you said --

20 PRESIDING JUDGE SCHMITT: [10:31:16] Perhaps you give us first the reference --

21 MR AYENA ODONGO: Yes.

22 PRESIDING JUDGE SCHMITT: -- so that we can put it onto the monitors and
23 everybody can follow.

24 MR AYENA ODONGO: [10:32:16] I'm finding some difficulty in discovering exactly
25 where. But I want to state --

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1 PRESIDING JUDGE SCHMITT: [10:32:23] So there is of course the possibility that
2 you pick this up again after the coffee break and follow now another line of
3 questioning perhaps.

4 MR AYENA ODONGO: [10:32:32] Yes, I think so.

5 PRESIDING JUDGE SCHMITT: [10:32:34] As I said yesterday already and I think
6 before also, it's always good for the benefit of everybody, including the witness, to
7 know exactly when we have references to transcripts or further former statements or
8 whatsoever so that we all have the same basis of information from which the
9 questions then arise.

10 MR AYENA ODONGO: [10:33:07]

11 Q. [10:33:07] Mr Witness, did you come to know somebody who was called
12 Abusiu?

13 A. [10:33:24] Yes, I used to hear about Abusiu. I never heard his voice because he
14 came on air and they said somewhere that Abusiu greets you. That was during one
15 attack somewhere. Also if you look at the LRA structure, you find his name
16 appearing there, but I never heard his voice on radio.

17 Q. [10:34:00] How about somebody called Ocaka?

18 A. [10:34:09] Even Ocaka was in the LRA group, but (Redacted)
19 (Redacted) since 2011, voices, communications became very rare. So
20 his voice will not be heard. And there are also other members who have already
21 been killed. (Redacted).

22 Q. [10:34:57] During your intercept, Mr Witness, did you come to know that Ocaka
23 was involved in the Lukodi attack?

24 A. [10:35:10] I didn't see his name regarding that attack.

25 Q. [10:35:23] But you didn't hear his name on the intercept?

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1 A. [10:35:32] The intercept is reflected in what I have written. So if Ocaka's name
2 doesn't figure there, that means I didn't hear his voice.

3 Q. [10:35:55] Mr Witness, I want to put it to you that Abusiu and Tulu were both in
4 Gilva brigade of the LRA, and you knew this.

5 A. [10:36:41] Someone cannot be permanent in a brigade. In one of the transcripts
6 we saw that there was a transfer, for example, "Dominic, you have been transferred
7 from this brigade to another one." So if he was in Gilva brigade, well, I may accept
8 that, but there are always transfers. All the LRA commanders have been transferred
9 in all the different brigades.
10 If you are asking me during the Lukodi attack, then I don't have any knowledge
11 about that.

12 Q. [10:37:17] Mr Witness, I'm putting it to you in respect to the Lukodi attack. At
13 the time of the Lukodi attack, these two individuals were in Gilva brigade and they
14 were stationed at the foothills of Got Atoo.

15 A. [10:37:54] I think that is what you know. I have no knowledge about that.

16 Q. [10:38:08] Mr Witness --

17 And, your Honours, I think we shall now move to the attack on Odek.

18 Mr Witness, I will put this question back to you again but in a different form.

19 Between an intelligence report issued by the national central intelligence and an
20 intelligence report issued by a divisional subordinate staff, which one is more credible
21 in your view?

22 A. [10:38:43] I didn't see the Kampala report. If I had read it, then I would be able
23 to compare it with my report and then I would be able to determine whether my
24 report contains more truth or it is the report of Kampala which has more truth. I
25 didn't read the Kampala report, so it's difficult for me to say something on that.

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1 Q. [10:39:17] In that case then, Mr Witness, I'll refer you to that report, which is at
2 tab 29, UGA-OTP-17-150, and it is dated 30 April 2004.

3 Are you there, Mr Witness?

4 A. [10:40:27] Where they have written "Friday" on top, yes, I've found it.

5 Q. [10:40:35] Now, Mr Witness, this is the document I was referring to. Have you
6 now seen it?

7 A. [10:40:52] This document concerns direction finding. So I still repeat that I
8 have seen this document, but this is not my document. And I also don't know how
9 they do their work and I don't know how they got these names.

10 Q. [10:41:31] Witness, I want to put a very simple question to you. If you found a
11 superior in your line of duty from Kampala, will you respect his words?

12 A. [10:42:02] I am a law-abiding person. I do respect the law or rules. If my
13 superior does something illegally, then I cannot agree with him. But if I get things
14 which are *legal, then I do abide by what he says. But if not, then I tell him or her
15 that I cannot do this because it is not possible.

16 That doesn't mean that I don't respect my boss, but I have to respect him in a legal
17 way.

18 Q. [10:42:51] Mr Witness, do you recognize that this is a document that has been
19 supplied by the Office of the Prosecutor?

20 THE COURT OFFICER: [10:43:03] I'm sorry to interrupt you, but I have a message
21 for the French interpretation booth: If you could please turn on your microphone.

22 PRESIDING JUDGE SCHMITT: [10:43:17] I think what shall he say? I think move
23 on to the next question. We take it for -- given that this was provided by the
24 Prosecution.

25 MR AYENA ODONGO: [10:43:25] Yes.

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1 PRESIDING JUDGE SCHMITT: [10:43:25] So please move on. We don't have to
2 ask this of the witness.

3 MR AYENA ODONGO: [10:43:28] Okay.

4 Q. [10:43:29] Mr Witness, I want to refer you to page 4 of that document. That is
5 0153. And I want you to come down to one, two, three, to the fourth row where
6 there is Labong/Kony. Does "LAB" make sense to you?

7 A. [10:44:21] You see, the way things have been labelled here is different from the
8 way I labelled mine. LAB may stand for Labongo, it may stand for Labalpiny. It
9 depends on how that person did his or her labelling.

10 As for me, the way I did my labelling where I write "LAB", that stands for Labongo.
11 But this is not my document.

12 Q. [10:45:11] But you, Mr Witness, you see that in that document, that part I have
13 referred you to, there is Labong? Do you see that?

14 A. [10:45:27] This Labong is not in the LRA. There is Labongo with an O at the
15 end who is -- who was in the LRA. So that's why I cannot really honour this
16 document because Labong is not in the LRA.

17 Q. [10:46:00] How did you come to that conclusion, apart from the fact that it could
18 as well be a misspelling, a mere misspelling?

19 PRESIDING JUDGE SCHMITT: [10:46:14] Mr Elderfield.

20 MR ELDERFIELD: [10:46:15] Your Honour, I'm sorry, the witness has stated
21 repeatedly that he has no knowledge of how the names were got in this document,
22 how it was created. Perhaps -- we have no objection to a proposition being put
23 forward, but the witness has stated several times now that he has no idea about this
24 document.

25 PRESIDING JUDGE SCHMITT: [10:46:31] The line of questioning of course in

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1 principle is acceptable because the Defence wants to show contradictions between this
2 one and perhaps what the witness has told us before.

3 Perhaps you try to elicit that in a way, you ask him: Does this, for example,
4 correspond to what your recollection is, what you heard on the radio? Something
5 like that.

6 MR AYENA ODONGO: [10:47:01] Much obliged.

7 Q. [10:47:04] I don't have to repeat that, Mr Witness. Can you tell Court whether
8 this triggers some memory about what you heard from the radio or from your own
9 earlier documents or, I mean, because according to you somewhere LAB referred to
10 Labongo.

11 A. [10:47:50] I can only say that different people have different skills. The person
12 who did this document had his way of doing things. It's possible that we may have
13 heard the same radio intercept, but when the moment comes when that person comes
14 in front of the Court, perhaps he may be able to tell us what that stands for.
15 But I see the name Odek, Odek is here underlined. So, your Honour, it is difficult for
16 me to say much on this question.

17 PRESIDING JUDGE SCHMITT: [10:48:31] No, this was an answer and how to
18 assess this in the end will be, like always, the task of the Judges here.

19 But I think that this is an answer, so perhaps you could move to the next point.

20 MR AYENA ODONGO: [10:48:45] Yes.

21 Q. [10:48:45] Now, I want to just in case it makes sense to you, "I attacked" -- this
22 LAB, he's saying, "I attacked Odek camp and killed many people. I even burnt many
23 houses. Now I am on serious movement."

24 Have you seen that, Mr Witness?

25 A. [10:49:09] Yes. I said I saw it, but I said also that different units have different

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1 skills in their work. So I don't know actually what was put here in this document.

2 PRESIDING JUDGE SCHMITT: [10:49:38] I think that that's fair enough. We

3 cannot really expect more from the witness in that respect.

4 MR AYENA ODONGO: [10:49:56]

5 Q. [10:50:01] I want you to go to page 017-154, the next page. I'm referring to the
6 fourth row again. And this is "Labong/All Units." He's saying, "I attacked a detach
7 in Odek and got the following;" and he lists a catalogue of things that he got. Have
8 you seen that?

9 A. [10:50:55] Yes, I'm seeing the document in front of me.

10 Q. [10:51:04] So would you agree with me, Mr Witness, that therefore this person
11 who is abbreviated as LAB, he's saying that he's the one who attacked a detach in
12 Odek?

13 PRESIDING JUDGE SCHMITT: [10:51:31] According to this document of course?
14 According to this document --

15 MR AYENA ODONGO: According to --

16 PRESIDING JUDGE SCHMITT: -- to be precise.

17 MR AYENA ODONGO: [10:51:39] Yes, yes.

18 THE WITNESS: [10:51:43] (Interpretation) I read this document where this person
19 is saying he or she is the one who attacked Odek. That is correct according to the
20 document. But as I said, I'm not the one who prepared this document. But I'm just
21 reading the document now and I agree with what is in the document.

22 MR AYENA ODONGO: [10:52:12]

23 Q. [10:52:12] Thank you very much, Mr Witness. I want to now refer you to your
24 own handwritten note in tab 33, Defence binder, UGA-OTP-0061-0206 at page 0269.
25 Are you there, Mr Witness?

- 1 A. [10:53:07] Dash 269? Yes, I am there.
- 2 Q. [10:53:17] Is that your handwriting?
- 3 A. [10:53:20] Yes, it is.
- 4 Q. [10:53:29] Can you read the paragraph which starts with "Unknown".
- 5 A. [10:53:51] (Speaks English) On my left or right?
- 6 Q. [10:53:52] On your right, on your right, please. On the right, right column.
- 7 Actually directly above --
- 8 A. [10:54:01] Yeah, yeah.
- 9 Q. [10:54:17] Can you read that paragraph starting with "Unknown".
- 10 A. [10:54:23] (No Interpretation)
- 11 Q. [10:54:27] Yes.
- 12 A. [10:54:28] (Speaks English) "Unknown call sign who was so brief on air reported
- 13 that he attacked Odek IDP plus barracks and trading centre, burning it completely.
- 14 Kony was very pleased. He asked if that commander charged many items including
- 15 guns. The commander said they charged but at the" --
- 16 Q. [10:55:12] Read all.
- 17 A. [10:55:13] (Speaks English) I read all?
- 18 Q. [10:55:14] Yes, that part.
- 19 A. [10:55:16] "Kony was very happy. He asked if the commander charged many
- 20 items including guns. The commander said they charged but at the moment he
- 21 cannot count and send Kony as UPDF are pursuing them. He closed immediately."
- 22 And said -- there was a mistake.
- 23 Q. [10:55:45] Pardon?
- 24 A. [10:55:46] (Interpretation) So there was a mistake here. (Speaks English) "...
- 25 as UPDF are pursuing him. He closed off immediately."

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1 Q. [10:56:00] Okay. So who was this unknown call sign?

2 A. [10:56:16] (Interpretation) If we are talking about an unknown call sign, that
3 means at that time I didn't know, I didn't know the voice of the person talking on
4 radio. I even didn't know the call sign, because he just came in suddenly without
5 announcing his call sign. He just came in and began talking. He didn't indicate his
6 call -- his or her call sign.

7 Q. [10:56:48] Mr Witness, did you get his voice?

8 A. [10:56:55] Yes, I recognized that that voice was different from Dominic
9 Ongwen's voice. That's why I wrote "Unknown call sign."

10 Q. [10:57:11] Thank you very much, Mr Witness. I just want to put this question
11 to you, Mr Witness: In view of the above two statements and of course the other one
12 you did not want to associate with were whether -- because it was not your document,
13 but in view of this statement in your document and the other statement which we had
14 referred to, can Dominic Ongwen still be fixed at the scene of the Odek attack?

15 A. [10:57:59] I can say that it is Dominic Ongwen who attacked Odek.

16 Q. [10:58:05] How have you come to that conclusion? Can you show Court where
17 you derived your information to bring you to this conclusion?

18 A. [10:58:30] I think OTP clearly presented this document in front of the Court, and
19 in my statement I clearly said that the LRA have their times, their schedules of talking.
20 So I think it's good to verify the time when this voice came in and at what time
21 Dominic Ongwen came into air and declared that he was the one who attacked Odek,
22 if there is a match that would indicate that I am a liar, because it is possible that the
23 person who was handling the radio was a signaller whose voice I hadn't mastered yet.
24 PRESIDING JUDGE SCHMITT: [10:59:29] Do you think it would be time now for
25 the break?

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1 MR AYENA ODONGO: [10:59:32] Yes, your Honour.

2 PRESIDING JUDGE SCHMITT: [10:59:33] And perhaps you keep in mind that you
3 do not forget what you wanted to show us half an hour ago or something.

4 MR AYENA ODONGO: [10:59:41] I want just in case it is, I should be able to get it.

5 PRESIDING JUDGE SCHMITT: [10:59:45] Then break until 11.30.

6 THE COURT USHER: [10:59:48] All rise.

7 (Recess taken at 10.59 a.m.)

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

9 THE COURT USHER: [11:32:00] All rise.

10 PRESIDING JUDGE SCHMITT: [11:32:19] Mr Ayena, you still have the floor.

11 MR AYENA ODONGO: [11:32:34] Your Honours, I have discovered that the note I
12 was referring to was a statement made by somebody else, so maybe I would not put it
13 to him, but maybe ask a general question as to --

14 PRESIDING JUDGE SCHMITT: [11:32:49] Please do that.

15 MR AYENA ODONGO: [11:32:53] Yes.

16 Q. [11:32:54] Mr Witness, this morning before we went for, you know, break, I
17 was referring to a situation where it was suggested that there were times when
18 commanders of the LRA would exaggerate certain situations or conceal in the case of
19 casualties, conceal the fact that they lost so many commanders because they wanted
20 to please Kony. If somebody else were to come and tell this honourable Court this,
21 would it surprise you?

22 A. [11:33:53] It would not be a surprise because what the person says follows,
23 follows his understanding how he probably got the information.

24 Q. [11:34:23] So would I be right to say that it was always or quite often the case
25 that commanders worked around the clock to impress Kony or, rather, to tell him

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1 what they thought would please him?

2 A. [11:35:01] Well, it would be right according to you how you'd -- depending on
3 how you as you say it. To me, I don't think it would be correct, because I may not
4 have understood where the person made the statement, where did the person say that,
5 because if the exact words are there, which I can be given as examples that this is
6 what the person said or there's evidence to show that this is what the person said,
7 then it can enable me to clearly state or give a response.

8 Q. [11:36:06] Mr Witness, there is this man called Ocan Labongo. I think I want
9 to draw your attention back to him so that you help Court to appreciate this man's
10 position, who he was, and perhaps help to bring us to where he could have been at
11 the time of the Odek attack in particular. And I shall begin by referring you to tab 6,
12 UGA-OTP-0150-0022, page 26, paragraph 24, where you said and I quote:
13 "Bunia is not far from this -- from his home area, near Labongo clan. He is always
14 with Ocan Labongo, another notorious commander who is always -- who is also from
15 Labongo clan."

16 Was that your statement?

17 A. [11:37:42] Yes, you said it correctly.

18 Q. [11:37:51] Mr Witness, is this the Labongo you could not clearly remember
19 when I asked you about him earlier on?

20 A. [11:38:11] The one you asked me earlier was Labong, not Labongo. But in
21 this one there is "O" at the end. The one I said I don't know is Labong. So if you're
22 talking about Labongo, yes, then this is the one I am talking about that comes from
23 that clan, which is all in Kitgum.

24 Q. [11:38:34] But, Mr Witness, I want you to be honest. Yes, in the writing it was
25 Labong, but I later on asked you whether you were aware of somebody called

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1 Labongo, Labongo actually.

2 MR AYENA ODONGO: [11:38:51] Your Honours, there is a difference between
3 Labong and Labongo, you know.

4 THE WITNESS: [11:39:07] (Interpretation) To inform the Court, Labongo is a
5 name, is a name in Acholi. Labongo is a clan, a small clan in Acholi in Kitgum. The
6 spellings are the same, but the pronunciations are different. If a person, if referring
7 to a name, then you say Labongo. If you are talking about the clan, then it is
8 Labongo. You can hear the difference in the voice or in the sound. That's the
9 difference.

10 PRESIDING JUDGE SCHMITT: [11:39:45] Indeed, you can hear it how you both
11 pronounce it, it is audible. Just to clarify, so what you have in front of you and
12 mentioned in paragraph 24, this is a person, this Ocan Labongo?

13 MR AYENA ODONGO: [11:40:02] Yes.

14 PRESIDING JUDGE SCHMITT: [11:40:03] This is the person so that we have, I
15 think this is now on the record and we can continue.

16 MR AYENA ODONGO: [11:40:08] Yes.

17 Q. [11:40:10] Now, Mr Witness, why did you describe Ocan Labongo as another
18 notorious commander? Did you often monitor the reports about the operations
19 conducted by the notorious commander over the radio?

20 A. [11:40:43] Labongo was a notorious commander, just as I have written down.
21 He was mostly in the LRA intelligence section. Most of the missions in relation to
22 the positions of attacks were done by him. So when a force is sent to attack, it would
23 mean the information came from him because he was in the intelligence section.
24 There were many things that he did.

25 But the ones that have been written here, which is in relation to the attacks that he

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1 participated in which is before the Court is not there. But in my notebook for
2 other -- for activities in other places, you would find there are so many things that he
3 did, that is why I refer to him as a notorious commander.

4 Q. [11:41:52] Mr Witness, in the Prosecution binder, tab 23, UGA-OTP-0242-2837.
5 Are you there?

6 PRESIDING JUDGE SCHMITT: [11:42:23] Yes. What is the problem?

7 VWU ASSISTANT: [11:42:29] Yes, and it is 23, tab 23. The number is not the
8 same.

9 PRESIDING JUDGE SCHMITT: [11:42:36] Perhaps we first clarify which tab we
10 are talking about, then we try to put it also on the screen please.

11 THE COURT OFFICER: [11:42:51] The document is displayed on the Evidence 1
12 channel.

13 PRESIDING JUDGE SCHMITT: [11:43:02] Is this the document you want to refer
14 to?

15 MR AYENA ODONGO: [11:43:05] Yes.

16 PRESIDING JUDGE SCHMITT: [11:43:06] Okay, yes. Then please move on.

17 MR AYENA ODONGO: [11:43:12]

18 Q. [11:43:12] Mr Witness, can you read the fourth point?

19 PRESIDING JUDGE SCHMITT: [11:43:24] I think we would have to make it a little
20 bit better because we only -- thank you very much, that's very kind.

21 MR AYENA ODONGO: [11:43:41] The page number, your Honours, is 2846.

22 Q. [11:44:05] Mr Witness, can you read the fourth point starting with "Labongo."

23 A. [11:44:27] (Speaks English) "Labongo said Dominic should shoot dead doctor.
24 But Dominic refused saying it needs Labongo himself."

25 Q. [11:44:55] Thank you. From this, Mr Witness, who of the two was superior to

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1 the other, in your opinion?

2 A. [11:45:28] (Interpretation) In the LRA, Dominic was superior to Labongo.

3 But the way LRA operates is different. You'll find that a senior commander could be
4 a colonel, but a second lieutenant is the one that would be his bosses. So according
5 to the ranks, it's right, Labongo is a junior to Dominic. But the appointment at that
6 particular time or the assignment at that particular time makes him to be a superior to
7 Dominic because of the assignment.

8 Q. [11:46:13] Thank you very much. You said this Labongo, Ocan Labongo was
9 an intelligence officer; is that correct?

10 A. [11:46:29] That's correct.

11 Q. [11:46:31] Do you know where intelligence officers were placed? Were they
12 in brigades or they were from the Control Altar?

13 A. [11:46:55] Intelligence should be in any unit. So if you are talking about
14 Control Altar, then that is a unit under Kony. So intelligence cannot be only with
15 Kony. All the units have intelligence.

16 Q. [11:47:26] Mr Witness, from the same document, can you go to page 2853.

17 Are you there, Mr Witness? I want you to go to the bottom where he starts "Dominic
18 with Labongo." And can you read the three sentences that follow each other from
19 up downwards.

20 A. [11:48:37] This is how it begins: "Dominic with Labongo" I wrote in
21 shorthand, but it should have been Dominic is with Labongo.

22 The second one is "Labongo to keep Dominic well."

23 Then Ocan Bunia was sending a message to Abudema, it was a coded message.

24 That's where it ended.

25 Q. [11:49:11] I want you to critically look at that line, which starts with "Bunia,"

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1 "Bunia" and then there is an arrow, and then the sentence "Labongo to keep Dominic
2 well."

3 Can you tell Court exactly what you intended to say. Was that an instruction from
4 Bunia to Labongo or what was it?

5 A. [11:49:57] Here, the speaker was saying Dominic should be protected very
6 well. But at the time of this draft it means there was a name that was probably in my
7 mind, but I did not write it down. But if you go to my notebook there is somebody I
8 referred to who gave the instruction that Dominic should be protected or guarded.

9 Q. [11:50:32] Is it your position that the person who gave this instruction was not
10 Bunia?

11 A. [11:50:52] No. Let's look at the notebook. If the notebook is there we can
12 look it up.

13 MR AYENA ODONGO: [11:51:06] Your Honours, we cannot lay our hands on the
14 notebook immediately, maybe late in the afternoon. Just one question in the
15 afternoon.

16 PRESIDING JUDGE SCHMITT: [11:51:14] But we trusted of course that you finish
17 your examination during this session. So perhaps you can, you have people in your
18 team perhaps that can at least try to find out and give you the information, and then
19 we can pick it up. I think this might be possible.

20 MR AYENA ODONGO: [11:51:38] Yes, that sounds logical, your Honour.

21 Q. [11:51:47] Mr Witness, you told Court, and in this case I'm referring to page 21,
22 lines 22 to 25, pages 21 and 22 of the Court transcript of 27 January 2017, where you
23 said you saved Abim because you intercepted LRA communication wherein they
24 were planning an attack on Abim; is that correct?

25 A. [11:52:50] That was during the time that OTP came to ask me to understand

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1 the strength of my -- of my work, and I gave them an example of what happened in
2 Abim. I explained myself.

3 Q. [11:53:05] That's what I mean, Mr Witness. And now, did you make any
4 notes about this interception?

5 A. [11:53:29] These are not recorded voices. This is what I was asked. But the
6 Abim record is in the notebook. This was not an intercepted message, this is what I
7 was asked. It was an interview between me and the people from ICC.

8 Q. [11:53:50] Well, Mr Witness, how did you get that information? Did
9 somebody come and report to you that there was an impending attack, or it is the case
10 that you actually intercepted it on radio?

11 A. [11:54:13] I am saying the voice that you are referring to, I did not intercept it
12 on radio. But the voice where the attack on Abim was mentioned is in record, is in
13 our record, is in our Internal Security Organisation record. In my section there is
14 that record on the Abim attack. But this was an interview between me and OTP.

15 Q. [11:54:49] But, Mr Witness, you're making it difficult for nothing. What I'm
16 saying is, yes, it is in your notebook. Where did that information that finally found
17 its way into your notebook come from?

18 A. [11:55:15] It came from the radio. The fact that it came from radio, because if
19 you say this particular message on Abim like what we are talking about now is as if
20 you're saying it is the one that is on radio. But the attack on Abim is recorded and is
21 in the notebook.

22 Q. [11:55:39] Did you intercept the communication about a planned attack on
23 Abim? Did you intercept it?

24 A. [11:55:56] That is exactly what happened and that is why I am talking about it.

25 Q. [11:56:07] Yes. Mr Witness, it is your statement before this Court that you

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1 were most of the time on radio listening to messages from the LRA waves. Now, I
2 want to find out, I want you to tell Court, Mr Witness, whether, like in the case of
3 Abim, you also intercepted communications concerning attacks on, number one,
4 Lukodi, which is within 20 kilometres of Gulu, where you operate from?

5 A. [11:57:06] All these two communications I listened on radio, but the dates and
6 time are all different. The dates are different and the times are different. It could
7 also be that the years were different, but the notebook would be the right document to
8 refer to.

9 Q. [11:57:29] Did you also intercept communication regarding attack on Odek,
10 which is within 40 kilometres of Gulu?

11 A. [11:57:50] That one I recorded. That is what OTP gave you the other day.
12 Those were all what I intercepted and recorded. The recording was also played and
13 you also listened to it.

14 Q. [11:58:09] Mr Witness, I want to remind you that what was played here was
15 the incidents of attack, but not the plan to go and attack; am I right?

16 In the case of Abim, you told Court that you got information that these people were
17 planning to attack Abim. So you gave this information to the field commanders,
18 who went and ambushed the LRA and averted the attack on Abim.

19 In this case I'm asking, in the case of Lukodi, did you also intercept communication
20 about the plan to attack Odek?

21 A. [11:59:13] No. That is now a clear information or question. The plan for
22 Abim was sent on radio before the attack. That is what I said that I helped. When I
23 got the plan, I wrote my report and I sent to my supervisors, the army, and my
24 department and immediately deployment was done. That is why in Abim one of the
25 commanders or one of the LRA commander called Okello Trigger was killed.

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1 The one of Lukodi, there was no plan that was communicated on radio, but after the
2 attack they brought it as an operational report, which was communicated on radio.

3 Q. [12:00:14] Now, Mr Witness, in the case especially of Lukodi, who ordered the
4 attack originally?

5 A. [12:00:36] What I know, that the person who attacked Lukodi was Dominic
6 because he said he's the one who did the attack.

7 Q. [12:00:46] Mr Witness, maybe we are not speaking from the same page. What
8 I'm saying is did the original order or the decision to attack Lukodi come from
9 Dominic or whoever, or did it come from somebody superior who ordered that
10 Lukodi should be attacked?

11 A. [12:01:24] It is difficult for me to respond to that question because if they had
12 talked about their plan on radio, I would be in a position to know who gave the order
13 for attacking Lukodi.

14 PRESIDING JUDGE SCHMITT: [12:01:44] So he does not have own knowledge
15 about this one, I would say.

16 MR AYENA ODONGO: [12:01:50] Maybe just to refresh his memory.

17 Q. [12:01:54] Could you have heard that the -- or, first of all, I mean, did Kony,
18 Joseph Kony or Otti know about this attack before it happened? Did you get to
19 know whether Otti or Joseph Kony knew about this attack before it happened?

20 A. [12:02:31] Following Otti's question, when he asked Dominic on radio, asking
21 who had attacked Lukodi, this question clearly shows that Dominic did not know
22 who attacked Lukodi. And he is not the one who gave the orders to attack Lukodi,
23 because if he had given the order to attack Lukodi, he wouldn't have asked who
24 attacked Lukodi; rather, he would have asked who attacked Lukodi and what were
25 the results of that attack.

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1 MR ELDERFIELD: [12:03:15] Your Honour, I'm sorry to rise. I can see that the
2 transcript at line 17 of page 44 says "Dominic." I'm not sure whether that's a
3 misrecording in the record or whether that was the witness's answer. It seems to us
4 not to make sense. I wonder if perhaps the answer could be given again or the
5 question could be re-asked.

6 PRESIDING JUDGE SCHMITT: [12:03:42] I'm not sure if we should repeat this
7 procedure. It might be simply a matter of how we edit the transcript in the end or
8 not, yeah. So I think these matters could normally be resolved by this internal
9 process, so to speak.

10 MR AYENA ODONGO: [12:04:04] Much obliged, your Honour.

11 Q. [12:04:09] Mr Witness, why is it that you were able to intercept and save Abim,
12 which is perhaps more than 200 kilometres away from Gulu, but you failed to save
13 the other three places I've talked about? Was there some problem with your system?

14 A. [12:04:52] I think that is not a problem. I'm telling the Court that what I have
15 written down is what I heard on radio. So if Defence is saying I was not able to save
16 those three places, how could I do that if there was no information on air? I can only
17 hear what has been said on radio, and that's the basis of my work and report.

18 MR AYENA ODONGO: [12:05:29] I'll move to another point, your Honours.

19 Q. Mr Witness, I want to draw your attention to some of the things you gave to
20 Court in answer to some of the questions put to you. And this is meant to assist
21 Court to understand, make comparison between those statements and understand
22 them better.

23 Mr Witness, on page 28 of the transcript, of the edited transcript of 27 January 2017,
24 lines 7 to 9.

25 A. [12:06:31] Yes. Here it is written "Mr Witness, did you add your own

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1 comments to the logbook?"

2 My response is as follows: I can add, I can make a comment or an observation --

3 Q. [12:06:58] But, Mr Witness, don't rush there. Let me lead you. This is how
4 you answered in lines 10 to 12. You said and I quote:

5 "That is impossible. I did not try because when I do, I'll go against my professional
6 code of conduct. I will not be doing what I have been assigned to do."

7 What that your answer, Mr Witness?

8 A. [12:07:38] (No interpretation)

9 Q. [12:07:44] No. Please, can you just answer whether this was your answer or
10 not. Don't explain anything yet.

11 A. [12:07:58] Yes, that was my response. I can't deny.

12 Q. [12:08:05] Very good. Now, Mr Witness, at tab 2 of your witness statement,
13 that is UGA-OTP-0027-0244, when the question was put to you, Mr Witness, and I
14 quote:

15 "Mr Witness, did you ever add your own comments to the logbooks, something that
16 didn't come from the radio, but came from your knowledge of how the LRA
17 worked?"

18 Mr Witness, at page 0247, paragraph 18.

19 PRESIDING JUDGE SCHMITT: [12:08:57] Just wait a couple of seconds. Now we
20 have it.

21 MR AYENA ODONGO: [12:09:01] Yes.

22 Q. [12:09:02] You said, Mr Witness, and I quote:

23 "In the large notebook, I first enter the date of the call and a reference number is
24 allocated to the call. After this, I then write the time of the start and end of the call
25 signs or names of the commanders who were on the net. I then write the body of the

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1 message. After this, I may add comments which may be of assistance."

2 THE COURT OFFICER: [12:09:33] I'm sorry, you're reading way too fast. Thank
3 you.

4 MR AYENA ODONGO: [12:09:38] Yes. Shall I start again?

5 PRESIDING JUDGE SCHMITT: [12:09:40] May I ask a short question to people in
6 the courtroom who understand Acholi: In general, is Acholi language would need
7 more time than English, like German, for example? If you would speak German, for
8 example, and translate it into English, you are very quick in the translation with
9 English. If you do it vice versa, it is a problem.

10 But Acholi, is it a language which needs more words, more time as German, for
11 example, than English? Do you have an answer to that? I'm not calling you as an
12 expert. It's just informally, of course.

13 MR AYENA ODONGO: [12:10:16] I happen to be an expert, your Honour, in this
14 language.

15 PRESIDING JUDGE SCHMITT: [12:10:20] But not in the function as an expert.

16 MR AYENA ODONGO: [12:10:21] Yes.

17 PRESIDING JUDGE SCHMITT: [12:10:23] Just informally.

18 MR AYENA ODONGO: [12:10:25] Your Honours, the Luo language is very
19 catatonic and they have very short words, but it may be that there are certain words
20 in English we don't have the equivalent in Luo, so you have to explain them, yes.

21 PRESIDING JUDGE SCHMITT: [12:10:46] I understand.

22 MR AYENA ODONGO: [12:10:47] Yes.

23 PRESIDING JUDGE SCHMITT: [12:10:47] So excuse me for interrupting. Now
24 everybody had enough time I think to look into the respective paragraph.

25 MR AYENA ODONGO: [12:10:55] Yes, your Honour.

1 So, your Honours, I was asked to be maybe slower. I read again:

2 "In the large notebook, I first enter the date of the call and a reference number is
3 allocated to the call. After this, I then write the time of the start and end of the ... call
4 signs or names of the commanders who were on the net. I then write the body of the
5 message. After this, I may add comments which may be of assistance to
6 commanders in the field who use the reports. They take this very seriously."

7 Q. [12:12:28] Mr Witness, is that what you said?

8 A. [12:12:38] Correct, that is exactly what I said.

9 Q. [12:12:44] In view of that, Mr Witness, could you please explain to Court these
10 obvious contradictions in your statement about the same subject matter? In one you
11 said no, you don't add anything. In the other you seem to be saying yes, I do.

12 A. [12:13:20] Thank you, the Defence. Thank you for giving me the chance to
13 explain. The information I obtained from radio calls, I do not add any word of my
14 own; I write everything up to the end, and once I've finished writing all that I've
15 heard on radio, then I may add comments or observations.

16 This happens because when I, when I send some reports to my commanders who are
17 based in Gulu and others who are based in Kampala, they sometimes ask me
18 questions. So for me to make, to make easy their work, I have to put comments and
19 observations which reflect my understanding of what I heard on radio; for example,
20 what are the plans of these people? I, as a person, what advice can I give to help the
21 government operate against the LRA? Those are the kind of things I add.

22 But the real message on air, I do not interfere with that. And the comments I write
23 down below the page, if it is a comment, I clearly indicate "comment," or if it is an
24 observation, I also indicate so. But the actual message is not tampered with, I don't
25 tamper with the actual message.

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1 Q. [12:15:15] Mr Witness, I want you to confirm to Court whether there was a
2 material difference between the first question and the second question?

3 PRESIDING JUDGE SCHMITT: [12:15:42] I have at the moment, I have a bit of
4 problems to understand the question myself. Perhaps you could repeat your first
5 question and the second and then ask if the witness sees a difference.

6 MR AYENA ODONGO: [12:15:54] Yes.

7 PRESIDING JUDGE SCHMITT: [12:15:55] We would allow that --

8 MR AYENA ODONGO: [12:15:57] (Microphone not activated)

9 PRESIDING JUDGE SCHMITT: [12:15:58] -- because I cannot follow at the moment.

10 MR AYENA ODONGO: [12:16:03] I'm much obliged, your Honour.

11 Q. [12:16:08] The first question was, Mr Witness: Did you ever add your own
12 comments? And I want to emphasise this, did you ever add your own comments to
13 the logbooks, something that didn't come from the radio, but came from your
14 knowledge of how the LRA worked?

15 And then the second question was: Mr Witness, did you ever add your own
16 comments to the logbooks, something that didn't come from the radio, but came from
17 your knowledge of how the LRA worked?

18 So I put the question again to you, Mr Witness: Is there any material difference
19 between the two questions?

20 A. [12:17:26] There could be a difference if you say that I add my words to what
21 the LRA messages have said. What I am saying is that whatever is said on radio,
22 right from the beginning up to the end, I don't add any words from me. But the
23 comments and observations, I do add them to help my superiors. This one I add
24 afterwards, and it's quite different from the main message on radio. That's my
25 understanding.

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1 Q. [12:18:02] In that case, Mr Witness, why didn't you give the same answer
2 when you were first asked?

3 A. [12:18:27] I thought I had answered everything. I just said I cannot add
4 something to what I heard on radio. Secondly, I do add things after having written
5 all the message I heard on radio. But I just add these comments just to help
6 operational activities. I think I've covered both questions.

7 Q. [12:18:55] Mr Witness, so that we may be reading from the same page, I want
8 you to read the first question.

9 PRESIDING JUDGE SCHMITT: [12:19:14] You're now referring to the transcript?

10 MR AYENA ODONGO: [12:19:18] Yes, the transcript.

11 PRESIDING JUDGE SCHMITT: [12:19:36] I think, Mr Ayena, this has been asked
12 and answered and we can draw our conclusions from it, I would say. I would not
13 want the witness to have to read out this again.

14 MR AYENA ODONGO: [12:19:48] Much obliged, your Honour. I think the point
15 is made.

16 Q. [12:20:01] Mr Witness, you talked about damage to documents by what you
17 call "damp." Were these damages substantial?

18 A. [12:20:38] It's difficult to give a response to that because if I respond to it, it
19 might compromise the national security.

20 PRESIDING JUDGE SCHMITT: [12:20:51] So if the witness feels more comfortable
21 to give this answer in private session --

22 MR AYENA ODONGO: [12:20:56] Yes.

23 PRESIDING JUDGE SCHMITT: [12:20:56] -- then we can do that. But I fail to see
24 the problem, but I think it would be wise to go shortly into private session and then
25 he may answer truthfully to that question.

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1 MR AYENA ODONGO: [12:21:08] Much obliged, your Honour. Can we go to
2 private session.

3 (Private session at 12.21 p.m.)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Open session at 12.22 p.m.)

18 MR AYENA ODONGO: [12:22:42]

19 Q. [12:22:42] Now, you talked about --

20 THE COURT OFFICER: [12:22:44] We are back in open session.

21 MR AYENA ODONGO: [12:22:47] Sorry.

22 Q. [12:22:49] Mr Witness, before you answered questions put to you by the
23 investigators, did they ask you to authenticate the tapes that were played back to you
24 to ascertain whether they were the ones you or your colleagues in ISO intercepted, or
25 could it be that there was a possibility the tapes from which the recording was being

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1 played were those from other security agencies?

2 A. [12:23:50] We played several tapes, and among -- these were tapes coming
3 from my office. Perhaps one tape may have been brought from elsewhere, just one,
4 not many.

5 Q. [12:24:18] Do you remember which one?

6 A. [12:24:33] I don't remember because I didn't consider it as an important issue,
7 but I still remember that one tape was brought from elsewhere.

8 Q. [12:24:52] And, Mr Witness, you said in your statement that Prosecution came
9 sometime in 2005 and several times thereafter and presented to you selected excerpts
10 of some tape-recorded communications and transcripts for you to listen to and to
11 attempt to identify the voices and the messages on them; is that correct?

12 A. [12:25:41] That is correct.

13 Q. [12:25:42] And, Mr Witness, you were to verify the accuracy on the transcripts
14 and annotate areas which were previously stated to be inaudible or inaccurately
15 transcribed; is that correct?

16 A. [12:26:13] Can you repeat, please?

17 Q. [12:26:21] Apart from the excerpts, you stated of course you were given
18 excerpts to read from, and then the question I was putting to you again is that you
19 were to verify those excerpts, you were to verify their accuracy on the transcripts and
20 to annotate areas which were previously stated to be inaudible or inaccurately
21 translated. You were asked to verify and, you know, their accuracy?

22 A. [12:27:09] There was a lot of work. We played the tapes regularly. When I
23 began my testimony, when they brought the tapes, they're some areas where voices
24 cannot be clearly heard and I tried to make some corrections. And also other
25 portions where the translation was not good, so thereto I made corrections. So it is

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1 true, I had to verify and make corrections here and there.

2 Q. [12:27:56] And, Mr Witness, you also said that you used only the Acholi
3 version of the transcription to verify the accuracy and annotation of the transcripts?

4 A. [12:28:34] It's not true that I just made corrections only in the Acholi version,
5 because we did not have enough time to make corrections both in English and Acholi.
6 So if I make corrections on the Acholi version, at times if I see something which is not
7 correct in the Acholi -- in the English version, I would also make corrections.

8 Sometimes I wouldn't have time to do all the corrections.

9 MR AYENA ODONGO: [12:29:30] Mr Witness -- I beg your indulgence,
10 your Honours.

11 Your Honours, I think I'll skip this, although I know it is somewhere in his statement
12 because this was reproduced from his statement. But since it is on Court record I'm
13 sure this can be found.

14 Q. [12:31:11] And you also said that you were not the person who did the
15 transcription in Acholi and the translation into English; is that correct, Mr Witness?

16 A. [12:31:37] The transcript being used, I have no idea where it was translated.
17 It was brought to me when already translated.

18 Q. [12:31:54] Mr Witness, in view of the answers you've given to those questions
19 of mine, would you put your hand on the line to be cut for the authenticity of those
20 translations into English especially?

21 PRESIDING JUDGE SCHMITT: [12:32:18] Despite the wording, I think the witness
22 understands what is the meaning. The wording is very sharp, so to speak, but I
23 think the witness understands that he's going to say something about his
24 understanding of the English translation --

25 MR AYENA ODONGO: [12:32:35] Yes, your Honour.

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1 PRESIDING JUDGE SCHMITT: [12:32:36] -- generally speaking.

2 You can answer the question, please, Mr Witness, of course, without thinking about
3 any damage that might be done to you in the process, which was a little bit implicated
4 in the question, in the wording of the question.

5 THE WITNESS: [12:33:15] (Interpretation) Well, I wasn't thinking that way, but
6 the translation, some parts were correctly translated, some parts were not -- were
7 inaccurate. It could be spelling errors which are not correctly spelt, or the way they
8 listened or heard that portion may not be right, or some parts they didn't completely
9 hear and I have to help in translating the parts that they didn't hear.

10 MR AYENA ODONGO: [12:34:01]

11 Q. [12:34:01] Thank you, Mr Witness.

12 Mr Witness, yesterday we talked briefly about what could result from anybody
13 defying Kony's orders, and you told Court that quite often, depending on the nature
14 of the offence, it could result in being killed; is that correct, Mr Witness.

15 PRESIDING JUDGE SCHMITT: [12:34:43] Mr Elderfield.

16 MR ELDERFIELD: [12:34:44] Can we have a cite, your Honour?

17 PRESIDING JUDGE SCHMITT: [12:34:47] Please, can we have a correct citation?

18 And may I remind everybody that I think we, as you also indicate in your question,
19 we have already covered the issue, at least, so I understand that there is a new line of
20 questioning in that.

21 MR OBHOF: [12:35:14] Your Honours, Court, for the citation it is from the realtime
22 transcripts T-38, page 58, starts line 8, goes all the way down to line 20.

23 MR AYENA ODONGO: [12:35:40]

24 Q. [12:35:40] Mr Witness, you may wish to refresh your memory by reading what
25 has been cited by my colleague.

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1 PRESIDING JUDGE SCHMITT: [12:35:49] Unfortunately we do not have it on the
2 monitor already.

3 MR AYENA ODONGO: [12:35:52] Sorry.

4 PRESIDING JUDGE SCHMITT: [12:36:08] In the meantime, you know, to bridge a
5 gap, so to speak, I would like to say something which applies to everybody in the
6 courtroom. When we in the future cite from transcript, we don't have to put to the
7 witness "Have you said that"? Because the transcript -- he has said that, we can
8 assume the witness has said that. So this facilitates also a little bit the questioning.
9 We don't have to verify it again because we -- the transcripts undergo a certain
10 process, as we have discussed before, and the end product really reflects what has
11 been said in the courtroom. So just for everybody in the future we can just assume,
12 yes, the witness has said that.

13 And given that, the question, is it possible to display it? We have it now. I was
14 talking; because of that, I was not aware that it was displayed.

15 MR AYENA ODONGO: [12:37:15] Yes.

16 PRESIDING JUDGE SCHMITT: [12:37:16] So now we can continue.

17 MR AYENA ODONGO: [12:37:18] I don't know whether it will be necessary for
18 him to refresh his memory by reading.

19 PRESIDING JUDGE SCHMITT: [12:37:24] Just assume he has said what --

20 MR AYENA ODONGO: [12:37:26] Yes.

21 PRESIDING JUDGE SCHMITT: [12:37:29] -- is reflected in the transcript, as I have
22 said.

23 MR AYENA ODONGO: [12:37:34] Yes.

24 Q. [12:37:35] Mr Witness, is my question correct?

25 A. [12:37:46] I haven't -- I haven't got the question. Could you repeat?

1 Q. [12:37:52] Mr Witness, I was referring to our interaction here yesterday where
2 we talked briefly about what could result from any of the commanders defying
3 Kony's orders. And you gave certain answers which could be paraphrased to say
4 that to the effect that quite often, depending on the nature of the offence, it could
5 result in being killed.

6 A. [12:38:39] That is what I said yesterday, that is it depends on how Kony thinks
7 at that time. But I did not say he could -- or he could kill. But if he could kill,
8 maybe he can do it, depends on what crime this person committed or what the person
9 did.

10 Q. [12:39:38] Mr Witness, of course that's what you said. Among those who
11 defected and joined you, Mr Witness, did you ever discuss with any of them Kony's
12 character and how they responded to that character of Kony?

13 A. [12:40:20] It's difficult to talk about Kony's character according to what they
14 say. Sometimes he's a good person, sometimes he changes, you can't understand his
15 mind, so it's difficult to tell his character. Sometimes he can give any orders. You
16 don't even understand where he received the orders from. This is what they were
17 telling me.

18 Q. [12:41:00] Mr Witness, would I be right to say that those who were in the bush
19 with Kony were in constant fear for their lives and remained guarded?

20 A. [12:41:34] It may not be correct. Should I continue?

21 Q. [12:41:48] Yes.

22 A. [12:41:54] My response is it may not be correct for these reasons. If you are a
23 person who is fearing for your life, you even know that this person is bad, could kill
24 me. You are given time to roam around from The Hague up to Amsterdam and then
25 you come back through me. Why don't you escape from there if you know that I am

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1 a killer?

2 So these people who stay with Kony, well, they know that Kony was good to them,
3 that's why they continue staying with him. Those who saw his bad side are the ones
4 that came out, they managed to find time and they escaped.

5 So it may not be true that all these commanders are guarded closely, otherwise it
6 would be Kony himself to say you have to be here, because the brigade commanders
7 have their own -- their own way, even the battalion commanders have their own way.
8 They could escape.

9 But these other commanders, they can individually escape, even the soldiers lower
10 ranks also escape. So you -- it now depends on an individual, the way you see your
11 life in the bush, you can continue if you -- depending on what you see and find.

12 Q. [12:43:18] Mr Witness, in your experience, and especially from interacting with
13 those who defected, did you get to know whether there were certain individuals
14 around whom Kony paid particular attention because of what he heard about them or
15 what he feared about them?

16 A. [12:44:01] Well, some of those happened. It was there.

17 Q. [12:44:11] Mr Witness, can you cite to Court the kind of incidents that would
18 draw Kony's particular attention to, you know, put surveillance against such
19 witnesses?

20 A. [12:44:34] Yesterday I said if you hear Kony says "Let this person be guarded,"
21 it means the person violated his orders. So Kony will then give orders that this
22 person should be guarded.

23 Q. [12:44:57] How about those who were predisposed to escaping? Did you
24 hear the -- I mean, the returnees talk about them?

25 A. [12:45:19] Those who wanted to escape was briefly mentioned. And they also

1 said it's difficult to escape. And the Court, this is really true, it is difficult to escape,
2 but even then still people escaped. If you're not interested to stay in the bush
3 anymore, then you will escape.
4 The commanders who respect Kony's orders are the people who now protect or guard
5 these people who want to escape. And if you escape anyhow and you're not careful,
6 you could even be killed along the way. These are some of the reports we were also
7 getting.

8 Q. [12:46:27] Mr Witness, we are coming to the end of our cross-examination, but
9 I wanted you to help Court to understand the call signs which were used for
10 Labalpiny and Labongo. Can you explain to Court, I mean the pseudonyms that
11 were used, especially LBP and LAB, were they interchangeably used for either of
12 these two commanders?

13 A. [12:47:30] These are not call signs. We only indicated to -- we indicated
14 alongside the message that was sent by that person to indicate that was a message
15 from that person. For Labalpiny you would find written "LBP." And for Labongo
16 you will find indicated "LAB." It is not a call sign.

17 Q. [12:48:02] That's what I wanted you to explain. So when you found "LBP,"
18 that referred to Labalpiny? And when you found "LAB," that referred to Labongo?

19 A. [12:48:25] In the documents that I was translating, that is the meaning. But if
20 it's in another document, then maybe that person is meaning another thing. But if it
21 is the documents that I was translating, yes, that is what it stands for.

22 Q. [12:48:56] Mr Witness, in your experience as a senior intelligence officer, did
23 you come to know that Kony or LRA for that matter had collaborators within the
24 population of northern Uganda and elsewhere?

25 A. [12:49:37] Yes, that is in our language, we refer to them as collaborators.

1 They are there.

2 Q. [12:49:46] Which is this language of yours?

3 A. [12:49:54] In the language that we use, we call them collaborators, the people
4 who refer -- who collaborate with Kony, in our intelligence language we call them
5 collaborators. It's an English word, yes.

6 Q. [12:50:10] What would they do, Mr Witness?

7 A. [12:50:23] These are people who pick information or secrets about plans
8 that -- in the villages and they take them to Kony. They are also the ones who point
9 out the points or places where the soldiers are and they tell them not to go there. So
10 they do so many things. They pick secrets about the government and take it to Kony
11 so that Kony can know, so that he can be able to plan how to defeat the planned
12 against them so that they can continue with their normal life.

13 Q. [12:51:16] Did these collaborators support Kony's objectives or Kony's war, the
14 LRA war?

15 A. [12:51:38] When I talk about collaborators, these are people who support
16 Kony's plan. It's different from the delegation that went to meet Kony. These are
17 people -- they are different from delegations who have been sent to discuss with Kony,
18 but the collaborators are Kony's people who, you know, work with him.

19 Q. [12:52:16] Did the government or UPDF also have collaborators among the
20 civilian population that provided intelligence on LRA targets?

21 A. [12:52:47] That is called civil intelligence, so when I go to civil intelligence
22 that's not my area, so you need to ask those who work with people outside. Mine is
23 technical intelligence so it is difficult to answer this question.

24 Q. [12:53:06] From your previous answer, do you want to tell this honourable
25 Court whether there was some support for Kony's action or the LRA war in northern

1 Uganda?

2 A. [12:53:45] There are varying opinions. Some few like Kony's actions, those
3 are the ones that form the group that collaborates with him, but the majority did not
4 support his work. So people are divided. You know in the community people are
5 different, people have different thinking. So I cannot say all of these people hate
6 Kony or all of these people support Kony. There are some who like his actions or his
7 work, so that's why they pick secrets about the good operation to protect the civilians
8 and they take it to Kony. So people are divided into two.

9 Q. [12:54:27] Mr Witness, you said the majority did not support this. This war of
10 LRA, from records available, started way back around 1987. Can you tell this
11 honourable Court whether the level of support kept on changing?

12 A. [12:55:11] I can say there were changing level of support. Why I say there
13 were -- it was changing is like this: There were people who were blindly supporting
14 without knowing what was happening before they were affected, they were
15 supporting, but after the personal experience, the problem, some whose children were
16 abducted, some whose children were killed realised that, okay, this is really bad, so
17 they accepted, they said "No, this is now not good." But there are those who were
18 thinking and saying that what Kony was doing was good, they continued with it. So
19 it could also be that at the height of the insurgency people could not just sit, when
20 they hear the positions of a government base, they would run there to seek protection.

21 Q. [12:56:25] So, Mr Witness, as somebody -- because you've already told the
22 Court that you and I come from northern Uganda and we belong to that population,
23 can you tell this honourable Court the reason why the level of support for the LRA
24 war was higher at the beginning than when people realised that, after all, Kony was
25 really killing them? Was there any reason why people supported the war?

1 A. [12:57:24] You said very well that you're also from northern Uganda. The
2 history about the leadership of Uganda came from northern Uganda, but when this
3 regime came to power when this president now the leader came, he's from western
4 Uganda, everybody was saying "This is ours, this is ours." That is the reason why
5 they were all supporting Kony, it was blindly support, a blind support that he
6 overthrew our government, he overthrew our government. But later on, when they
7 realised that the person we were supporting was against us they turned away. So at
8 the beginning they didn't know, but later on when they realised they starting turning
9 away from him.

10 Q. [12:58:17] Last but by no means least, Mr Witness, in your experience were
11 there socio-economic -- and of course you have talked about political connotations,
12 were there also socio-economic connotations that could be ascribed to the support of
13 the population of northern Uganda, to Joseph Kony and to the LRA at the beginning?

14 A. [12:59:04] Well, if it was a problem of money, sir, if you look at it at around the
15 time of the overthrow of government when the current president overthrew the
16 government, if you compare how the government was then and now, where is the
17 difference? You could -- can you answer me, which one is better? I see now we are
18 far ahead, there is -- the economy has grown. So I don't support your idea. Maybe
19 it was a few people who were -- who had selfish interest, with their own interest, they
20 were pushing a few people who were ignorant. These are ideas of a few elite people
21 who were riding on the ignorance of the community --

22 PRESIDING JUDGE SCHMITT: [13:00:04] Mr Witness, may I shortly interrupt you,
23 and I think we all see now. Let the question pass, so to speak, because we have
24 somebody here who is from the region and -- but we are now not going to entertain of
25 course a political discussion and -- (Overlapping speakers)

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1 MR AYENA ODONGO: [13:00:19] No, no, no.

2 PRESIDING JUDGE SCHMITT: [13:00:21] So I would say we stop it.

3 MR AYENA ODONGO: I totally agree with you. I can see that there is a lot of
4 diversion and it is being politicised. I thank you. That is the end of my questions.

5 Q. [13:00:33] Thank you very much, Mr Witness.

6 PRESIDING JUDGE SCHMITT: [13:00:35] But, Mr Witness, you have to stay a
7 little bit longer here because before we go into the break I would like to address the
8 Prosecution.

9 You have indicated that you wanted to really shortly re-examine the witness. Let me
10 say the following: We allow this, you can -- I can only imagine you put a former
11 statement to the witness and then ask one or the maximum two questions. We are
12 not inclined to hear further witnesses on that one. We would rather receive their
13 statements in writing, and I would assume that there are no objections against that.
14 We allow this because there is no prejudice seen for the Defence. Because of that, we
15 allow this short re-examination, and I repeat very short.

16 And then of course you have again the floor. That is perfectly clear, if you want to.
17 So please put your two questions or the maximum three, I would say, to the witness.

18 MR ELDERFIELD: [13:01:39] Thank you, your Honour.

19 QUESTIONED BY MR ELDERFIELD:

20 Q. [13:01:44] Good afternoon, Mr Witness. Yesterday you were asked questions
21 about the author of a sketch plan of the ISO building. Do you remember that?

22 A. [13:02:05] Yes, I do.

23 Q. [13:02:06] I would like to draw your attention to tab 6 of the Prosecution's
24 binder.

25 The ERN is 0258-0699.

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1 PRESIDING JUDGE SCHMITT: [13:02:26] In the meantime, notorious tab 6 of your
2 binder.

3 MR ELDERFIELD: [13:02:38]

4 Q. [13:02:38] Mr Witness, can you turn to page 0707. I'm going to read you the
5 first sentence of paragraph 36 and ask you one or two questions. So again this is in
6 the context of the sketch of the ISO building.

7 PRESIDING JUDGE SCHMITT: [13:03:10] You don't have to display it anymore.
8 I think the witness is aware of the sketch that we have talked about yesterday.

9 MR ELDERFIELD: [13:03:18]

10 Q. [13:03:18] In your statement to the Prosecution last year in February and
11 March 2016, you said:

12 "I was shown a hand-drawn sketch, attached to this statement at Annex A."

13 Mr Witness, was that the truth?

14 A. [13:03:45] It is true.

15 Q. [13:03:48] So did you draw the sketch as you said yesterday, or in fact was it
16 drawn by someone else and shown to you as you said in the statement?

17 A. [13:04:08] I have my signature there and that means that even if I didn't sketch
18 it, it is as if I sketched it because my signature is down there.

19 MR ELDERFIELD: [13:04:19] We have no further questions.

20 PRESIDING JUDGE SCHMITT: [13:04:21] And it's now of course the turn of the
21 Defence if you want to continue on that.

22 QUESTIONED BY MR AYENA ODONGO:

23 Q. [13:04:44] Mr Witness, when you were shown this sketch, were you told when
24 it was drawn and by whom?

25 A. [13:05:07] This sketch was brought to me already sketched and it was

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1 this -- and it was the Prosecutor who brought to me this sketch. And to the best of
2 my recollection, it's true yesterday I was confused because there were too many
3 things.

4 When they brought this sketch and showed it to me, I did confirm that this map
5 shows the position of my office.

6 Q. [13:05:52] Mr Witness, do you remember that you went into great details
7 explaining to Court how you drew this diagram, how you placed, beginning from
8 tree and then positions, how there was coincidence about P-59, P-3, P-32? Do you
9 remember that?

10 A. [13:06:31] Yes, I do remember because the map actually shows the compound
11 itself. That's why I said so.

12 (Redacted)

13 (Redacted)

14 A. [13:07:08] It is true, because it is in the barracks.

15 Q. [13:07:16] In that case is it allowable for -- let me begin from here: Would it
16 be true to say that military establishments are restricted areas?

17 A. [13:07:47] What you say is correct.

18 Q. [13:07:56] Would it in your view, therefore, make sense that a foreigner would
19 be allowed to draw the sketch map of such military establishment? Where did they
20 get that permission from?

21 A. [13:08:30] (Redacted) Yeah, it is possible. Even you, yourself, when you
22 want to go to the barracks, if you give the reasons for going to the barracks, yes, you
23 may be allowed to enter the barracks. That's why the people who sketched this
24 house were allowed to enter, because they had obtained permission from above.
25 And they came and even took photos.

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1 They just didn't come like that and just entered the barracks like that. They first
2 sought for authorisation by passing through the division commander, the division
3 OC, and that's why they were allowed aid. And they gave their reasons for coming
4 to the barracks, since they were following up the charges against the LRA, who are
5 alleged to have committed atrocities, that is the reason why these people were
6 authorised to come to the barracks. And it is allowed by law.

7 Q. [13:09:50] Mr Witness, if you were to be told that this diagram was drawn
8 somewhere in 2015, would it surprise you that it was only brought to your attention
9 and attached as an annexure to your last statement, much as there were statements
10 which you had made in between the time when it was made and the time when you
11 finally annexed it to your statement?

12 A. [13:10:49] These people didn't do their investigations just once. They began
13 their investigations in 2005. I think in 2005, I think they came to me in the office
14 three times. Then there was no activity. Afterwards they started their activities,
15 their investigations.

16 So if you say this map was drawn around 2015, that may be correct, because
17 investigations didn't take place just in one day. It took place on different days and
18 several times.

19 Q. [13:11:37] Did they tell you the purpose for this sketch?

20 A. [13:11:52] The information I received from my supervisor is that we were
21 assembled, but before that we received a report informing us that we were expecting
22 some visitors from the ICC.

23 Q. [13:12:14] Sorry, I must intervene. You are not answering my question. I
24 am asking you did the OTP investigators tell you the reason why they were making
25 that sketch? I'm no longer talking about permission and how they did it, I mean,

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1 how you assembled. Can you tell this honourable Court how -- I mean, whether
2 they gave you the purpose for the sketch?

3 A. [13:12:45] They told me that this map would help them because they should
4 indicate the position where this information is being got from.

5 Q. [13:12:58] Did they discuss with you those pseudonyms, P-59, P-3, P-32? And
6 did they actually go into those rooms?

7 A. [13:13:27] As I said, these people came for investigations in our office several
8 times. There are three different offices. But there were two offices, my office and the
9 office of the UPDF which were most used for during the investigations. So they did
10 not go to each office at a go. They will come to my office when they came and had to
11 interact with me. But the position shows the different offices, for UPDF, for Internal
12 Security Organisation, the living room and the bathroom.

13 MR AYENA ODONGO: [13:14:16] That's all, your Honour.

14 PRESIDING JUDGE SCHMITT: [13:14:19] Thank you very much, Mr Ayena.

15 Mr Witness, thank you for answering the questions and for the assistance you put to
16 the Court. This concludes your testimony. We wish you a safe trip back home.

17 (The witness is excused)

18 PRESIDING JUDGE SCHMITT: We have now our lunch break until 2.30 and then
19 we continue with Witness P-440.

20 THE COURT USHER: [13:14:47] All rise.

21 (Recess taken at 1.14 p.m.)

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

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

24 PRESIDING JUDGE SCHMITT: [14:32:23] It's getting more and more packed here
25 on the desk, so at one point in time you won't see the Bench anymore in person, so to

1 speak.

2 Mrs Kerwegi, welcome again to the courtroom. Could you please introduce yourself
3 shortly for the record.

4 MS KERWEGI: [14:32:59] Good afternoon, your Honours. I am Sarah Kerwegi,
5 legal advisor in this matter. Thank you.

6 PRESIDING JUDGE SCHMITT: [14:33:07] Thank you.

7 THE COURT OFFICER: [14:33:10] Information for everyone --

8 PRESIDING JUDGE SCHMITT: [14:33:12] There might be no tone at the moment.

9 THE COURT OFFICER: [14:33:15] -- present in the courtroom, we had to reset the
10 audio system, so you need to press the volume button a couple of times, please.
11 Thank you.

12 PRESIDING JUDGE SCHMITT: [14:33:37] So a test would be if you can hear me
13 now for example?

14 MR GUMPERT: [14:33:43] Loud and clear, your Honour.

15 PRESIDING JUDGE SCHMITT: [14:33:45] Okay. It need not be that Mrs Kerwegi
16 again introduces herself for the record. But welcome again, Mrs Kerwegi. The
17 Chamber turns now to the testimony of the next Prosecution witness, Witness P-440.
18 The Chamber has granted the following protective measures by way of two email
19 decisions sent on 30 January 2017 and 31 January 2017, and these are voice distortion,
20 image distortion, use of pseudonyms, use of closed and/or private session when
21 required and redaction of any identifying information from any record that may be
22 disseminated to the public.

23 The Chamber will now discuss the matter of assurances for the witness pursuant to
24 Rule 74 of the Rules of Procedure and Evidence. And for that we move into private
25 session.

- 1 (Private session at 2.34 p.m.)
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- 14 (Open session at 2.37 p.m.)
- 15 THE COURT OFFICER: [14:38:00] We are back in open session, Mr President.
- 16 PRESIDING JUDGE SCHMITT: [14:38:07] Thank you very much.
- 17 And we can bring now in the witness.
- 18 (The witness enters the courtroom)
- 19 PRESIDING JUDGE SCHMITT: [14:39:27] Mr Witness, good afternoon. Can you
- 20 hear me?
- 21 WITNESS: UGA-OTP-P-0440
- 22 (The witness speaks Acholi)
- 23 THE WITNESS: [14:39:35] (Interpretation) Good afternoon.
- 24 Yes, I can hear you.
- 25 PRESIDING JUDGE SCHMITT: [14:39:39] Mr Witness, you are going to testify

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1 before the International Criminal Court. On behalf of the Chamber I would like to
2 welcome you to the courtroom. There should be a card in front of you with a solemn
3 undertaking to tell the truth. Could you please read out this card aloud.

4 THE WITNESS: [14:40:02] (Interpretation) Oath: I swear that I will tell the truth,
5 the truth and nothing but the truth.

6 PRESIDING JUDGE SCHMITT: [14:40:27] Thank you very much.

7 Let me now explain to you how the protective measures that the Chamber has put in
8 place for your testimony work. The following measures are put in place to protect
9 you:

10 Face and voice distortion has put in place, which means that no one outside the
11 courtroom can see your face during the testimony on the screen and recognize your
12 voice.

13 There will also be the use of a pseudonym. In accordance with that, we will all refer
14 to you only as "Mr Witness," as I do at the moment, to make sure that the public does
15 not know your name.

16 When you answer questions that will not give away who you are, we will do so in
17 open session, which means that the public can hear what is being said in the
18 courtroom.

19 When you are, on the contrary, asked to describe anything that relates specifically to
20 you or you are asked to mention facts that might reveal your identity, we will do this
21 in what we call private session.

22 In private session there is no broadcast and no one outside the courtroom can hear
23 your answer. If ever anything gets said during open session which should have
24 been said in private session we will do our best to protect this information.

25 Your testimony will be broadcast on a delay, and we can remove any such remarks

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1 from the broadcast which will be heard by the public and also from the public

2 transcript of the proceedings.

3 We have now to turn back briefly, briefly to private session.

4 (Private session at 2.42 p.m.)

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3 (Redacted)

4 (Redacted)

5 (Open session at 2.45 p.m.)

6 THE COURT OFFICER: We're in open session, Mr President.

7 PRESIDING JUDGE SCHMITT: [14:45:14] Thank you very much.

8 We have a few practical matters, Mr Witness, that you should have in mind when
9 giving your testimony. I have just been told that the interpreters wish you to speak a
10 little bit up, to speak a little bit louder so that they can hear you better. Furthermore,
11 everything we say here in the courtroom is written down and interpreted and you,
12 therefore, have to speak clearly and at a slow pace. Also please speak into the
13 microphone, as I said, a little bit louder perhaps as you did before, and please only
14 start speaking when the person that puts the questions to you has finished.

15 If you have any questions yourself, you can raise your hand so we know that you
16 wish to say something. Have you understood all that too?

17 THE WITNESS: [14:45:59] (Interpretation) Yes, I've understood.

18 PRESIDING JUDGE SCHMITT: [14:46:09] We will then start your testimony and
19 now it's time for Mr Gumpert to raise -- to rise of course, not to raise.

20 MR GUMPERT: [14:46:18] I'm sorry to say that I must immediately ask to go into
21 private session. I'm going to try to deal with all of the matters which require private
22 session in one go and as quickly as I may to move back into public session.

23 PRESIDING JUDGE SCHMITT: [14:46:33] I know we have public in the gallery.

24 This is perhaps to explain them a little bit, this sometimes happens for the protection
25 of witnesses that we have to go from open to private session and back and back again.

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1 Do you expect, can you have an estimate how long it will take? Only an estimate.

2 We don't have a stopwatch here.

3 MR GUMPERT: [14:46:58] 15, 20 minutes perhaps.

4 PRESIDING JUDGE SCHMITT: [14:47:00] 15, 20 minutes perhaps in private session.

5 We go to private session and then afterwards again in open session.

6 (Private session at 2.47 p.m.)

7 (Redacted)

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11 (Redacted)

12 (Redacted)

13 A. [14:47:52] This is how my school ended. During the holidays I had gone to
14 visit my aunty. Then I met with a group of people along the way.

15 PRESIDING JUDGE SCHMITT: [14:48:32] Please continue, Mr Witness.

16 THE WITNESS: [14:48:37] (Interpretation) So when I met the attackers, they
17 captured me and took me with them, and that is how my education ended. That is
18 where I can stop I think for now.

19 MR GUMPERT: [14:49:02]

20 Q. [14:49:03] Who were the people who took you away?

21 A. [14:49:06] At that time I did not know who exactly they were, but when I stayed
22 with them for about two to three hours, I realized that they were the Holy Spirit
23 group.

24 Q. [14:49:31] Do you know another name for the Holy Spirit group?

25 A. [14:49:40] They were mostly referred to as Lakwena.

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19 Q. [14:56:02] Yes. I want you to explain shortly to the Court about the
20 organisation of this group of people that took you away, how they were divided
21 amongst themselves or organised.

22 A. [14:56:21] The group that captured me, how they were organised, I saw that
23 they were always not in one group. They would split in different groups, and then
24 at some point, depending on how they've organised, then again they reorganise and
25 come back into one group.

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1 Q. [14:56:59] Did the different sub-groups have names, and if so, can you tell us
2 those names?

3 A. [14:57:09] The main group, which is the first group, which is the overall group
4 was called Control Altar. And then the other units: The first group is Gilva, the
5 other one is Stockree, the other one is Sinia. And there was a smaller one which was
6 also there, was called Trinkle.

7 (Redacted)

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Trial Hearing
WITNESS: UGA-OTP-P-0440

(Private Session)

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WITNESS: UGA-OTP-P-0440

(Private Session)

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WITNESS: UGA-OTP-P-0440

(Private Session)

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(Private Session)

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8 (Open session at 3.18 p.m.)

9 THE COURT OFFICER: [15:18:14] We are in open session, Mr President.

10 MR GUMPERT: [15:18:32]

11 Q. [15:18:32] What kind of people would be chosen by the group that abducted you
12 to act as radio operators?

13 A. [15:18:44] Often the people selected to be radio operators were at least some
14 people with some background education and who can be -- who can read and write.

15 Q. [15:19:11] And once those people have been selected, what kind of training
16 would they receive?

17 A. [15:19:25] The training offered concerns how to tune in the radio, how to change
18 the channels, how to send messages through the radio, and also how to move to the
19 place from where you are supposed to send the messages. Those are the main things
20 which are first taught to the trainees.

21 Q. [15:19:57] And once they had been trained, where would they go next?

22 A. [15:20:09] After the training, once people have acquired the skills in using the
23 radio, they may be deployed in the different groups or different units.

24 Q. [15:20:29] And what would their work be in the different units?

25 A. [15:20:41] They would work using the radio, receiving messages through the

1 radio, maintaining the radio so that no damages may occur to their equipments.

2 Q. [15:21:08] Who would decide on the content of the messages sent over the radio?

3 A. [15:21:13] The main person is Kony himself, and that will be according to the
4 programme he has organised.

5 Q. [15:21:45] I think that's the first time you've mentioned that name, Kony. Can
6 you just briefly explain the role of that person, Kony, in the organisation which had
7 abducted you?

8 A. [15:22:02] Kony was the overall commander of the LRA.

9 Q. [15:22:22] Let's turn to the radios themselves. Where do they come from
10 mostly?

11 A. [15:22:28] The radios were kept at the Control Altar. From there they are
12 distributed to the different groups, or different units.

13 Q. [15:22:54] My question wasn't clear. What I am really asking is what was their
14 original source?

15 A. [15:23:06] I don't understand the question. The radios, it depends on where the
16 radios have been found by the different groups. So when they come across a radio,
17 they take it because it is very important for communication.

18 PRESIDING JUDGE SCHMITT: [15:23:38] Mr Witness, when you say "found" could
19 you perhaps please explain what you mean by that, what means "find a radio"?

20 THE WITNESS: [15:23:49] (Interpretation) In my understanding, that means they
21 would have looted the radio during their looting operations.

22 MR GUMPERT: [15:24:07]

23 Q. [15:24:08] How were the radios powered? What was the source of the power,
24 the electricity?

25 A. [15:24:17] Often it is the solar energy which is used for powering the radios.

1 Q. [15:24:44] And where did the equipment to generate solar energy come from?

2 A. [15:24:48] All those equipments are looted and, during the operations, they
3 target places where they expect to get those kind of equipments and then they do go
4 and capture.

5 Q. [15:25:21] Can you give us an example of one such place?

6 A. [15:25:25] Those equipments were mostly found in places like missions or
7 hospitals. Those are the kind of places where such equipments like solar sources of
8 energy may be found.

9 Q. [15:26:10] Were the radios all the same or were there different types, and if there
10 were, can you give us some examples of those types?

11 A. [15:26:19] There were different types of radios; some were called Racal, others
12 were called Kenwood, and different other types that I can no longer remember.

13 Q. [15:26:47] What about the range of the radios, what was the furthest distance
14 that you personally experienced radio communication taking place over?

15 A. [15:27:05] Those radios used high frequency. That means it could be received
16 anywhere, depending on the positioning of the radio.

17 Q. [15:27:28] And what happened when radios went wrong?

18 A. [15:27:39] Often when the radios developed problems, that group affected
19 should find a way of repairing the radios.

20 Q. [15:27:59] Would there be any assistance outside the individual groups?

21 A. [15:28:10] No, there wouldn't be any assistance from outside.

22 Q. [15:28:26] I want to ask you about your understanding of these two words, "Iron
23 Fist."

24 A. [15:28:56] I didn't understand the question.

25 PRESIDING JUDGE SCHMITT: [15:29:12] Mr Witness, the Prosecutor has asked you

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1 the two words "Iron Fist," when you hear them, does anything come to your mind?

2 THE WITNESS: [15:29:26] (Interpretation) As far as I can remember, Iron Fist took
3 place when the government troops made an arrangement to attack LRA where they
4 were stationed.

5 MR GUMPERT: [15:29:54]

6 Q. [15:29:54] And where were they stationed, the LRA troops?

7 A. [15:29:58] At that time they were in a place called Lubanga Tek.

8 Q. [15:30:12] And which country is Lubanga Tek in?

9 A. [15:30:17] That is in South Sudan.

10 Q. [15:30:27] When did Iron Fist begin? Can you remember the year?

11 A. [15:30:35] I think, if I do remember very well, I think it started in 2000 and went
12 up to 2002 and continued.

13 Q. [15:31:03] Where did the LRA go after Iron Fist?

14 A. [15:31:18] After operation Iron Fist, there was no proper place they would stay
15 altogether, so they divided themselves into smaller units, and each unit would move
16 on its own. But they would communicate between themselves to know what was
17 happening.

18 Q. [15:31:52] What about Kony, the man you mentioned earlier, where was he after
19 Iron Fist, in which country?

20 A. [15:32:06] At that time he was moving into Uganda. But because he didn't
21 have a proper place and according to how we would hear that he crossed into Central
22 Africa.

23 Q. [15:32:32] And what about the smaller units that you just mentioned, in which
24 country were they?

25 A. [15:32:46] Most of the small groups crossed into Uganda because it was not

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1 possible for them to continue staying in South Sudan.

2 Q. [15:33:05] A moment ago - and for those who want to follow in the transcript,
3 it's at page 91, lines 12 and following - a moment ago you told us that the main person
4 who decided on the content of the messages was Kony himself.

5 I want you to tell the Court about some of the messages which you remember Kony
6 sending to the commanders of those smaller groups.

7 A. [15:33:50] Many times he would send information to the smaller groups about
8 the operations that they should conduct and what they should exactly go and do.

9 Q. [15:34:21] Apart from specific orders to particular groups, do you remember any
10 more general orders?

11 A. [15:34:49] Could you repeat the question again?

12 Q. [15:35:15] Yes. You told us that many times Kony would send information to
13 the smaller groups about particular operations. My question is, apart from those
14 individual group orders, do you remember any more general orders given by Kony?

15 A. [15:35:38] Many times he would send information for an operation.

16 PRESIDING JUDGE SCHMITT: [15:36:07] Mr Witness, you said that there are
17 different groups inside of the LRA, and Kony sent specific orders to specific groups.
18 Were there also orders that were sent and meant for all of the groups?

19 THE WITNESS: [15:36:31] (Interpretation) My apologies, I'm not able to remember
20 that now.

21 MR GUMPERT: [15:37:00] Your Honour, I would ask to be able to refresh this
22 witness's memory from a statement he made back in 2004.

23 PRESIDING JUDGE SCHMITT: [15:37:07] Yes, please.

24 MR GUMPERT: [15:37:08] It's at tab 7. The ERN is UGA-OTP-0218-0571. And the
25 page from which I wish to refresh the witness's memory, I'll pause because it looks as

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- 1 though your Honour may have binder difficulties.
- 2 PRESIDING JUDGE SCHMITT: [15:37:41] I'll sort it myself.
- 3 MR GUMPERT: [15:37:42] Very well, I'll move on then.
- 4 PRESIDING JUDGE SCHMITT: [15:37:45] Thank you.
- 5 MR GUMPERT: [15:37:46] The page number which I'm going to ask to be shown to
- 6 the witness within that ERN is last four digits 0575.
- 7 PRESIDING JUDGE SCHMITT: [15:38:02] Solved.
- 8 MR GUMPERT: [15:38:36]
- 9 Q. [15:38:36] Witness, I'm sorry, can we go down another three lines to line, in
- 10 English 137.
- 11 Mr Witness, can you look at line 135? Can you see that?
- 12 A. [15:38:52] Yes, I am seeing it.
- 13 Q. [15:39:04] You said to the interviewers, "Kony gave the general order to Otti and
- 14 this general ordered to Otti was, 'I wanted to hear that the units and brigades are
- 15 doing something, to show that the LRA is still alive and still able to do things.'"
- 16 Was that true?
- 17 A. [15:39:40] Yes, I can now remember. That is exactly what would happen.
- 18 Q. [15:39:43] When Kony said that the units should do something, what sort of
- 19 things was he expecting them to do?
- 20 A. [15:40:13] Most times when he gives an order to do something, he would want
- 21 that each group, wherever they are, to go and do whatever they want to do. For
- 22 example, they would go and put an ambush or conduct an attack, could be ambush or
- 23 attacks on the army barracks.
- 24 Q. [15:41:02] Apart from army barracks, what were the other typical targets for
- 25 attacks?

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1 A. [15:41:11] There were other places like in the camp where people are gathered,
2 they would go to such places to collect food.

3 Q. [15:41:36] Mr Witness, just spell it out for us, what kind of people were having
4 to go to the camps to collect food?

5 A. [15:41:43] That one each group, it depends how each commander has organised
6 his operation. So they would send a group of people according to how he has
7 organised them to go and collect the food.

8 Q. [15:42:17] I'm sorry, it was a bad question. What kind --

9 PRESIDING JUDGE SCHMITT: [15:42:24] I don't qualify the question, but indeed it
10 was not perfectly clear I think.

11 MR GUMPERT: [15:42:28] Definitely my fault.

12 Q. [15:42:30] What kind of people were living in the camps? What kind of people
13 were camping?

14 A. [15:42:37] These were people who had run away from their places where they
15 were fighting. So they had come to a place where they were all gathered.

16 Q. [15:43:00] And was there any reason, apart from gathering food, that Kony
17 would order the LRA units to attack camps?

18 A. [15:43:17] Many times when he has some idea that maybe to abduct some
19 people, then he would instruct that you go and collect food, or if there is a group that
20 can get people to abduct, then they can do that.

21 Q. [15:43:58] Thank you for that. I'm asking you to think again, any other reasons
22 that you remember being given for attacking civilian camps?

23 A. [15:44:11] Now I can't remember any other. Maybe if I can be reminded.

24 MR GUMPERT: [15:44:32] If I may again refresh from the same document, which is I
25 see conveniently still up on the screen. So the ERN, the parent ERN is the same.

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1 But could we now move forward to the page with the last four digits 0581.

2 Can we make it so that the top line visible is 363. Perfect.

3 Q. [15:45:23] Mr Witness, you can see the text in front of you. I'm going to read
4 the English translation of what you said back in 2004. You said to the investigators:
5 "These are things which Kony would order specifically without talking in codes.
6 When he orders something like to go and attack camps, because the civilians have
7 come together with the UPDF to come and fight against them. So then they should
8 go and show to the civilians that the presence of the UPDF does not prevent LRA
9 from attacking."

10 Was that the truth?

11 PRESIDING JUDGE SCHMITT: [15:46:21] Mr Taku?

12 MR TAKU: [15:46:23] Your Honours, I think if my colleague is asking the witness to
13 refresh his memory, he should ask him whether that's what he said, not to say "Is that
14 the truth?"

15 PRESIDING JUDGE SCHMITT: [15:46:32] That's correct. But of course, it doesn't
16 change very much, but perhaps you'll rephrase it a little bit.

17 MR GUMPERT: [15:46:37]

18 Q. [15:46:40] Is that what you said?

19 A. [15:46:44] I am not getting you. Are you asking me as the witness?

20 Q. [15:47:23] Yes, Mr Witness. I've refreshed your memory about something you
21 said 13 years ago, a long time ago. And my question is: Is that what you said when
22 you were asked questions by the investigators all that time ago?

23 A. [15:47:39] I am seeing here the last paragraph of the statement, I am not getting
24 it clearly. That's why I'm not able to give a proper answer. I'm not getting the last
25 translation in Acholi.

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1 PRESIDING JUDGE SCHMITT: [15:48:10] (Overlapping speakers) give him a hand
2 and help him with that.

3 MR GUMPERT: [15:48:19]

4 Q. [15:48:20] Mr Witness, it may be that you don't need the translation in Acholi
5 because you can read the original Acholi, your own words on the screen in front of
6 you.

7 A. [15:48:38] I have read that part. But the last translation of the Acholi line is
8 what I'm not understanding.

9 Q. [15:48:52] Well, I don't want to take up too much time. Let me read again just
10 that last line.

11 "So they should go and show to the civilians that the presence of the UPDF does not
12 prevent LRA from attacking."

13 PRESIDING JUDGE SCHMITT: [15:49:28] I think for the witness it would be line 372
14 and 373.

15 MR GUMPERT: [15:49:34] That's correct, yes.

16 THE WITNESS: [15:49:54] (Interpretation) Yes, I've seen line 372.

17 MR GUMPERT: [15:50:02]

18 Q. [15:50:02] Is it what you said?

19 A. [15:50:05] Yes, that is what I said and it is correct, and it happens.

20 PRESIDING JUDGE SCHMITT: [15:50:16] (Overlapping speakers) when we have
21 refreshing exercises, it's of course we show the former statement, for example, or the
22 transcript, we had that already, to the witness, and then we can ask the witness: Is
23 this -- has this been your statement at the time? And what do you say today?
24 So these are the two steps. What is -- do you have anything to change from that on?
25 This is what Mr Taku addressed. So this is perhaps how we can do it, the refreshing

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1 exercise, so that it is really refreshing. It has been done now. It was a general
2 remark by me that perhaps we can handle it in the future like that.

3 MR GUMPERT: [15:50:54] Certainly, your Honour. I'm well guided.

4 Q. [15:50:58] You spoke earlier about people being abducted from the camps. Can
5 you remember any orders given by Kony about abductions?

6 A. [15:51:13] I don't quite remember now but, since I was working on the radio,
7 sometimes he would order for abductions.

8 Q. [15:51:48] Do you remember any other orders which he gave which were related
9 to abductions?

10 A. [15:51:57] I think if there is a section where I have made that statement and if I
11 can be reminded to see if I have not made any changes or if it's still the same.

12 MR GUMPERT: [15:52:22] May I, your Honour?

13 PRESIDING JUDGE SCHMITT: [15:52:23] Yes, of course.

14 MR GUMPERT: [15:52:25] Tab 7, ERN 0218-0571. The specific page reference, last
15 four digits 0586, down at the bottom of that page.

16 PRESIDING JUDGE SCHMITT: [15:52:52] Perhaps you can refer the witness directly
17 to the line that reflects the Acholi original speech.

18 MR GUMPERT: [15:53:07]

19 Q. [15:53:09] Mr Witness, would you read please silently to yourself from line 556
20 down to the bottom of the page.

21 Does that refresh your memory about any other orders given by Kony with regard to
22 abductions?

23 A. [15:54:12] On the statement on line 556 I have seen. Yes, that is exactly what
24 would happen and it is the same thing that I've stated earlier.

25 Q. [15:54:32] But we need to know what it is. What did Kony do? What order

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1 did he give now your memory is refreshed?

2 A. [15:54:46] Most times he would order that abductions should stop depending on
3 how he has seen the situation.

4 Q. [15:55:25] What was it that would order -- sorry, that would cause him to order
5 abductions to stop?

6 A. [15:55:35] Many times since -- he would say that he is a prophet. Maybe he
7 could have been given some information or message that he should stop abduction,
8 or sometimes he would see the situation where that would not be favourable for such
9 kind of people.

10 Q. [15:56:12] And did the subordinate commanders under Kony obey this order to
11 stop abducting?

12 A. [15:56:22] According to what I know, it varies, depending on how somebody has
13 perceived it. Some people could -- may follow that they should not abduct, but
14 some people could violate the orders.

15 Q. [15:56:53] I want to ask you now to tell us more generally about commanders
16 obeying or disobeying Kony's orders. Let's start with obeying. Are there particular
17 commanders whom you can name who would obey Kony's orders?

18 A. [15:57:18] In relation to what I mentioned earlier, if I can be reminded so I can be
19 able to see the exact statement probably that I made.

20 MR GUMPERT: [15:57:49] Your Honours, it's tab 7. So that's the same tab, same
21 parent ERN. And the particular page that I ask to be shown to the witness has the
22 last four digits 0580.

23 MR TAKU: [15:58:03] Your Honours, I just wanted to inquire about something. I
24 do not know, I wanted to find out if at some point in time in the witness protocol if
25 this witness was given his statements to familiarise himself with prior to coming to

1 testify? I do not know yet. I'm unable to know exactly since I came to the team a
2 bit late. But I do not know whether -- as it happens in other trials I've been involved.
3 The witness protocol specifies clearly that at some point in time the statements were
4 made available to the witness so the witness can familiarise himself with his
5 statement before he comes to testify.

6 The intention was to avoid a situation like this, whereby, at the end of the day, we do
7 not know whether the witness was given his statements or he's merely just reading
8 and confirming what he said previously.

9 PRESIDING JUDGE SCHMITT: [15:58:55] I would say -- I would not say that until
10 now this has been too much of a refreshing exercise, so to speak, but indeed we do
11 not want to go through all of the former statements of the witness. So far I agree
12 with you.

13 Furthermore, we have now reached the time where we interrupt and continue until
14 tomorrow and then we pick this question up, perhaps in a little bit modified manner.

15 MR GUMPERT: [15:59:27] Yes. Your Honour, I absolutely promise that we won't
16 be going through all of the statements. But where the witness is answering
17 questions by saying "I can't quite remember, can you help me" I make the appropriate
18 application.

19 PRESIDING JUDGE SCHMITT: [15:59:42] And perhaps for all the parties and
20 participants, witnesses are different, of course, and they have different personalities
21 and also different approaches to their being a witness. So if we compare this witness
22 with other witnesses, he's a little bit -- he has a different attitude, a different approach,
23 we have to adapt and adjust I think to the persons we have in the courtroom a little
24 bit.

25 So this concludes the hearing for today.

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1 I want to give a special thank you today to the interpreters, and the reason for that is I
2 recall the short exchange that I had with Mr Ayena on the structure of the Luo/Acholi
3 language, and I can imagine now much better how difficult it might be from 9.30 on
4 to translate these difficult measures in a way that everything can run so smoothly, as
5 it does in general here in the courtroom.

6 So I wish everybody a good afternoon, and then we meet together again tomorrow
7 at 9.30.

8 THE COURT USHER: [16:00:50] All rise.

9 (The hearing ends in open session at 4.00 p.m.)

10 RECLASSIFICATION REPORT

11 Pursuant to the Trial Chamber' IX's instructions, ICC-02/04-01/15-497, dated 13 July
12 2016, the public redacted version of this transcript is filed in the case.