

Trial Hearing
WITNESS: UGA-OTP-P-0003

(Open Session)

ICC-02/04-01/15

1 International Criminal Court
2 Trial Chamber IX
3 Situation: Republic of Uganda
4 In the case of The Prosecutor v. Dominic Ongwen - ICC-02/04-01/15
5 Presiding Judge Bertram Schmitt, Judge Péter Kovács and Judge Raul Pangalangan
6 Trial Hearing - Courtroom 1
7 Thursday, 2 March 2017
8 (The hearing starts in open session at 9.37 a.m.)
9 THE COURT USHER: [9:37:31] All rise.
10 The International Criminal Court is now session.
11 PRESIDING JUDGE SCHMITT: [9:37:49] Good morning, everyone.
12 Good morning, Mr Witness.
13 And court officer, please call the case.
14 THE COURT OFFICER: [9:38:03] Thank you, Mr President.
15 The situation in the Republic of Uganda, in the case of The Prosecutor versus Dominic
16 Ongwen, case reference ICC-02/04-01/15.
17 We are in open session.
18 PRESIDING JUDGE SCHMITT: [9:38:13] Thank you. I ask for the appearances
19 for the parties. Prosecution first.
20 MR ELDERFIELD: [9:38:17] Your Honour, Julian Elderfield with Pubudu
21 Sachithanandan, Ben Gumpert, Colleen Gilg, Adesola Adeboyejo, Mari Pilvio, and
22 Ramu Fatima Bittaye.
23 PRESIDING JUDGE SCHMITT: [9:38:27] Thank you.
24 Legal Representatives of Victims, please.
25 MS ADONG: [9:38:35] Jane Adong, together with me is Mr Orchlon Narantsetseg

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1 and Jacqueline Atim.

2 PRESIDING JUDGE SCHMITT: [9:38:47] And the second team for the Legal
3 Representatives.

4 MS HIRST: [9:38:49] Good morning, your Honours, Megan Hirst with James
5 Mawira.

6 PRESIDING JUDGE SCHMITT: [9:38:55] And for the Defence, Mr Ayena.

7 MR AYENA ODONGO: [9:38:56] Good morning, your Honours. Krispus Ayena
8 Odongo, I'm assisted by Chief Taku Achaleke, Mr Rowse Michael and Madam
9 Abigail Bridgman.

10 Our client Dominic Ongwen is in Court.

11 PRESIDING JUDGE SCHMITT: [9:39:18] Thank you very much. It is still the turn
12 of the Defence with the questioning.

13 So please, Mr Ayena, you have the floor.

14 MR AYENA ODONGO: [9:39:28] Thank you very much, your Honours.

15 WITNESS: UGA-OTP-P-0003 (On former oath)

16 (The witness speaks Acholi)

17 QUESTIONED BY MR AYENA ODONGO: (Continuing)

18 Q. [9:39:38] Good morning, Mr Witness.

19 A. [9:39:39] I didn't sleep well.

20 Q. [9:39:41] Sorry about that.

21 Mr Witness, I want to, with the permission of Court, of course, I want to refer you to
22 what you told Court yesterday and which appears on page 31 of the transcript, at the
23 top of page 1 of the draft transcript. In particular you said that you published a book
24 which you were willing, if you were allowed, to open and read a passage from that
25 book. Is that correct?

1 A. [9:40:58] Before answering any question today, I would like to request the
2 Judge so that I say something regarding my rights. I wonder whether, your Honour,
3 you may allow me to say something small.

4 PRESIDING JUDGE SCHMITT: [9:41:20] You are allowed to say something.

5 THE WITNESS: [9:41:24] (Interpretation) Today I didn't sleep at night. Your
6 Honour, when I left the courtroom last -- yesterday, I wasn't able to sleep. The
7 whole night I didn't sleep because I had so many thoughts and a lot of fear which I
8 can foresee after leaving this court, I can foresee that my future will not be fine. Why
9 am I saying this? I was called at the ICC Court, I have the recordings of the LRA
10 messages, everything is well arranged systematically, but now when I arrived here I
11 discovered that the issues regarding ICC were set aside. Instead I was being accused.
12 And what Mr Ayena said yesterday, I'm wondering, makes me wonder if this Court
13 would like to do things in an unfair way regarding me. Because in my language
14 when you mention the word "trial" you should ask me questions and me too I should
15 ask questions, you should answer questions and me too I should answer questions,
16 but I did observe a lot of things were discussed here concerning the government of
17 Uganda, concerning secrets of the government of Uganda and I said so many things,
18 and I fear that once I go back home I may be arrested and put into prison because in
19 responding to our Ayena's questions I ended up revealing a lot of secrets of the
20 government.

21 And also not everybody likes Uganda. Some people who are here have their
22 motives. You may not know what their motives are. So that's why I have a lot of
23 fear because the Ugandan government sent me as a witness for the ICC.
24 So now if we leave aside ICC issues and start talking about other things, I would
25 request the Court that if there are no more things to be asked to me, I would request

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1 that I be allowed to go back home because I have a family I have to take care of. I
2 have orphans who are under my care. Right now, as I talk there are two of my
3 orphans which I take care of who have been sent away from school because I've had
4 to come to the ICC.

5 So if I think it should be told clearly to the Court, if there's nothing, if there are no
6 questions concerning Dominic Ongwen case and the ICC case, then I think we should
7 stop there.

8 So, your Honour, these are the few issues which I wanted to put before the Court.

9 And also I would like to request the Court to allow me to also ask questions to
10 Mr Ayena and it shouldn't be just a one sided thing where I am just the victim.
11 Thank you so much.

12 PRESIDING JUDGE SCHMITT: [9:45:08] Thank you, Mr Witness. I think this
13 really calls for also a statement of the Prosecutor because it's yours witness.

14 MR GUMPERT: [9:45:15] I'm grateful. We're in public session, aren't we?

15 PRESIDING JUDGE SCHMITT: [9:45:22] (Microphone not activated)

16 MR GUMPERT: [9:45:23] What I'd like to do is to read a paragraph of an
17 agreement between the States Parties, and specifically amongst those States Parties,
18 the Republic of Uganda and the Court. And I think I'd like to read that in public, it's
19 a public document, and then make some remarks in private session.

20 May I proceed?

21 PRESIDING JUDGE SCHMITT: [9:45:44] Yes, please do that.

22 MR GUMPERT: [9:45:46] I'm grateful. Forgive me for leaning rather inelegantly,
23 because I need to quote from the screen.

24 Article 19 of the agreement on privileges and immunities is headed "Witnesses" and
25 concerns witnesses. It's quite long and I'm going to read only the relevant

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1 subparagraph, which is subparagraph 19(1)(c):

2 "Witnesses shall enjoy the following privileges," and I then skip the irrelevant portion,
3 and I implore the witness to listen very carefully to these words. The following
4 privileges, including:

5 "Immunity from legal process of every kind in respect of words spoken or written and
6 all acts performed by them in the course of their testimony, which immunity shall
7 continue to be accorded even after their appearance and testimony before the Court."

8 PRESIDING JUDGE SCHMITT: [9:47:00] And I think we go to private session
9 now.

10 (Private session at 9.47 a.m.)

11 (Redacted)

12 (Redacted)

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24 (Open session at 10.24 a.m.)

25 THE COURT OFFICER: [10:24:32] We are in open session.

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1 MR AYENA ODONGO: [10:24:43] Mr Witness, in paragraph 75 of your
2 testimony -- of your statement which you signed on 11 December 2004, which can be
3 found on tab 3, tab 3 Defence binder. The ERN is UGA-OTP-27-214-R1 at 226.

4 Q. [10:25:43] You stated that the LRA stopped using call signs when they were
5 shot at from a plane and they thought the call signs had given away their position and
6 that they then switched to nicknames.

7 PRESIDING JUDGE SCHMITT: [10:26:03] Does the witness have it in front of him
8 now.

9 Can you have a look at it, Mr Witness. It's paragraph 75.

10 And counsel is referring to the last portion as I understand it.

11 MR AYENA ODONGO: [10:26:38] Yes.

12 PRESIDING JUDGE SCHMITT: [10:26:39] Of this paragraph.

13 MR AYENA ODONGO: [10:26:41] Yes, yes, your Honour.

14 Q. [10:26:43] Is that your statement, Mr Witness?

15 A. [10:26:54] Maybe you read, read in Acholi.

16 Q. [10:26:58] I'll read in English and then the translators will translate.

17 You said:

18 "When the commanders communicate on the net, they use the Acholi language.

19 They do not use another language, although here and there they may use English

20 words. Most of these English words are ones that are used in the Acholi language.

21 Apart from the turn-face, they do use other encryption methods such as proverbs. In

22 the past they have used call signs, but they stopped using that when they were shot at

23 from a plane and they thought the call signs had given away their position. They

24 now use nicknames."

25 A. [10:28:12] Thank you very much. As I have said, there are some English

1 words that the LRA use. Yesterday I talked about TONFAS or call signs. The
2 limited English words that I say the LRA use sometimes in their communication, for
3 example, you have heard the names of the call signs, not all the call signs used, there
4 is none that is, that is called or named in Acholi.
5 Call signs I mentioned yesterday are names that you can mix letters and figures.
6 And yesterday I gave example of Zero Bravo, Zero Alpha.
7 So on a TONFAS or a call sign, if you remember there was a tape that was playing
8 saying Two Victor is also present, Five Yankee, Two Mike is also present. This is one
9 of the examples of the English words that I am referring to. Because there is no call
10 sign where it is said, for example, write Two Victor, then write Four Bravo.
11 We cannot say Two V in communication, that is not there. So even if you go to any
12 language, the signal communication, the words remain the same: A is Alpha, B is
13 Bravo, C is Charlie, D is Delta, it is not called DA or D. F is Foxtrot, not FA or F. G is
14 called Golf, not G. I is called India. J is Juliet. I want to explain this so that you
15 clearly understand it. M is called Mike. N is called November. And Z is referred
16 to as Zulu. Y it's Yankee. O it's Oscar.
17 So it therefore means that what is known as call sign, you first have a mention a
18 figure and then you add a letter to it. So it could be Two Yankee, it could be Two
19 Echo. It could be Four Bravo, not 4 BA, in Acholi or Lango it is not 4 BA.
20 Well even if the communication was in Acholi, but all the call signs, whether you like
21 it or not, it is, it is in English, two is English.
22 If it was required that they use Acholi, they would write Aryo Victor or Angwen
23 Bravo. So this is call sign information that I want you to clearly understand.
24 I want to go to another question because the question is wide and I want you to
25 understand this.

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1 PRESIDING JUDGE SCHMITT: [10:31:59] Mr Witness, just may I interrupt you.

2 But what is written down here in paragraph 75 as your former statement, that the

3 LRA used call signs but they stopped it after a certain point of time after a certain

4 incident. Is that what you recall also today as correct?

5 Would you say this is correct? And that they from then on used nicknames. I think

6 this was the centre of what counsel was interested in.

7 MR AYENA ODONGO: [10:32:29] And, your Honours, unless I will be given

8 limitless time, you know, these extrapolations --

9 MR ELDERFIELD: [10:32:42] Your Honour, to be fair to the witness, there was no
10 question asked after counsel read out that statement.

11 I also note that we're in private session, perhaps this could be dealt with in public.

12 PRESIDING JUDGE SCHMITT: [10:32:55] First of all, I think we are in open
13 session, so this --

14 MR ELDERFIELD: [10:32:58] My apologies.

15 PRESIDING JUDGE SCHMITT: [10:33:00] This can be dealt sufficiently in open
16 session with. And of course there was no direct question, but I think I have now put
17 the question to the witness.

18 MR AYENA ODONGO: Yes.

19 PRESIDING JUDGE SCHMITT: And we leave it with that.

20 Also, Mr Witness, I repeat it a little bit: Is the information entailed in paragraph 75

21 as is written down as your former statement, is this correct that from one point in

22 time after the incident of when they were shot from a plane, that they gave up call

23 signs and from then on used nicknames? This would be the direct question to you.

24 THE WITNESS: [10:33:40] (Interpretation) Thank you so much, your Honour.

25 Yesterday I talked about this issue. Most times when there is fighting like in Uganda

1 and elsewhere, when there are some problems on the side of the LRA, if the TONFAS
2 has been captured, for example, LRA could temporarily cease using TONFAS. That's
3 what I said clearly yesterday. It didn't only happen once, it happens several times.
4 If they learned that there was a problem in some unit, if there was a fight, because
5 there were several battles in Uganda between LRA and the UPDF, there were
6 hundreds of battles, so in those cases, there were they stopped using TONFAS for
7 about 50 times, but they would still make new ones. But while waiting for the new
8 TONFAS, they would use jargons or proverbs, which I mentioned yesterday.
9 There are ways they would use nicknames, as I said yesterday. I think people are
10 just repeating what I explained yesterday.

11 PRESIDING JUDGE SCHMITT: [10:35:09] Okay. We have heard what you said
12 yesterday, and this was perfectly sufficient in that respect and also I think you have
13 given the answer to my question, how I phrased it.

14 And I think Mr Ayena can move on. And, of course, you don't have limitless time,
15 but we understand of course what has been going on yesterday and today in the
16 courtroom. So we will not push you too much. This is perfectly clear.

17 MR AYENA ODONGO: Yes.

18 PRESIDING JUDGE SCHMITT: But also we trust nevertheless in your prudence in
19 that respect.

20 MR AYENA ODONGO: [10:35:39] Absolutely.

21 Q. [10:35:42] Can you tell this honourable Court for this particular incidence, for
22 how long did they suspend the use of call signs?

23 A. [10:36:03] They can stop using call signs regarding -- according to what time
24 the TONFAS has been introduced. If LRA has been attacked today, Kony would
25 send a new TONFAS within one or two days, because there would be normal

1 communication as is the case every day. Thank you.

2 Q. [10:36:33] Mr Witness, it's a simple question. I'm saying in this particular
3 incident, after the plane, they had been shot from the plane, for how long did they
4 suspend the use of the call signs?

5 A. [10:36:55] It's not up to me to know for how long that lasted.

6 I cannot -- because there's nowhere in my records where I recorded the sound of
7 planes when the LRA was being shot at. In the records I've given there's nowhere
8 where I've written that there is a plane moving on and then they were shooting at the
9 LRA.

10 I just said that it depends on the duration and which is required to send the TONFAS,
11 the TONFAS to the rebels. Sometimes it's not easy and the border is closed and they
12 cannot send the new TONFAS. And that's not my problem, but that is the LRA
13 problem. Thank you.

14 PRESIDING JUDGE SCHMITT: [10:37:48] Mr Witness, but if you look again at this
15 paragraph 75 and what you have said formerly, the last sentence reads "They now use
16 nicknames." This at least suggests a little bit that this was not for one or two days
17 from the wording. You can correct me if I'm wrong with that. So can you perhaps
18 give an estimate, you see what I mean? Nobody would really expect from you to
19 know exactly how long this would not have been used, these call signs in that
20 incident, but perhaps you can give an estimate. If not, simply say no.

21 THE WITNESS: [10:38:32] (Interpretation) Your Honour, I have to talk the truth.
22 I cannot really recall because as I said, there were more than 100 battles, so I cannot
23 really recall that particular transcript, because these people stopped using call signs
24 several times. If there was just only once or two times I would be able to estimate,
25 but they stopped using call signs several times, many times. Thank you.

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1 PRESIDING JUDGE SCHMITT: [10:39:01] Thank you.

2 Please, Mr Ayena.

3 MR AYENA ODONGO: [10:39:06] Thank you for your indulgence.

4 Q. [10:39:09] Mr Witness, with or without call signs, you were still able to
5 intercept communications of the LRA; is that correct?

6 A. [10:39:30] We recorded messages when call signs were used, even at the time
7 when nicknames were used, but nevertheless --

8 MR AYENA ODONGO: [10:39:45] Your Honours, can he answer my question?

9 THE WITNESS: [10:39:49] (Interpretation) I would like to explain because you
10 interrupted me.

11 PRESIDING JUDGE SCHMITT: [10:39:53] It's not --

12 THE WITNESS: [10:39:55] (Interpretation) I would like to explain, but you don't
13 allow me.

14 PRESIDING JUDGE SCHMITT: [10:39:59] I think you have here simply an
15 incident of misunderstanding. I personally, if you read carefully what the witness
16 has said, this entails the answer to your question, I would say. I have understood
17 the witness saying that we made these intercepts when they used call signs and when
18 they used nicknames. So this is an answer to your question.

19 This is not one of these answers where you would say a witness deviates from or tries
20 to circumvent or to avoid an answer. Perhaps you can or we can read it out again
21 what has been said. Let me have a look here. It takes a little bit. I have it here.
22 "We recorded messages when call signs were used, even at the time when nicknames
23 were used." So this answers I think your question. Because you questioned him,
24 were you able to intercept when they did not use call signs, so I think this is an
25 answer to that. So there is no --

1 MR AYENA ODONGO: [10:41:08] Contradiction.

2 PRESIDING JUDGE SCHMITT: [10:41:09] -- no contradiction, so please move on
3 with the questioning.

4 MR AYENA ODONGO: [10:41:12] Yes.

5 Q. [10:41:15] Now, Mr Witness, you told Court that the attack on Abim was foiled
6 because of your interception. I want you to tell Court whether at this time you also
7 intercepted the attack on Pajule, on Odek, on Abok and on Lukodi?

8 A. [10:41:58] Thank you. At the beginning I said that apparently the Defence
9 have no questions to ask, because he heard all these things when they were played,
10 since that day when Dominic reported having attacked Odek, having attacked such a
11 place, everybody heard that, including himself.

12 There are so many things which we recorded, but ICC selected only the parts where
13 Dominic Ongwen was involved. There are also cases where Tabuley attacked Pajule,
14 Lakati did this. There are so many reports only that LRA was mostly focussing on
15 Dominic Ongwen's case. There were many other recordings. There are many other
16 recordings where Otti killed people, where Kwoyelo killed people, where so and so
17 made an attack with all the recordings, only that we cannot bring Lakati's case or
18 Tabuley's case in Dominic's case.

19 PRESIDING JUDGE SCHMITT: [10:43:10] Mr Witness, that was not the question.
20 The question was specifically directed to certain incidents and you could simply say:
21 Did at the time, did you make the intercepts or not? Simply answer this question.

22 MR AYENA ODONGO: [10:43:29] Can I put it again maybe in another way.

23 Q. [10:43:32] Before the attack on Pajule, Odek, Abok and Lukodi, did you
24 intercept the LRA communications when they were planning this?

25 A. [10:43:56] I said that in my first statement what I said was that sometimes

1 Kony sends messages or instructions through jargons, so sometimes he sends those
2 messages through jargons to his commanders. But at times the commanders on their
3 own initiative will not wait for Kony's deployment. So he would carry out activities
4 without being deployed and then sends a report to Kony so as to please Kony.
5 So sometimes commanders carry out their actions without being deployed. Not all
6 orders have to come first from Kony. Thank you.

7 Q. [10:44:51] Mr Witness, that seems to be a shift from your statement where you
8 said orders to kill, to ambush and so on and so forth only came from Kony and Otti.
9 Do you remember your statement where you said that?

10 PRESIDING JUDGE SCHMITT: [10:45:16] Can we have a reference to that?
11 Although I have to admit that I also have something like that in my head, but it's
12 always better to have the exact reference.

13 MR AYENA ODONGO: [10:46:20]

14 Q. [10:46:21] Mr Witness, I want to refer you to your statement of 11 December
15 2004 at tab 3, Defence tab 3. ERN number UGA-OTP-27-214_R01.

16 In paragraph 79 and I beg to read:

17 "Orders for operations would normally come from Kony although Otti also gave
18 orders. These could include orders to lay an ambush or conduct other types of
19 operations. Otti's orders take the same weight as Kony and when Otti issues an
20 order, Kony will not go against it; he will give it his support. Most of the time Raska,
21 the army commander, relays an order from above and as we would say 'add salt' to
22 them, he rarely gives orders himself. Most of the time he is supporting orders from
23 Kony and Otti. Sometimes Abudema gives orders and he likes giving orders to kill
24 and lay ambushes. Sometimes Kony has counteracted the orders of Abudema. For
25 example, if Abudema gave an order to attack a UPDF position, Kony, who has an

1 overall view and knows that they could not do that, would then counteract that
2 order."

3 Do you remember that statement, Mr Witness?

4 A. [10:49:03] Thank you so much. I don't see anything new in that. Perhaps
5 there is nothing more to say. There is nothing new here. I said clearly here that
6 sometimes Kony gives orders for operations, but sometimes orders are given by other
7 commanders. To be straightforward I'll give you just one example.
8 The attack led my Dominic on Odek, please listen well, when Dominic attacked Odek
9 and killed people and did many other activities, in this case Dominic, Dominic
10 Ongwen went on his own. There was no message from Kony ordering him to do so,
11 saying that Dominic hears a message for doing this and that. Dominic on his own
12 went and attacked Odek.

13 After attacking Odek, he made a report and Kony was surprised. If Kony had given
14 orders to Dominic Ongwen to attack Odek or if it was Otti who gave out the orders,
15 according to the statement you heard, would Kony or Otti still ask Dominic where
16 that happened? If the deployment had been ordered by Otti or Kony, would they
17 still ask such a question?

18 Now, after Dominic attacked Odek and sent a report, these people (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
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- 5 (Closed session at 10.51 a.m.)
- 6 (Redacted)
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1 (Recess taken at 12.17 p.m.)

2 (Upon resuming in open session at 12.32 p.m.)

3 THE COURT USHER: [12:32:44] All rise.

4 PRESIDING JUDGE SCHMITT: [12:33:05] The witness is now in a special room
5 where we have a video-link connection.

6 First of all, thank you very much for the Registry for establishing this so quickly and
7 making this possible. This is really something that you cannot expect that this
8 functions in such a short time. Thank you very much.

9 And thank you very much also VWU for assistance for the witness.

10 We continue now with the examination by the witness and, Mr Ayena, you still have
11 the floor, I would say.

12 Yes. Thank you very much. Please, Mr Ayena.

13 MR AYENA ODONGO: [12:33:50] I thank you, your Honours.

14 Because of the exigency and the special circumstances brought about by what has just
15 happened I think I shall go straight to Odek and cross-examine the witness on Odek.

16 PRESIDING JUDGE SCHMITT: [12:34:24] Yes.

17 MR AYENA ODONGO: [12:34:26] And I want court officer to help the witness go to
18 tab 15, Defence at tab 15.

19 THE COURT OFFICER: (Via video link) 15.

20 MR AYENA ODONGO: [12:34:42] The ERN number is UGA-OTP-197-1670.

21 And your Honours, I don't know whether it would be possible to bring this on the
22 screen. It would be much clearer.

23 PRESIDING JUDGE SCHMITT: [12:35:23] We are hearing now what is being spoken
24 in this room. So perhaps I don't know if the microphone is on. But what would be
25 important is that the witness can see the document.

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1 MR AYENA ODONGO: [12:35:33] Yes.

2 PRESIDING JUDGE SCHMITT: [12:35:34] Is this possible to bring it up for the
3 witness? Or does he have it in front of him on paper? That might be enough for
4 the moment.

5 Okay. Then please continue, Mr Ayena.

6 MR AYENA ODONGO: [12:35:53] Yes, has it been put on the screen? Oh, yes.

7 Q. [12:36:02] Mr Witness, this logbook, this is part of the logbook that was
8 produced from your Gulu office; is that correct?

9 THE COURT OFFICER: [12:36:40] (Via video link) (Microphone not activated)

10 PRESIDING JUDGE SCHMITT: [12:36:44] Did the translation of the question
11 function? I'm not sure.

12 MR AYENA ODONGO: [12:36:58] Well, I want him to confirm.

13 PRESIDING JUDGE SCHMITT: [12:37:01] Of course, of course.

14 MR AYENA ODONGO: [12:37:04] Mr Witness.

15 PRESIDING JUDGE SCHMITT: [12:37:05] You have to be a little bit patient here,
16 because it's a procedure that doesn't happen very often, and there are also some
17 disturbances, so to speak, at the moment. But I'm sure this will be solved in the
18 process.

19 THE COURT OFFICER: [12:37:17] (Via video link) Your Honours, can you hear us?
20 Can you hear me? Your Honour, can you hear me?

21 PRESIDING JUDGE SCHMITT: [12:37:27] Yes.

22 THE COURT OFFICER: [12:37:28] (Via video link) Yes. This is the court officer
23 here. We were just wondering, because what was on the screen was the cover of the
24 logbook, and we do not have this in our binder. What we have is a written page.

25 PRESIDING JUDGE SCHMITT: [12:37:43] No. What we are talking about is this

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1 page that you have in front of you.

2 MR AYENA ODONGO: [12:37:48] Yes.

3 PRESIDING JUDGE SCHMITT: [12:37:48] I think Mr Ayena would confirm that.

4 MR AYENA ODONGO: [12:37:51] Yes.

5 PRESIDING JUDGE SCHMITT: [12:37:53] So the question was if this was one of,
6 part of the logbook that was produced in the office in Gulu where the witness has
7 worked. If he can confirm that, that was the question.

8 (The witness gives evidence via video link)

9 THE WITNESS: [12:38:19] (Interpretation) Yeah, you know, here I've been changed
10 to another location and not very organised yet now. So I'm seeing this document,
11 but I don't know where exactly the question is referring to because I see 30 April 2004.
12 There are some portions which have been underlined. Some parts are numbered.
13 So I'm not sure which part you want me to use (no interpretation).

14 MR AYENA ODONGO: [12:39:17]

15 Q. [12:39:17] Mr Witness, I first want you to confirm whether this was part of the
16 logbook that was made in your Gulu office. Can you confirm it? Can you confirm
17 or no.

18 A. [12:39:31] This is my handwriting.

19 Q. [12:39:38] Now, Mr Witness, can you go to the second paragraph of that
20 document. And I want you to start reading from line, the last three letters of line 5,
21 line 6.

22 PRESIDING JUDGE SCHMITT: [12:40:20] No, this is, I think this is a little bit
23 difficult for the witness.

24 THE COURT OFFICER: [12:40:23] (Via video link) Yes.

25 PRESIDING JUDGE SCHMITT: [12:40:24] It's not so long, why not ask him to read

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1 out completely this paragraph.

2 MR AYENA ODONGO: [12:40:30] Okay. Can you read the whole paragraph.

3 PRESIDING JUDGE SCHMITT: [12:40:32] It makes it easier.

4 MR AYENA ODONGO: [12:40:33] Yes.

5 Q. [12:40:34] Can you read that paragraph, Mr Witness?

6 A. [12:40:36] Yes, I can read. I will read in English because I've written in English:

7 (Speaks English)

8 It was on "30 April 2004. LRA SITREP at 1830 hours." These are the people who
9 were on air: "Odhiambo, Otti, Kony, Abudema, Angola, Labongo, Dominic,
10 Otoo Sam, recce squad," under "Lagulu were on air." Full stop.

11 "Angola informed Otti that he is still continuing with his task within Pader district.

12 And even now he is together with Abongo Papa. Labongo reported to Otti that
13 today" -- "Labongo reported to Otti that" (Interpretation) At that section there is
14 some part which is not underlined, which I have explained.

15 PRESIDING JUDGE SCHMITT: [12:42:40] Please continue. Thank you.

16 THE WITNESS: [12:42:43] (Interpretation) "Labongo told Otti that today morning he
17 fought UPDF in Odek and it was attack which he made. He claimed to have
18 attacked UPDF in Odek and the following have been changed from them."

19 PRESIDING JUDGE SCHMITT: [12:43:20] Thank you very much. I think that will
20 do and that was what you wanted to have read out.

21 Please continue, Mr Ayena.

22 Thank you very much, Mr Witness.

23 MR AYENA ODONGO: [12:43:30]

24 Q. [12:43:30] Mr Witness, in that context, and in view of the number of people who
25 were on air on that day, who said he attacked Odek?

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1 A. [12:43:46] I want people to understand this clearly, why some parts, why some
2 parts have been underlined and some parts have not been underlined. That means,
3 it means it was Dominic. Dominic is the one who did the attack. And as I said
4 earlier, the LRA, the LRA repeats messages. They can even repeat one message
5 10 times.

6 So you find that, that one message, people who did not listen to the radio at that time
7 can still repeat.

8 So this was actually a report from Dominic. That is why I underlined Labongo. I
9 should have actually written this separately, but according to what we get from the
10 intercept, we find that if it is the same report which was being repeated every time,
11 then we use that same report, because this was the report that came from Dominic.
12 It was repeated several times.

13 That's why even yesterday I said some messages are repeated, are repeated over and
14 over and over again. So this document, the person who underlined this passage, it is
15 not only where it has -- it is not only the sections which have been underlined, but it is
16 the commanders who underlined this -- who make these underlinings.

17 So that is the commander who reads the book that underlined the book.

18 PRESIDING JUDGE SCHMITT: [12:46:13] This was to encourage you to continue.

19 MR AYENA ODONGO: [12:46:15]

20 Q. [12:46:15] Yes, Mr Witness, I want you to stick to what you have written.

21 According to what you have written, forget about underlining, tell Court what you
22 have written. Who said he attacked Lukodi? Odek, Odek, rather, Odek, according
23 to your writing. The next question will come later.

24 A. [12:46:46] I want people to get this clearly because what I write, LRA attack
25 could be in different places. But it can only be differentiated by the time and the

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1 date and the year in which that attack occurred. It doesn't mean that there was only
2 one attack in Odek. Different commanders could attack Odek. In different places
3 you might find that the LRA today attacked Awere, which does not indicate that if
4 Dominic attacked Awere it does not mean that Tabuley should not come and attack
5 Awere.

6 PRESIDING JUDGE SCHMITT: Thank you very much, Mr Witness.

7 THE WITNESS: (Interpretation) So this underlining is done by the army
8 commanders, not me.

9 MR AYENA ODONGO:

10 Q. [12:48:27] So do you confirm that for this particular incident the attack was done
11 by Labongo? Dominic could have done the attack some other day. Is that the
12 understanding? Some other time or some other day. I'm asking you: Is that your
13 testimony, therefore, that according to what you have written here for this particular
14 attack, it was by Labongo, but it is also possible that Dominic could have attacked
15 some other time; is that your testimony?

16 A. [12:49:29] I've said that LRA, for example -- I don't want you to bring
17 confusion -- in the LRA when a commander sends a report now, if a commander
18 sends a report now -- are people understanding what I'm saying?

19 Q. Go ahead, Mr Witness. We are following you.

20 PRESIDING JUDGE SCHMITT: [12:50:01] We are understanding you perfectly
21 well.

22 THE WITNESS: [12:50:06] (Interpretation) When a commander makes an attack
23 now and sends the report now, the people who were not on air at that time, that same
24 message will be repeated.

25 Labongo can relay the message to other people. Otti or Labalpiny can also relay the

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1 same message to people. So the difference that can be there is that the message, the
2 achievement or what were, you know, taken from the attack is with who? Does it
3 match with the information or it does not match?

4 So it therefore means this information is a report from Dominic. Maybe we can use a
5 tape, we can use a tape and then we compare what is written here. There is you
6 have the tape there and there is a record. The good thing is you also know the
7 language. You can help people to listen, because this was not said in Lango. It was
8 mentioned clearly 1PK. There is a tape there. Let it be played so that you can get
9 the right report, because --

10 PRESIDING JUDGE SCHMITT: [12:51:38] Mr Ayena, before you ask the next
11 question, I'm asked by Registry that when you listen to the answers of the witness
12 that you put off your microphone, because it makes it difficult, the transmission of
13 everything. Okay. Thank you.

14 THE COURT OFFICER: [12:51:54] (Via video link) Sorry to intervene. We used to
15 hear English interpretation and we now hear Acholi only. Can we have English
16 back please?

17 PRESIDING JUDGE SCHMITT: [12:52:08] Of course the Judges can only encourage
18 that this problem can be solved, but we cannot solve it.

19 THE COURT OFFICER: [12:52:18] (Via video link) We hear English.

20 PRESIDING JUDGE SCHMITT: [12:52:20] You hear it now?

21 THE COURT OFFICER: (Via video link) Yes.

22 PRESIDING JUDGE SCHMITT: [12:52:25] So it helped to speak English a little bit.
23 Or at least to try it.

24 So, Mr Ayena, it is of course still your turn. And please continue.

25 MR AYENA ODONGO: [12:52:36]

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1 Q. [12:52:37] Mr Witness, we are talking about what you have recorded, we are
2 going to the intercept also. So don't worry. For the time being we are talking about
3 what you recorded.

4 Can you answer only that and you will now -- I hope you'll not understand me as I'm
5 restricting you on how to answer. But what I'm saying is that it makes it easier for
6 Court record if you answer what I have asked and then we move on.

7 So my question is: Is this what you recorded about the attack on Odek for this
8 particular instance?

9 A. [12:53:25] This was an attack that Dominic Ongwen, that Dominic Ongwen was
10 the one that did, and is the report which is still continuing. You listened to
11 Dominic's voice yourself. So I want to ask you, your Honours, if I may ask the
12 counsel?

13 PRESIDING JUDGE SCHMITT: [12:54:03] I think the Presiding Judge can shorten
14 this procedure a little bit. You don't have to continue with this answer. The
15 witness has confirmed this is his handwriting, he has read out the respective passage.
16 I think more we would not need.

17 You can proceed at least to the next question, please.

18 THE COURT OFFICER: [12:54:27] (Via video link) Sorry, sorry to interrupt again,
19 your Honour, but here, because we are hearing via speaker, we can only hear only
20 Acholi or only English. And for information, from the beginning of the session, we
21 have been hearing English.

22 Maybe this is a problem for the witness that needs to be confirmed with the witness.
23 Otherwise we would hear only Acholi, but then for the witness assistant and myself,
24 this would be a problem.

25 PRESIDING JUDGE SCHMITT: [12:54:58] Then the question, Mr Witness, since we

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1 started again with your questioning in this separate room, have you been comfortable
2 with having been translated things only in English? Was this okay for you? Or do
3 you say it would be better for you to have the translation into Acholi? What do you
4 say?

5 THE WITNESS: [12:55:28] (Speaks English) Chief Judge, I would like this thing to be
6 interpreted because now I have some problem. I would like to request Court to
7 allow the same system to continue from here because, you know, like you white men,
8 the way you pronounce things different. For example, I say "come here", you go
9 "come here, come here." So I don't understand. If it could be interpreted. Thank
10 you.

11 THE COURT OFFICER: [12:55:51] (Via video link) Okay.

12 PRESIDING JUDGE SCHMITT: [12:55:52] We are going to accommodate that. And
13 of course at least the nonnative English speaker, me, knows that I have also a sort of a
14 dialect and everybody would recognize immediately where I am coming from. So I
15 fully understand what you mean. So I would suggest that we go to the
16 interpretation of Acholi again in this room.

17 THE COURT OFFICER: [12:56:19] (Via video link) Okay.

18 PRESIDING JUDGE SCHMITT: [12:56:20] So everything runs smooth from then on
19 hopefully, yeah?

20 For the court officer in the room, please, we go to Acholi interpretation and for the
21 Acholi interpreters also.

22 However this might function technically, which I never understand properly.

23 THE COURT OFFICER: [12:56:35] (Via video link) This is for the moment --

24 PRESIDING JUDGE SCHMITT: [12:56:37] Perhaps you can confirm once this has
25 functioned.

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1 THE COURT OFFICER: [12:56:41] (Via video link) Yes, so we will please revert to
2 Acholi, please. Yes, now I hear Acholi. We hear Acholi here.

3 PRESIDING JUDGE SCHMITT: [12:56:54] And it's of course more important that the
4 witness understands than everybody else in the separate room.
5 So, Mr Ayena, please continue.

6 MR AYENA ODONGO: [12:57:03]

7 Q. [12:57:03] Now, Mr Witness, you talked about the involvement of Dominic
8 Ongwen in Odek. Did you also record it?

9 A. [12:57:21] (Interpretation) I think what I can say is that everything was
10 transparent. The recordings were played yesterday and the other day. So if
11 Mr Ayena is not understanding what I have been saying since the other day, why,
12 when there were clear things, he listened to it and he was satisfied, satisfied with it,
13 but I am surprised that right now he wants to create another thing.
14 What I said here in this report, that Dominic was the one that attacked Odek. It's in
15 record. It's in audio. Mr Ayena understands the language and he has heard with
16 his own ears.

17 So I think right now let's play that recording again so that he can be able to
18 understand and get satisfied with what I'm explaining.

19 Q. [12:58:21] Mr Witness, I want you to relax and cool down. We are not talking
20 about audio. I'm saying did you record it in the logbook somewhere?

21 A. [12:58:40] You cannot say I should sit, relax when you have started fighting me
22 right from the courtroom. And I'm saying, and even now I'm saying I'm not
23 interested in talking. You started fighting me before the ICC. You're fighting with
24 me, against me with Dominic Ongwen.

25 PRESIDING JUDGE SCHMITT: Mr Witness, I have to interrupt you again.

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1 This is -- it doesn't function obviously.

2 THE WITNESS: (No interpretation)

3 PRESIDING JUDGE SCHMITT: [12:59:11] Mr Witness, could you please stop for a
4 moment.

5 I explain this again. Nobody is fighting you. And there might be a difference
6 between entries in a logbook and audio recordings. And counsel is simply at the
7 moment referring to the logbooks. And the question was: We have seen this one, is
8 there perhaps another place where you recorded something with regard to the
9 accused and Odek? And then perhaps, I don't know the line of questioning of
10 counsel, he will come back to the audio or not, but that is his decision and not yours.
11 And now can you answer the question, please, that counsel has put to you?

12 THE WITNESS: [13:00:09] (Interpretation) According to the writing and the
13 correction you have seen, which was the first name which was written according to
14 Ayena, according to you, which was the name which was first written and why was it
15 cancelled? That means I'm actually emphasising Dominic Ongwen. If Dominic
16 Ongwen wasn't there, perhaps you could have said this thing was just fabricated.
17 Dominic Ongwen is here. Why haven't I put Kony's name? Why haven't I put
18 Otti's name? Why haven't I put Lukwiya Raska's name?
19 As I told you earlier, we write a lot of things. In one day we may write over 20 pages.
20 If I wasn't hard working, I would not be able to do this.
21 It is true one can make errors while writing. I don't know why my superior
22 commanders cancelled this, because the record shows that this is the record
23 mentioning Labongo's name or is it mentioning Dominic's name?
24 If we go back to the recording, are we going to find that the voice talking is that of
25 Labongo or is that of Dominic? Thank you.

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1 PRESIDING JUDGE SCHMITT: [13:01:30] I think we move to another point. It's
2 clear that there might not be, he would have mentioned it, that there is nothing else.
3 So we have this as an entry and that's it for the moment.
4 MR AYENA ODONGO: [13:01:40] Your Honour, I just wanted one simple question,
5 because there is "Dominic" written there.
6 PRESIDING JUDGE SCHMITT: [13:01:48] Yes, of course.
7 MR AYENA ODONGO: I want to find out --
8 PRESIDING JUDGE SCHMITT: This suggests itself.
9 MR AYENA ODONGO: [13:01:50] -- did he write that "Dominic."
10 Q. [13:01:56] Did you write that name "Dominic?" with the question mark? Can
11 you look there, above, immediately above Labongo, can you look at that writing of
12 the name Dominic with a question mark.
13 PRESIDING JUDGE SCHMITT: [13:02:43] Mr Witness, we are talking about this
14 small, this very small thing that is what you read out, which starts "Labongo
15 reported" and there above on the left side of this line there is a small remark, small
16 name "Dominic". The question was: Have you written this? Do you recall that or
17 do you recognize your handwriting?
18 THE WITNESS: [13:03:14] (Interpretation) Thank you so much. The word
19 "Dominic" there was written by me. At the beginning I said -- well, I don't
20 understand, perhaps here in Europe if you write something, there is no correction
21 whatsoever or there will be no error.
22 I said I wrote this, I wrote "Dominic" and Labongo also was written by me. It's my
23 handwriting. But because of illegible writing it's possible I could have committed
24 some errors. If my superior had not underlined this thing, what would Ayena ask?
25 Was he going to ask about Dominic Labongo?

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1 PRESIDING JUDGE SCHMITT: [13:04:03] We are not speculating now, Mr
2 Witness. And I can assure you that errors are not restricted to any culture or any
3 specific culture.

4 Mr Ayena, please continue.

5 MR AYENA ODONGO: [13:04:13] Thank you, your Honours. I want to refer him
6 again to what appears to be paragraph 6, directly opposite on the left. On the left of
7 where we have been, where you have written "Labongo," there is that part, that
8 paragraph on the left which starts with "Labongo" again.

9 Can you see that, Witness?

10 A. [13:04:48] Let me check. Yes, I have seen it.

11 Q. [13:05:05] It would be useful for you to read that again to Court, Mr Witness.

12 PRESIDING JUDGE SCHMITT: [13:05:12] But please tell him when to finish.

13 MR AYENA ODONGO: [13:05:14] Yes.

14 THE WITNESS: [13:05:16] (Interpretation) If you observe well this writing, there is
15 some sign and that sign was made by the same person, my superior. It is true that I
16 said clearly that that report was written in the name of Dominic because sometimes
17 when you hear messages on the radio, when you hear something on radio, sometimes
18 it's different from what -- the way we write.

19 If you see my drafts, you will observe that it is different. (Overlapping speakers)

20 MR AYENA ODONGO: [13:06:06] Your Honour, I want him to read it instead
21 of -- can he read it?

22 PRESIDING JUDGE SCHMITT: [13:06:10] Just read perhaps this one sentence there.
23 As you did it the last time when you read it out loud, please do it in English because
24 it's your handwriting as you have confirmed and you have written it in English.
25 Please do it in English and just one sentence perhaps or two.

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1 THE WITNESS: [13:06:27] (Interpretation) As I said yesterday, we should use
2 just -- we shouldn't giving orders. Before I read, I should explain that I wrote this
3 myself and
4 (Speaks English) "Labongo came on air and informed Kony." (Interpretation) If you
5 compare this information or this intercept, you cannot compare with the other one
6 because Labongo's voice is different. Perhaps it could be a problem of voice, but
7 here --

8 MR AYENA ODONGO: Your Honours --

9 THE WITNESS: (Interpretation) -- we can make a correction in any writing.

10 MR AYENA ODONGO: [13:07:23] -- can I volunteer to read it and then he
11 confirms it.

12 PRESIDING JUDGE SCHMITT: [13:07:26] Of course you can.

13 MR AYENA ODONGO: [13:07:27] Yes.

14 PRESIDING JUDGE SCHMITT: [13:07:28] If you are able to --

15 MR AYENA ODONGO: Yes.

16 PRESIDING JUDGE SCHMITT: -- really read out everything because it's not so easy,
17 but I trust your --

18 MR AYENA ODONGO: [13:07:34] Yes.

19 "Labongo came on air briefly and informed Kony that he attacked Odek, and he burnt
20 UPDF Defence and D/camp." I think that's the -- yeah.

21 Q. [13:08:00] Mr Witness, was that your writing?

22 A. [13:08:08] I want Court to understand well the word "briefly" should be well
23 understood. If someone says something happened briefly --

24 Q. [13:08:23] Mr Witness, I have to intervene here.

25 PRESIDING JUDGE SCHMITT: [13:08:24] No, no. Let him now, let him explain

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1 now I think. There was nothing --

2 Please, Mr Witness, continue now. We stopped you when you started talking

3 about -- (Overlapping speakers)

4 THE WITNESS: (Overlapping speakers)

5 PRESIDING JUDGE SCHMITT: Please continue.

6 THE WITNESS: [13:08:41] (Interpretation) I am saying clearly, and everybody is

7 listening, I'm saying that this was Dominic's attack. The LRA has the tendency of

8 repeating things. If someone, for example, sends a report -- for example, if Kony

9 does something, after that Lukwiya Raska may relay it to the others. You may then

10 write Lukwiya Raska representing actually Kony's voice.

11 I said "came on air briefly." As I said, we write a lot of things. I don't know how

12 many books we are using, because yesterday we used some notebooks where we

13 wrote the audio messages, and I find that there is no difference.

14 So I don't understand if what -- if the recordings which were played yesterday don't

15 match what I said. If you know that the recordings played yesterday match with

16 what was said yesterday, then it should be said clearly. If --

17 PRESIDING JUDGE SCHMITT: [13:10:09] What gives rise to the questions is the

18 following: You write here "Labongo" and then came on briefly and then he did

19 report something. What did he report? He said "he attacked". That is the

20 wording, that is -- and a normal understanding of language, this would normally not

21 be interpreted in a way that you say he is reporting about something that somebody

22 else did, but that he would report something that he did because it is written here at

23 least that he attacked. So this gives rise to the question.

24 So if you could say something to that briefly also and then I think Mr Ayena we can

25 continue because it is clear that the witness has written that like that.

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1 THE WITNESS: [13:11:12] (Interpretation) Can I speak now?
2 If you see that part which has been pointed out by Mr Ayena, that intercept was for
3 what time? And the intercept where I wrote about Dominic was done at what time?
4 There can be an attack by Labongo and someone else also can do an attack, but that
5 will depend on the timing or the time, because right now I'm talking for 30 April 2004.
6 That I'm talking about that. That's why I'm saying clearly that it is possible Labongo
7 could have also staged an attack in Odek. But my emphasis is this, what is
8 important in the LRA message is the time. I told you that LRA uses time, minutes
9 and the date.
10 So I don't know what you are talking about, what the headline was, because here
11 Labongo was on air. Dominic too was on air. Otto Sam was on air. You should
12 know that we use the daytime group signals. That means the date and the time. So
13 what is important is that 30 April 2004, that is the most important information. If
14 you want to ask me questions, ask me on that, because according to the recording
15 Dominic reported to Otti that he made an attack.
16 But it's different from Labongo who came on air and informed Kony. There is a
17 difference. In other words, it could be possible that Labongo may have also staged
18 an attack on Odek. But also on the other hand, Otti also made a report to Otti. So
19 there are two reports, so one report to Otti and one report to Kony.
20 Ask me other questions if you have. Thank you.
21 PRESIDING JUDGE SCHMITT: [13:13:50] Thank you very much.
22 I assume that we have also the other pages of this logbook, so we can look what date
23 we are talking about. I assume since there is a close relation between the two
24 informations on these two pages there would be no difficulty to verify that.
25 So Mr Ayena, perhaps you can move on.

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- 1 MR AYENA ODONGO: [13:14:15] Thank you very much, your Honours. I want
2 now to turn to tab 33.
- 3 MR ELDERFIELD: [13:14:21] Your Honour, I'm sorry.
- 4 PRESIDING JUDGE SCHMITT: [13:14:23] Yes.
- 5 MR ELDERFIELD: [13:14:23] I'm sorry to interrupt, but just for the record, the ERN
6 that Defence counsel gave for this page was the correct one, and he gave that at
7 transcript of today page 37, line 24.
- 8 The pinpoint, the page we're actually looking at was 1690.
- 9 PRESIDING JUDGE SCHMITT: [13:14:44] Thank you very much, Mr Elderfield.
- 10 MR AYENA ODONGO: [13:14:46] Thank you, thank you, learned counsel.
- 11 Q. [13:14:51] Can you take the witness to tab 33, the ERN number is UGA-OTP- --
- 12 REGISTRY REPRESENTATIVE: Can we please have it in English so I can open.
13 Thank you.
- 14 MR AYENA ODONGO: [13:15:17] It is tab 33. Defence binder, tab 33.
- 15 Q. [13:15:54] I want you to go to ERN number, page 38, 302.
- 16 THE COURT OFFICER: For the record the ERN number is 0248-0263 at 302.
- 17 MR AYENA ODONGO: [13:16:47] Yes.
- 18 Q. [13:16:47] Are we there?
- 19 REGISTRY REPRESENTATIVE: Yes, we are there.
- 20 MR AYENA ODONGO: [13:16:53]
- 21 Q. [13:16:53] Witness, can you count from below row number 1, 2, 3, 4 and we
22 begin from there.
- 23 MR AYENA ODONGO: [13:17:21] Are we there, court officer?
- 24 A. [13:17:24] Yes, we are there.
- 25 Q. [13:17:26] Okay. Can you look at the column on the left where it is written V18.

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- 1 A. [13:17:42] I see V17.
- 2 Q. [13:17:46] You do not see V18?
- 3 A. [13:17:56] V18 is down where it says "Roger. Roger."
- 4 Q. [13:18:03] I said you should go to row, the fourth row from below.
- 5 A. [13:18:15] Yes, I have seen it.
- 6 Q. [13:18:17] Can you look at that handwritten stuff below V18.
- 7 A. [13:18:34] Yes, I've seen it.
- 8 Q. [13:18:38] Is that your notation?
- 9 A. [13:18:45] That was a correction. When the ICC came, they asked me to correct
- 10 the voice being heard, so it was the voice being corrected. So that annotation, what
- 11 was typed, it was sent to Kampala -- from Kampala and I was asked to verify the
- 12 voices, the voices. So we were verifying the voices.
- 13 Q. [13:19:11] Mr Witness, that annotation which to me reads like "LAB", what do
- 14 you mean by that? Whose synonym?
- 15 A. [13:19:29] That means Labalpiny. As I said, we have very many abbreviations.
- 16 We have Labalpiny. I gave an example of Labalpiny, Lok Wek Tam, as I said the
- 17 other day. There is Lukwiya, LOK.
- 18 Q. [13:19:53] Well talk about this one, LAB.
- 19 A. [13:20:05] LAB, it depends. It could be Labalpiny or it could be Labongo. It
- 20 depends on the voice speaking. As I said, this wasn't an intercept. This was
- 21 something translated here in The Netherlands and was typed and sent to us so as to
- 22 verify who, which voice is which. This wasn't an intercept. This was a translated
- 23 version from Acholi and it was forwarded to us to verify. We were supposed to say
- 24 this is so and so, this is so and so. Thank you.
- 25 Q. [13:20:43] So, Mr Witness, who was this?

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1 A. [13:20:48] I think it would be better to go to voice because right now I cannot,
2 from the writing say that the voice of V18 is so and so, without listening to the
3 recording. As I said, we would listen to the recording and then we would say this is
4 this person's voice and so on.

5 Even you, Ayena, you cannot say that V18 is some, this is so and so's voice if you
6 haven't listened to the recording.

7 Q. [13:21:36] Mr Witness, I'll now go back to tab, the same tab, still the same tab,
8 still the same tab. I want you to read, look at the last row, that handwriting. Can
9 you tell this Court what is written there?

10 A. [13:22:32] Here it was not very clear, so as I said, this is a correction, for you, you
11 did the correction. When you see something unintelligible, that means it was not
12 clearly heard. So we were there to assist in interpreting. So I repeat, what is
13 written here, V1 and so on, these are voices which the ICC gave to the civilians to
14 interpret, and then this was given to us to look through and we were doing
15 corrections. That means here it was crossed and then we replaced it by what we had
16 heard on the recording.

17 Q. [13:23:29] In this case, Mr Witness, I want you to read the handwritten part.
18 First of all, is that your handwriting?

19 A. [13:23:44] I cannot continue repeating because I explained, I also said how
20 people talk, the times they talk. I also made a differentiation between the date and
21 the time. Do you want me to say that this is not my handwriting? Then okay, let
22 me say it's not my handwriting. Thank you.

23 PRESIDING JUDGE SCHMITT: [13:24:12] I think it's clear. Yes.

24 MR AYENA ODONGO: [13:24:23]

25 Q. [13:24:23] To go back to tab 1.

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1 THE COURT OFFICER: (Via video link) Could you say the tab number in English,
2 please?

3 MR AYENA ODONGO: [13:24:49] It is tab 1, Defence tab 1, OTP-UGA-0017-0150.

4 THE COURT OFFICER: (Via video link) Yes, okay.

5 MR AYENA ODONGO: [13:25:07] And I want us to go to 154.

6 THE COURT OFFICER: (Via video link) Okay. We have it.

7 MR AYENA ODONGO: [13:25:43]

8 Q. [13:25:43] Mr Witness, I want you to note that this is a document that was
9 provided by the Prosecution. It is not a Defence document but it was supplied by
10 the Prosecution. Can you read the heading on the first, go to the first page.

11 A. [13:26:22] There is a little writing. Which one? The word "secret" or which
12 one?

13 Q. [13:26:25] The heading, "Intelligence".

14 A. [13:26:30] Here there is no word. There is no -- the word "intelligence" isn't
15 here.

16 Q. [13:26:41] Please, it is on UGA-0017-150.

17 THE COURT OFFICER: (Via video link) Sorry. We had moved to 154. We are
18 now back on 150.

19 MR AYENA ODONGO: Yes.

20 PRESIDING JUDGE SCHMITT: [13:26:58] I would suggest that you still keep in
21 mind we have 150 and later on we'll come to 154. I would assume that there are no
22 other of these pages of this report to be discussed.

23 MR AYENA ODONGO: [13:27:14] Yes.

24 Q. [13:27:27] Mr Witness, can you tell this honourable Court what you see on that
25 document, especially that line immediately under the handwritten word "Friday."

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- 1 A. [13:27:52] I think this needs to go into private session. Private session, please.
- 2 PRESIDING JUDGE SCHMITT: [13:28:02] Do you have an opinion on that,
- 3 Prosecution?
- 4 MR ELDERFIELD: [13:28:04] Your Honour, previously we've dealt with these
- 5 intelligence reports in open session.
- 6 PRESIDING JUDGE SCHMITT: [13:28:09] So, Mr Witness, with other witnesses we
- 7 have already discussed this in open session, so this is nothing secret anymore. So we
- 8 can stay in open session. But perhaps you can shorten it a little bit. It reads
- 9 intelligence report of 30 April 2004, 9 o'clock and so forth. So have you seen that?
- 10 THE WITNESS: [13:28:31] (Interpretation) Yes, I have seen it.
- 11 PRESIDING JUDGE SCHMITT: [13:28:44] So Mr Ayena, please continue.
- 12 MR AYENA ODONGO: [13:28:46]
- 13 Q. [13:28:46] Now, I want you to look at the first column which is showing
- 14 numbers and I want you to come to number 9. Mr Witness, do you see that name
- 15 "Labong"?
- 16 A. [13:29:18] I've seen Labong.
- 17 Q. [13:29:20] Let us go now to the page where -- first of all, to page --yes.
- 18 A. [13:29:28] I have seen Labong.
- 19 Q. [13:29:30] (Overlapping speakers) page 153. Can you look at the column, the
- 20 first column. And you come to the second but last row where it is written
- 21 "Labong/Kony". Have you seen that, Mr Witness?
- 22 THE COURT OFFICER: (Via video link) Could you please say it in English?
- 23 Sorry. Because we can't assist in Acholi.
- 24 MR AYENA ODONGO: [13:30:27]
- 25 Q. [13:30:28] The first column, it is the second but last row?

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1 THE COURT OFFICER: (Via video link) Okay. Yes. We have it. Thank you.

2 MR AYENA ODONGO: [13:30:35]

3 Q. [13:30:36] Okay. Can you ask him to read the next column, what is written in
4 the next column, the first two lines.

5 THE COURT OFFICER: (Via video link) Okay. Lines 1 and 2 here please, can you
6 read?

7 THE WITNESS: [13:30:56] (Speaks English) This one?

8 THE COURT OFFICER: (Via video link) First two lines, this and this.

9 THE WITNESS: [13:31:06] (Speaks English) "LAB - I attack Odek camp -- Odek camp
10 and killed many people. I even burnt many houses. Now I am on serious
11 movement."

12 (Interpretation) Will I continue reading?

13 MR AYENA ODONGO: [13:31:46]

14 Q. [13:31:47] I want you now to come to page 154 and specifically to, you go to the
15 first --

16 A. [13:31:56] I need to ask a question, if possible, because I know questions are
17 coming. Can I --

18 PRESIDING JUDGE SCHMITT: [13:32:09] For the moment, for the moment the
19 questions are put to you, and it was not very complicated and you have read out the
20 last portion. So you have answered that question. Thank you very much for that.

21 THE WITNESS: [13:32:18] (Speaks English) Okay.

22 PRESIDING JUDGE SCHMITT: [13:32:19] And we are now going, we are now going,
23 just go with the young lady who is at your side, go to 154, and I would assume the
24 fourth column.

25 MR AYENA ODONGO: [13:32:29] Yes, the fourth column.

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- 1 PRESIDING JUDGE SCHMITT: [13:32:32] Yes.
- 2 MR AYENA ODONGO: [13:32:33] No, no. The fourth row.
- 3 PRESIDING JUDGE SCHMITT: [13:32:35] Fourth, fourth.
- 4 MR AYENA ODONGO: [13:32:38] Row.
- 5 PRESIDING JUDGE SCHMITT: [13:32:40] Fourth yes, row, of course. Thank you
- 6 very much. So please continue, Mr Ayena.
- 7 MR AYENA ODONGO: [13:32:43]
- 8 Q. [13:32:43] That fourth row you start with, I mean start from the left-hand side on
- 9 the first column. What is written in the first column opposite that row?
- 10 THE COURT OFFICER: (Via video link) In English, please repeat in English the
- 11 exact location.
- 12 MR AYENA ODONGO: [13:33:10]
- 13 Q. [13:33:10] Do you see "Labongo/all units" in the first row, I mean column?
- 14 THE COURT OFFICER: (Via video link) Do you confirm that it is page number 154?
- 15 MR AYENA ODONGO: [13:33:25] Yes, please.
- 16 THE COURT OFFICER: (Via video link) Thank you. And you want him to read
- 17 out -- sorry?
- 18 MR AYENA ODONGO: [13:33:36] "Labongo/all units". Does he see it?
- 19 THE COURT OFFICER: (Via video link) Okay. Yes, we have it.
- 20 Please read.
- 21 THE WITNESS: [13:33:43] (Speaks English) Yes.
- 22 MR AYENA ODONGO: [13:33:46] Does he see it?
- 23 THE COURT OFFICER: (Via video link) Yes, he sees it.
- 24 MR AYENA ODONGO: [13:33:49] Okay. I want him to read the next column,
- 25 which starts with "LAB".

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- 1 THE COURT OFFICER: (Via video link) Okay.
- 2 MR AYENA ODONGO: [13:33:56] First of all, let him confirm whether in this case at
- 3 least LAB refers to Labongo.
- 4 MR GUMPERT: [13:34:06] Your Honour.
- 5 THE WITNESS: [13:34:07] I said --
- 6 MR GUMPERT: That's not a proper question.
- 7 PRESIDING JUDGE SCHMITT: [13:34:09] One moment. Yes, please.
- 8 MR GUMPERT: [13:34:11] It hasn't been established that this witness has any
- 9 knowledge of this document beyond his acquaintance with it today. Indeed,
- 10 implicitly by virtue of Defence counsel telling the witness what this document was, it
- 11 is accepted that he hasn't.
- 12 The Prosecution hasn't objected to the showing of the document. This isn't a jury
- 13 trial. Your Honours are familiar with the document. But to ask him now to
- 14 interpret what the writer of this document may have meant is an illegitimate
- 15 question.
- 16 PRESIDING JUDGE SCHMITT: [13:34:51] Mr Taku, I think the objection is sort of
- 17 justified, I would say, because perhaps what we could, should ask him, the witness, if
- 18 he has any knowledge of this report. It could be. We don't know. Perhaps we can
- 19 ask him that. And if not, we can, we have seen it already also and we can make use
- 20 of it. We can read ourselves.
- 21 So there would also, in my opinion, no need to let the witness read it out because it's,
- 22 as I said, we have our eyes to read. We see what stands here. It stands Labongo,
- 23 LAB and then what is says there.
- 24 So what you could ask is if, for example, when you put it, this to him, if this changes
- 25 anything, what he has said about the attack in Odek, Mr Ayena, that would be an idea

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1 perhaps to do.

2 MR TAKU: [13:35:50] Yes, your Honours, but with your kind permission, let me
3 react briefly to what my colleague has just sound. Ample foundation has been laid
4 through this witness. In fact he volunteered the information that the chief of army
5 intelligence obtained information from multiple sources across the country and that at
6 the end of the day they came up with their own report.

7 And the counsel has not even asked him to interpret anything yet. He will ask him if
8 he sees this. Let him wait for the question. If that question were asked he were
9 objecting to and a question will have been asked. A question has not been asked.
10 They're only drawing his attention to areas indeed.

11 And if he has the special knowledge about the operations, in particular how the chief
12 of army intelligence, who wrote a report, these questions can be put to him. He's not
13 just a novice. Apart from the chain of command he has direct, sends direct reports to
14 them as he himself has testified. So I think he's able to provide the answers.

15 We take into consideration what you've said, that you've observed it. That's okay.
16 But let my colleague wait until a specific question is asked, they interject to raise
17 objection. But that question has not even been, for him to interpret, has not been
18 asked.

19 PRESIDING JUDGE SCHMITT: [13:37:09] We are being attentive to not giving the
20 witness the impression that he has written this. But I'm not sure. Perhaps I would
21 be interested if he has seen it before, if he has any involvement in it. But okay.
22 And then of course, as I said, we don't -- you know, this happens quite often in our
23 cases here that witnesses, or whoever is asked to read something out loud, but we
24 have our -- we see it. So you can read it out if you want and then ask the witness if
25 this perhaps changes anything in what he has said already, for example.

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1 MR AYENA ODONGO: [13:37:53] Thank you very much, your Honours. I think
2 talk about like minds, my colleague was spot on, that is exactly what I was going to
3 put to Court because I think my colleague is putting the cart before the horse.
4 The idea was to run him through and then possibly ask whether he's aware of this,
5 whether he recognizes.

6 PRESIDING JUDGE SCHMITT: [13:38:21] Please do this.

7 MR AYENA ODONGO: [13:38:23] Yes.

8 PRESIDING JUDGE SCHMITT: [13:38:24] And I would simply suggest read this one
9 line out --

10 MR AYENA ODONGO: [13:38:28] Yes.

11 PRESIDING JUDGE SCHMITT: [13:38:28] -- to the witness and then put your
12 question afterwards. Thank you.

13 MR AYENA ODONGO: [13:38:31]

14 Q. [13:38:32] Here it is stated:

15 "I attacked a detach in Odek and got the following," then the list which is already
16 there. Then of course Kony congratulates him and then he says "Even more than
17 that!"

18 And then later on, I want you to turn to page 155 of the same document. I want you
19 to look at the last row; first column, last row. Do you see the 5th division -- 4th
20 division there? And do you see number 3, which reads "Field Reports"?

21 A. [13:40:01] Mm-mm.

22 Q. [13:40:03] And in the next row opposite 4th division is written:

23 "Odek IDP

24 - LRA group suspected to be under Labong attacked camp yesterday evening.

25 - 20 civilians killed - 2 UPDF KIA, 02 WIA - 04 SMGs and 01 LMG lost."

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1 Now, Mr Witness, yesterday we were talking about reports from different hierarchies
2 of intelligence and you were very elaborate, starting from is it the platoon, to the
3 company, to the battalion, to the brigade, to the, you know, division, and then finally
4 to the centre. And we asked you yesterday whether you are aware that these reports
5 finally get analysed and they are used for military field operation.

6 You remember that, Mr Witness?

7 A. [13:41:26] Yes, I remember very well.

8 Q. [13:41:35] Mr Witness, could this be such a report?

9 A. [13:41:42] I am in technical intelligence, that you might need to ask people who
10 are in the field. Me, I only respond to what I have intercepted in my field of
11 technical intelligence.

12 PRESIDING JUDGE SCHMITT: [13:42:05] I think we have, if you not have a
13 question that would immediately have to put now to the witness, I would say because
14 we have had our session longer than we had told the parties and participants before,
15 then I suggest that we have the lunch break until 3 o'clock. The last portion will be a
16 little bit shorter, 45 minutes only, for internal reasons. That means we reconvene at
17 3 o'clock, but only have 45 minutes left. This also means that we do not expect that
18 you finish today.

19 THE COURT USHER: [13:42:42] All rise.

20 (Recess taken at 1.43 p.m.)

21 (Upon resuming in open session at 3.05 p.m.)

22 THE COURT USHER: [15:05:49] All rise.

23 PRESIDING JUDGE SCHMITT: [15:06:08] I see the witness in the separate room.

24 And I have understood that the small problems with the translation, especially with
25 the translation into two languages has been solved.

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1 I want to make a short remark to that. Since this change in location, so to speak, the
2 necessity for this change only occurred on very short notice, I already said that it is a
3 great achievement by the Registry to be able to do that.

4 It is still the time of the questioning of the Defence. So, Mr Ayena, you have still the
5 floor.

6 MR AYENA ODONGO: [15:07:09] Good afternoon, your Honours.

7 Q. [15:07:15] Good afternoon, Mr Witness. Mr Witness, this morning we talked
8 about Odek. I am now going to run you through Abok. Mr Witness, do you
9 remember the date when Abok IDP camp was attacked?

10 A. [15:07:52] All these incidents that happened, I do not remember the exact dates,
11 because there is no record now which I can refer to and I cannot remember this off
12 head for something that has happened 20 years ago.

13 Q. [15:08:18] Mr Witness, according to transcript you reviewed, the attack occurred
14 sometime in the evening of 8 June 2004. Could that be correct?

15 A. [15:08:45] I will understand or agree when I listen to an intercept, intercept
16 recording or have a document, but I cannot say for certain now.

17 Q. [15:09:07] Court officer, can we go to tab 29. The ERN number is
18 UGA-OTP-0248-0106 at 123, 123, 3. And you go to rows 372 to 397.
19 Are you there, Mr Witness?

20 A. [15:11:11] Yes, I am there right now.

21 Q. [15:11:23] I want you to look at the first column. Are you there? From top?

22 A. [15:11:53] Yes.

23 Q. [15:11:57] And as I said, I want you to go up to between 372 to 397.

24 PRESIDING JUDGE SCHMITT: [15:12:12] And do we have a concrete question to
25 this?

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

2 PRESIDING JUDGE SCHMITT: [15:12:16] No, no. He has said already that he's
3 there. So perhaps just you put the question to him --

4 MR AYENA ODONGO: Yes.

5 PRESIDING JUDGE SCHMITT: -- regarding to a certain row.

6 MR AYENA ODONGO:

7 Q. [15:12:22] Do you see name of Dominic Ongwen there?

8 PRESIDING JUDGE SCHMITT: [15:13:36] Mr Witness.

9 THE WITNESS: [15:13:38] (Interpretation) I would like to thank the Court. The
10 portion that I have been shown to read, if I remember very well, the recording was
11 played and everybody listened to it, but this section is only small section which was
12 taken out of the communication between the signallers. The signallers were talking
13 amongst themselves. But this portion was only saying it was "4 p.m. over." So this
14 was basically sharing information about what Dominic had done.

15 And if there is need, you can replay that section and we listen to it again.

16 MR AYENA ODONGO: [15:14:44]

17 Q. [15:14:45] Mr Witness, I don't know whether Court can replay this.

18 A. [15:15:00] this record is very clear. It was the beginning of communication
19 between the signallers. All the units were communicating and there was a lot of
20 interference and each of the signallers were talking and there was no important
21 communication or message that was being discussed. It was just repeating the same
22 thing that was previously said in a different message.

23 PRESIDING JUDGE SCHMITT: [15:15:34] And I think Mr Ayena, as I repeat it, what
24 I said today already, we can see on the left side what is written, what is ascribed to
25 which speaker. So I think it's clear. And we also have confirmed by the witness

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1 that it is his signature. So at least until line 397 it seems to be clear who has been
2 talked in the opinion of the witness.

3 So perhaps we move to another point.

4 MR AYENA ODONGO: [15:16:22]

5 Q. [15:16:24] Mr Witness, when we were listening to the audio which the
6 Prosecution played to you, did you at any time hear Abok referred to?

7 A. [15:16:57] When you say "Abok", what are you referring to? I think if the tape
8 can be played, that will be good, so that I can interpret what has -- just as I've been
9 doing before. I cannot say something off head because when you ask me, "Have you
10 heard about Abok?" or what, I think I may not be able to give you the right answer.
11 But if the tape is played, I can give you the right answer. Thank you.

12 PRESIDING JUDGE SCHMITT: [15:18:03] Microphone please. Microphone please.

13 MR AYENA ODONGO: [15:18:07]

14 Q. [15:18:08] Mr Witness, I put it to you that this tape was played by Prosecution
15 and that the name Abok was never mentioned.

16 A. [15:18:28] Thank you. I think the Court can use information that was provided
17 by the Prosecution because I am here to listen to the recordings because as I said there
18 were verifications that were conducted, two or three times.

19 And for ICC to come forward like the Prosecution has already put its case, that means
20 there were verifications done to more than two or three times.

21 So what was played before the Court is what should be asked or what should be used
22 to verify any information. So you ask me in line with what you have listened to. So
23 if you talk about Abok, I know LRA did attacks in different places and many different
24 places.

25 So if you ask me about Abok, you never know, it could be another commander, Ocan

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1 Bunia or Tabuley that attacked Abok, or it could be Dominic or it could be Lukwiya
2 Raska. So it is difficult when you ask me in a short form or shortcut format. So I
3 will be able to give you an answer which may not be correct or it could have been
4 done by Otti instead of Tabuley so that you can get some fault on me so that you find
5 where you can stand. Thank you.

6 PRESIDING JUDGE SCHMITT: [15:20:15] I understand that this audio or this
7 transcript is based on has already been played to the witness. I understand that this
8 witness has already commented on it. So since we are able to read what the witness
9 has said in the transcript and if it may be that a certain place is not mentioned, then
10 this is already on the record.

11 Furthermore, we have this transcript here. The transcript as I understand it is
12 submitted as evidence. So if a place is not mentioned here, it is already on evidence.
13 So we need not elaborate on that further, I would say. So this would --

14 MR AYENA ODONGO: [15:21:04] I'm happy with that.

15 PRESIDING JUDGE SCHMITT: [15:21:08] I knew you would be happy with that.
16 So this shortens a little bit the procedure I think. So please continue, Mr Ayena.

17 MR AYENA ODONGO: (Microphone not activated)

18 PRESIDING JUDGE SCHMITT: [15:21:33] Microphone.

19 MR AYENA ODONGO: [15:21:37] OTP-0132-105.

20 MR ELDERFIELD: [15:21:58] Sorry, I just missed the tab number there.

21 MR AYENA ODONGO: [15:22:01] The tab number is.

22 THE COURT OFFICER: [15:22:07] 11.

23 PRESIDING JUDGE SCHMITT: [15:22:09] Frankly speaking I feared that it would be
24 19. I understood 19 and this was the --

25 MR AYENA ODONGO: [15:22:14] Paragraph.

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1 PRESIDING JUDGE SCHMITT: [15:22:15] Okay. I'm happy with it being 11, tab 11,
2 frankly speaking.

3 MR AYENA ODONGO: (Microphone not activated)

4 PRESIDING JUDGE SCHMITT: I would suggest the following, that your colleague
5 at your side perhaps just pull on the microphone. From now on you are responsible,
6 microphone on and off, please, just for the next 35 minutes I would say or 30 minutes.
7 Thank you.

8 MR AYENA ODONGO: [15:23:40]

9 Q. [15:23:41] Mr Witness, during your work of interception, did you come to
10 appreciate the hierarchical arrangement of the LRA -- of the ranks in the LRA?

11 A. [15:24:07] Could you repeat the question again?

12 Q. [15:24:15] In a simple way, did you during your work of interception get to
13 know the ranks, I mean the ranks and positions of people in the LRA?

14 A. [15:24:33] When you say the ranks, I may not understand clearly. Are you
15 asking the promotions in the LRA or whether I have seen where -- the ranks that have
16 been worn by the LRA? Or are you asking whether I know the LRA ranks or if I
17 know how the LRA conducts their promotion or whether I've seen their rank?
18 Maybe you have to be specific.

19 Q. [15:25:14] Mr Witness, being a man of the forces, you know that there are ranks
20 in any army, starting of course from private upwards. Was this the case in the LRA,
21 with the LRA?

22 A. [15:25:39] The LRA, I know their ranks fall -- in relation to what has been
23 communicated on radio. It is not my role to know the private or a private in the
24 LRA or a corporal in the LRA. I know in line with what has been mentioned on
25 radio.

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1 I remember when Tabuley was killed in Soroti, the message was very clear that
2 Tabuley was killed together with another sergeant.
3 So I write according to what has been communicated. I don't know within their
4 ranks how many corporals are there. So I write the ranks according to how I have
5 listened to their communications on radio.
6 So I don't know how many LRAs have the lance corporal rank. I gave an example
7 yesterday that there are times that when Kony is conducting promotions it is not very
8 clear. And the way he read out the promotions you clearly heard, and there are
9 times that the promotions are announced on radio, as communicated, but there are
10 times that it is written while he was in his headquarters in the Sudan and he would
11 just send as a part 2 order. A part 2 order means the ranks have already been
12 confirmed and therefore it can be released that you are a corporal or you are this
13 sergeant. Then a ceremony for the promotion is conducted. So that is how the LRA
14 does their promotions. So you cannot compare it to how the UPDF or the
15 government of Uganda conducts its promotion because ours, the style is a little
16 different.

17 PRESIDING JUDGE SCHMITT: [15:27:52] May I interrupt you

18 Mr Witness, I think this really answers the question. And I would interpret it in a
19 way that your question has been answered with yes.

20 MR AYENA ODONGO: [15:28:06] Well, to some extent.

21 PRESIDING JUDGE SCHMITT: [15:28:08] In a general way.

22 MR AYENA ODONGO: [15:28:11] In a general way, yes.

23 Q. [15:28:16] But I wanted to ask you, Mr Witness, did you get to know about
24 somebody called Tulu?

25 A. [15:28:26] I don't know LRA by their faces. But for him, he knows all these

1 people one by one. Joseph Kony knows them one by one like he knows Dominic.

2 But all these people, I only listened to their names on radio. But for him he is aware,
3 because when they ask him, he knew Dominic before he knew -- and before he knew
4 Dominic, so it means if you ask him, he will probably know him.

5 Q. [15:29:08] Mr Witness, my question is simpler than that. When you were doing
6 your interception work, did you come across the name Tulu?

7 A. [15:29:32] Yesterday I mentioned this thing here. The Prosecution played the
8 audio. I explained that this means Tulu. Your Honours, if you can remember there
9 is a certain section, there was somebody called Toolbox called Tulu. I explained this
10 clearly, and there was a name called Tulu came out yesterday, unless counsel Ayena
11 is forgetting.

12 But even I think, I know that even the whites know that this is called Tulu. I
13 mentioned this yesterday. I don't know him.

14 PRESIDING JUDGE SCHMITT: [15:30:03] Again, Mr Witness, we recall that this was
15 mentioned yesterday. But it sometimes happens that different participants and
16 parties try to shed light on certain instances from a different angle and perspective. I
17 already explained to you that the role of the Defence is to do that. And it may sound
18 for you repetitive, but I'm sure that Mr Ayena will have a line of questioning which
19 he is now following. So there is nothing to get excited about.

20 You have indeed talked about it yesterday, so the answer would be yes from you, yes,
21 you came across this person.

22 Now we continue, Mr Ayena, please, with the questioning.

23 MR AYENA ODONGO: [15:30:57] But Mr -- I mean your Honours, I think the
24 witness should know that I am doing cross-examination. Cross-examination is about
25 questions about what has already been said.

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1 PRESIDING JUDGE SCHMITT: [15:31:13] You could not describe it better, I would
2 say. So this is indeed the case. I did not want to use the special term
3 cross-examination. I tried to explain it a little bit more basic, so to speak, but yours is
4 of course much more sophisticated. So please continue.

5 MR AYENA ODONGO: [15:31:32] Your Honours, I just want him to know that he
6 doesn't have to keep on throwing jabs at me because -- and I also reminded him that
7 he may, I mean, he's a very highly talented fellow. I may be less intelligent than him
8 and therefore I may not remember things the way he would expect me to remember.
9 So excuse me, Mr Witness.

10 PRESIDING JUDGE SCHMITT: [15:31:57] So I would suggest the following, since
11 we have not finished the questioning of this witness, from the side of the witness,
12 Mr Witness, I address you directly and also from side of counsel, be more indulgent
13 with each other so that we can really finish this process in a reasonable time.
14 So please the next question, Mr Ayena.

15 MR AYENA ODONGO: [15:32:16]

16 Q. [15:32:16] What was Tulu's rank, Mr Witness?

17 A. [15:32:23] I said, and I repeat, the LRA, when they don't mention the rank
18 during the promotion time, I cannot remember that Okello Kalalang had this rank or
19 so and so had this rank.

20 People like Kony, who high ranks like generals, like Major General Otti, those ones
21 are easier to recall. Like Dominic, like Odhiambo who were high-ranking soldiers, it
22 is easier to recollect.

23 But other lower ranks like second lieutenant or captain is more difficult. But if I go
24 back to my records where I noted down the messages, I may be able to find out
25 exactly what his rank was because, for example, Ayena is talking about this and

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1 putting more emphasis on promotion. I explained this issue of promotion very
2 clearly, he said, Kony said I'm going to promote different people, and I'm going to say
3 if for example I call your name, that means you have been promoted one step ahead.
4 So if I call your name, and you know your present rank, if I call your name you will
5 know that you have been promoted by one step. So he did not say that I have
6 promoted, promoted a certain lieutenant colonel to this rank.
7 But I explained all this very clearly yesterday because Kony just said, if for example
8 you have one star, if you hear your name mentioned, it means that you now have two
9 stars.

10 All this was clearly explained. I did explain all this and everybody understood.

11 Thank you.

12 PRESIDING JUDGE SCHMITT: [15:34:37] Still the problem with the microphone I
13 would say.

14 MR AYENA ODONGO: [15:34:41]

15 Q. [15:34:41] I'm glad that you have reminded Court that yesterday we talked
16 about Tulu. Can you remind Court in what respect you talked about Tulu, since you
17 don't know his rank?

18 A. [15:34:55] I do recall that Tulu's name was mentioned at the time when they
19 were talking about promotion. I do recall that his name was mentioned among the
20 people promoted. Unless the name was mentioned elsewhere which I don't recall
21 now. I'm not a computer to be able to remember everything. There are certain
22 things I may forget. So him as a lawyer for rebels, perhaps he may be able to assist
23 me here.

24 Dear brother, I'm not arguing because I like to win the case. You know what I'm
25 saying is the truth. I know very well that you know, certain things you know very

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1 well, but you're just asking questions. I know that you are very good at arguing; if
2 there is a yellow jerrycan, you will argue until the jerrycan becomes green.

3 But what I'm saying, we shouldn't be competing for winning a case. If you are not
4 satisfied --

5 PRESIDING JUDGE SCHMITT: [15:36:12] Mr Witness, I have to stop you here again
6 for the -- I cannot count it now anymore, I would say. The question was only if you
7 remember it.

8 And if we continue in this way and just put to him what has been said in the
9 transcript, because we have it on record.

10 So I think otherwise this exercise would be futile.

11 MR AYENA ODONGO: [15:36:34] I will not bother.

12 PRESIDING JUDGE SCHMITT: [15:36:36] Yes.

13 MR AYENA ODONGO: [15:36:38]

14 Q. [15:36:38] Mr Witness --

15 A. [15:36:39] Thank you, your Honour. I remember something very well
16 regarding Tulu. What I do remember is that, as I said, when I recall something it's
17 that when they were giving promotions beginning with Kony and then Odomi, I
18 remember also that Tulu's name was mentioned. So I'm asking the lawyer if he
19 knows of something which was said about Tulu which I may have forgotten.
20 Perhaps he could remind me by showing me the transcript or by replaying the
21 recording. Thank you.

22 PRESIDING JUDGE SCHMITT: [15:37:19] This is up to counsel, he has to decide if
23 he wants to do it, otherwise -- and I assume you won't want to continue that.

24 MR AYENA ODONGO: [15:37:26] No.

25 PRESIDING JUDGE SCHMITT: [15:37:26] So you follow now another line of

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1 questioning I would assume.

2 MR AYENA ODONGO: [15:37:31] Yes.

3 Q. [15:37:32] Mr Witness, there has been this man called Ocan Labongo. You
4 remember him?

5 A. [15:37:41] I only hear names of LRA officials when mentioned on radio. I have
6 not met them face to face. The radio we use we listen using our ears but not using
7 our eyes. Thank you.

8 Q. [15:38:03] Witness, when during the proceedings of yesterday and this morning
9 and part of this afternoon did you hear the name Labongo, which in some parts you
10 actually wrote yourself? Do you remember?

11 A. [15:38:29] You are the one who mentioned the name Labongo. When you
12 mentioned the name Labongo, I clearly explained, you said Labongo brought this
13 kind of report, and I said that in the paper which you showed me on the left, it meant
14 something else and on the right it meant something different.

15 On the right side I said there could be some mistake in writing. However brilliant
16 you may be, and I say that perhaps you --

17 MR AYENA ODONGO: Your Honours, your Honours --

18 PRESIDING JUDGE SCHMITT: [15:39:20] Please stop here.

19 MR AYENA ODONGO: [15:39:22] Your Honours, I'm talking about ranks and that
20 is where I am going. Why is he, you know --

21 PRESIDING JUDGE SCHMITT: [15:39:27] (Microphone not activated)

22 MR AYENA ODONGO: [15:39:30] Yes.

23 PRESIDING JUDGE SCHMITT: [15:39:31] Mr Witness, whenever you are asked
24 something, well, especially when it comes to names, then everything is related of
25 course to your knowledge that you can only have from intercepting the radio. So it's

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1 never about if you knew somebody personally. It's only about what came to your
2 ears specifically speaking while intercepting radio communication.

3 So whenever counsel is asking you a name and asking you did you come about this
4 person, this of course means do you have any recollection towards certain audios
5 where you heard this name?

6 Please, Mr Ayena.

7 MR TAKU: [15:40:15] Your Honours, with permission from honourable Ayena and
8 from you, I did want to place on record that he has become extremely re-current with
9 every question about the witness making comments and attacking counsel instead of
10 answering the question. We just want to put it on record again, your Honour.

11 PRESIDING JUDGE SCHMITT: [15:40:30] Mr Taku, this is on record. So this is on
12 record already.

13 So, Mr Ayena, we give it another try. I think witness has understood it.

14 MR AYENA ODONGO: [15:40:41] Yes.

15 Q. [15:40:42] Mr Witness, with the assistance of Court -- I'm sure you don't know
16 where I'm driving -- did you come across this name and the people who were on line,
17 who were on air that day I referred to?

18 A. [15:41:16] I don't know how you'd like me to answer your question, because I'm
19 being told I'm saying a lot of things. But if you consider the headline of, the headline
20 of that document, you'll find that Labongo is there.

21 Q. [15:41:38] Sir, that's the only answer I want you to give. You remember that
22 name.

23 And the next question I'm going to put to you, during your interception, did you
24 determine his rank?

25 A. [15:41:54] If I do recall Labongo's rank, if I look in the records, I may be able to

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- 1 know it, but without that book, I cannot tell you what his rank was.
- 2 Q. [15:42:17] Thank you. I will now begin from top.
- 3 PRESIDING JUDGE SCHMITT: [15:42:29] Mr Ayena, is this a completely new line of
- 4 questioning? Because as you know for internal reasons we have to finish today at
- 5 quarter to 4. So would you prefer to start with this line of questioning tomorrow
- 6 morning?
- 7 MR AYENA ODONGO: [15:42:44] Yes, yes, your Honour.
- 8 PRESIDING JUDGE SCHMITT: [15:42:45] So this is perhaps a better idea.
- 9 MR AYENA ODONGO: [15:42:47] I think so.
- 10 PRESIDING JUDGE SCHMITT: [15:42:48] So this concludes then today's hearing.
- 11 And I think I do not exaggerate when I say that we had easier ones in this courtroom.
- 12 Thank you very much.
- 13 THE COURT USHER: [15:42:58] All rise.
- 14 (The hearing ends in open session at 3.43 p.m.)