

1 International Criminal Court
2 Trial Chamber VI - Courtroom 1
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and
6 Judge Geoffrey Henderson
7 Status Conference
8 Friday, 17 October 2014
9 (The status conference starts in open session at 9.39 a.m.)
10 THE COURT USHER: All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: Good morning, everyone. Welcome to the second
14 status conference of Trial Chamber VI in this case.
15 Could court officer please call the case?
16 THE COURT OFFICER: Thank you, Mr President.
17 The Situation in the Democratic Republic of the Congo, in the case of The Prosecutor
18 versus Bosco Ntaganda, ICC-01/04-02/06.
19 We are in open session.
20 PRESIDING JUDGE FREMR: Thank you.
21 Now, counsels, please introduce yourselves for the record, starting with Prosecution?
22 MS SAMSON: Good morning, Mr President, your Honours. The Prosecution
23 today is represented by to my left Ms Marion Rabanit, associate trial lawyer; behind
24 me to my left Ms Kristy Sim, assistant trial lawyer; directly behind me Mr
25 Rens van der Werf, assistant trial lawyer; in the back row, case manager Ramu Bittaye;

1 and myself, Nicole Samson, trial lawyer.

2 PRESIDING JUDGE FREMR: Thank you, Ms Samson.

3 Now, Defence please?

4 MR BOURGON: Good morning, Mr President, good morning Honourable Judges

5 and everyone in and around the courtroom. Representing Mr Bosco Ntaganda this

6 morning: Behind me Maître Andrea Valdivia, legal assistant; to my right Ms

7 Margaux Portier, case manager; behind me and to the right is Méliissa Beaulieu, intern

8 with the Defence team of Mr Ntaganda. My name is Stéphane Bourgon and I'm lead

9 counsel representing Mr Ntaganda.

10 Thank you.

11 PRESIDING JUDGE FREMR: Thank you.

12 And now representatives for victims?

13 MS PELLET: (Interpretation) Good morning, Mr President. The victims for

14 Group 1, former child soldiers, are represented by Mohamed Abdou, who is behind

15 me, and myself, Sarah Pellet, counsel at the OPCV. Thank you.

16 MR SUPRUN: (Interpretation) Good morning, Mr President, your Honours.

17 Victims for attacks against the civilian population are represented today by myself,

18 Dmytro Suprun, counsel at the OPCV, as well as Ms Ludovica Vetrucchio, associate

19 lawyer.

20 PRESIDING JUDGE FREMR: Thank you.

21 For the record I also note that the Chamber did not require the Registry to be present,

22 but that the representative of the VWU is on standby if the need for clarification about

23 protection-related matters arises.

24 During the first status conference on September 11, the Chamber indicated that it

25 would schedule status conference at regular intervals to be updated on the progress

1 of the preparation for trial, so it's generally purpose of this present status conference.

2 In its order scheduling the status conference, the Chamber announced that besides the
3 progress of preparation for trial, it wishes to discuss the need for clarification, if any,
4 on the nature, cost and content of the charges and the various protocols to be agreed
5 on.

6 The Defence and Prosecution filed submissions on these two issues last Tuesday, but
7 before we start the discussion on these issues, the Chamber will first deliver an oral
8 ruling on a request made by Defence for additional resources.

9 A reasoned decision will follow in the course of the coming week, but the Chamber
10 considered it appropriate to apprise the Defence of the outcome of the decision now
11 so that it is fully informed about the resources available to it during the preparation
12 period that will be discussed today.

13 The ruling is as follows:

14 Pursuant to a decision by the Registrar of 12 April 2013, Mr Ntaganda has been found
15 to be indigent and therefore entitled to legal assistance paid by the Court. In relation
16 to the scope of the legal assistance paid by the Court, the Defence has requested the
17 Registrar to provide the necessary resources to hire a second legal assistant for the
18 duration of the trial proceedings. The Registrar rejected the request, but agreed to
19 provide the Defence with the resources for the remuneration of a second legal
20 assistant for a period of six months, at the end of which an extension could be
21 considered.

22 On 1 October the Chamber heard submissions from the Defence and the Registry
23 during an ex parte status conference. The Registry subsequently revised its position
24 and declared it to be ready to provide resources for a 12-months' contract that could
25 be extended if justified.

1 The Chamber has treated the Defence request as a request for review of a decision by
2 the Registrar on the scope of legal assistance paid by the Court pursuant to
3 Regulation 83(4) of the regulations of the Court. The Chamber then by majority,
4 Judge Ozaki dissenting, reverses the Registrar's decision and grants the Defence
5 request. Accordingly, it orders the Registry to make available to the Defence
6 without delay the funds for a second legal assistant for the duration of the trial phase
7 up until closing statements.

8 The reasons for this decision and Judge Ozaki's dissenting opinion will be issued next
9 week.

10 Now we turn to the first agenda item for today, which is the possible need for
11 clarification of the charges. The Defence has indicated in its written submission that
12 it, quote, "... is satisfied with the general structure of the confirmation decision which
13 allows Mr Ntaganda to understand in general the nature of the acquisitions brought
14 against him," unquote. The Defence does, however, request that in order, quote "...
15 to be informed of the Prosecution's understanding of the charges, the Prosecution
16 should be ordered to submit an updated document containing the charges setting out
17 clearly the charges faced by Mr Ntaganda," unquote. As concerns timing, the
18 Defence suggests that such an updated DCC should be provided by the end of
19 October.

20 The Prosecution submitted in its filing that the confirmation decision in this case,
21 quote, "... doesn't on its own sufficiently set out the facts and circumstances as
22 required under Article 61(1)(a) of the Statute." It contends that, quote, "... where the
23 impact of the confirmation decision on the original charges is minimal, an amended
24 DCC is not necessary ..." but that "... in circumstances that the confirmation decision
25 has produced a tangible modification of the original charges, an updated DCC is

1 needed to ensure clarity, adequate notice and legal certainty at trial," unquote.

2 So the Prosecution appears to say that there is such a tangible modification here,
3 nevertheless the Chamber would like some clarification on that. The Chamber also
4 notes that the Prosecution mentions that it can submit an updated DCC without
5 footnotes by 28 November 2014.

6 At the outset the Chamber needs to stress that it has not yet decided whether it will
7 require the filing of an updated DCC. So after the further submissions today the
8 Chamber will thoroughly consider this further and issue a decision on it in due
9 course.

10 But in order to facilitate this process and following the submissions made on this
11 issue, the Chamber has some questions, starting with Defence. So, Mr Bourgon, you
12 indicate that the confirmation decision allows you to understand in the general the
13 nature of the charges, but you do want the Prosecution to clearly set out the charges.
14 So what concrete aspects do you require clarification on?

15 MR BOURGON: Thank you, Mr President.

16 As previously mentioned, looking at the confirmation decision, one can in our
17 respectful opinion make the changes to the initial documents containing the charges
18 and understand what Mr Ntaganda, the changes -- the charges faced by Mr Ntaganda.
19 However, in order to avoid any problems during trial, it is important in our view that
20 we have a firm document clearly highlighting the Prosecution's understanding of the
21 changes that have been brought to the documents containing the charges by the
22 confirming Chamber. So the type of changes that we are requiring are limited only
23 to modifications in the sense of if certain allegations have been not confirmed, that
24 they be removed from the document so that the document we are working with is the
25 one that will be operational at trial. That is the kind of modifications we are -- we

1 are requesting at this stage.

2 If the Prosecution files such a document and it is in accordance with the decision on
3 the confirmation of charges, then we submit that the trial will be able to proceed on a
4 more -- on a smoother basis and that we will avoid problems.

5 On the other hand, should the Prosecution file an -- updated documents containing
6 the charges with the changes going beyond what is in the confirming -- confirmation
7 decision, then of course the Defence would object to such changes. That is the
8 purpose of what we are requesting, which is quite limited really at this stage.

9 Thank you, Mr President.

10 PRESIDING JUDGE FREMR: Okay, it was my question concerning substance.

11 And now maybe a more detailed question. The Prosecution has indicated that the
12 so-called operative paragraphs of the confirmation decision only provide broad
13 temporal parameters and that it is therefore necessary to look at the non-operative
14 paragraphs. It suggests that extensive cross-referencing is required in order to
15 properly understand the charges as confirmed and could lead to confusion and
16 uncertainty. Do you have a view on this specific issue?

17 MR BOURGON: Thank you, Mr President. Well, we agree with what the
18 Prosecution is saying and we believe that this is indeed necessary, so on this we are in
19 agreement. The idea is to have a firm document which will be binding on both
20 parties and that will be operational at trial. So we feel that there is a need for such a
21 document.

22 Where we maybe have a -- not a misunderstanding, but we don't necessarily need
23 detailed footnotes and cross-referencing to the evidence at this stage. That we
24 don't -- we don't feel is absolutely necessary. If the Prosecution feels it is in order to
25 justify the changes brought to the documents containing the charges, then, of course,

1 we'll be -- we will be happy to see those footnotes, but at this time what we want to
2 do is to have the operational document and know exactly what Mr Ntaganda -- or the
3 charges faced by Mr Ntaganda. Thank you.

4 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon.

5 Now I would like to turn to Prosecution. Ms Samson -- sorry.

6 (Trial Chamber confers)

7 PRESIDING JUDGE FREMR: Okay, maybe we will just add one question which
8 I didn't find necessary, but because there is a wish of Judge Ozaki, I will add this
9 question: On the basis -- sorry, in your written filings you didn't directly address the
10 question of what document should, in your view, be the authoritative statement of the
11 charges for the purpose of the trial. Could you please indicate whether you have a
12 view on this matter.

13 MR BOURGON: Thank you, Mr President. For us there is no doubt of the
14 operational or operative document at trial is the documents containing the charges.
15 That is the document that -- if an updating document is submitted and if the Chamber
16 requests such a document from the Prosecution, this, in our view, is the operative
17 document for trial and this is the one that we will be answering here. Thank you.

18 (Trial Chamber confers)

19 PRESIDING JUDGE FREMR: So now, Prosecution, my question is on the basis of
20 your submissions, we understand you to say that the need for an updated DCC is
21 case specific and that it depends on whether there has been a tangible modification of
22 the original charges. In your view, is that the case here?

23 MS SAMSON: Yes, Mr President, it is. The confirmation hearing decision has
24 confirmed certain aspects of our charges and not others, particularly in relation to
25 modes of liability for particular charges, it has altered the geographic scope with

1 which our initial charging document set out the charges and it altered the time frames,
2 both for the contextual elements, so the crimes against humanity context has been
3 shortened, and the time frame for the two main charged incidents has been amended
4 by the Pre-Trial Chamber. Additionally they have set out very specific locations
5 where specific crimes took place, which differs quite significantly from the original
6 charging document.

7 All of these changes, in our submission, ought to be recorded in an amended DCC, or
8 document containing the charges, so that everybody is on the same page, as it were,
9 in relation to what we go forward with and because various provisions of the Statute
10 refer back to the charging document, for instance, Article 74, Regulation 55, and it is
11 not a practical solution to have to refer to two different documents to determine what
12 the facts and circumstances were.

13 The Prosecution, as we set out in our filing, does not intend to, as it were, go beyond
14 the confirmation decision and we understand that we're limited in the sense that what
15 has been specifically rejected by the Pre-Trial Chamber cannot now form part of our
16 amended DCC, but we nonetheless feel that it is important in this case for clarity
17 going forward that the modifications made by the Pre-Trial Chamber are reflected in
18 an updated DCC.

19 PRESIDING JUDGE FREMR: Thank you.

20 Now, in the case of Defence, I'll be a little bit more specific. In your filing, I think it's
21 in footnote 19, you refer to one example where the temporal parameters are more
22 specific in a non-operative paragraph. Are there more of these instances? And if so
23 which?

24 MS SAMSON: We were in that footnote speaking specifically of the operative
25 paragraph of the DCC -- pardon me, of the confirmation decision in paragraph 36

1 which refers to the first attack and the second attack, but these two attacks are
2 actually defined in terms of their temporal jurisdiction elsewhere in the -- in the
3 document. That was specifically what this footnote relates to.

4 What is certain is that, as well, as you set out in paragraph 36 the various crimes that
5 are said to have taken place in specific locations, the dates for which those crimes took
6 place are set out in other paragraphs of the confirmation hearing decision.

7 PRESIDING JUDGE FREMR: Thank you. It seems that both of you, in effect, prefer
8 to have updated DCC, but one additional issue: The Defence has indicated that it
9 wishes to receive an exhaustive document setting out in detail the Prosecution's story
10 of the case and the evidence it intends to rely on at trial. It mentioned that it does
11 not matter for the Defence whether that is called a pre-trial brief or an updated DCC
12 with footnotes. Would in your view the provision of a pre-trial brief alone, that is
13 without an updated DCC preceding it, suffice in the current case?

14 MS SAMSON: Yes, your Honour. If I understood the question correctly, and I may
15 not have, I think you're asking whether an amended -- a pre-trial brief would replace
16 the need for an amended DCC and we've addressed that point in our filing. We do
17 not believe that it would -- it would do so because the pre-trial brief is not intended to
18 be a charging document; it's intended to provide a greater amount of references to our
19 factual allegations, to our legal submissions on certain points and refer to the
20 evidence through footnotes and citations at a point closest to the date of trial after we
21 have collected all the evidence we'll be presenting during the case.

22 So they have very different purposes in our view. We have intended, subject to
23 your Honours' final decision, to provide a pre-trial brief with full footnotes to the
24 Defence and the Chamber and participants three months prior to the start of trial, but
25 in our view the purpose of the charging document remains essential facts, some

1 background and subsidiary facts as well, but it's a notice document. The pre-trial
2 brief is a more exhaustive understanding of the Prosecution's case.

3 PRESIDING JUDGE FREMR: Thank you. It was just a precise understanding of
4 my question.

5 Now maybe, Mr Bourgon, could you react on this final, final response concerning
6 pre-trial brief. Do you have any opinion on that?

7 MR BOURGON: Thank you, Mr President. I agree with my colleague and I guess
8 that the views presented by the Prosecution on this topic reflects also the Defence's
9 view. The first document, the updated DCC, is a notice document. Mr Ntaganda
10 by this document will know the charges he has to face and will be able to begin his
11 investigation. Of course investigation has already begun, but we are able with this
12 document to work toward the preparation of trial.

13 The other document is where we need to know with sufficient detail the theory of the
14 case of the Prosecution, where is the Prosecution going with its case on the basis of
15 what evidence specifically, so that in the three months that we have between the
16 submission of this document and the beginning of trial we are able to address exactly
17 what -- what evidence the Prosecution will be relying upon, and then we will be
18 ready to begin trial.

19 Thank you, Mr President.

20 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon.

21 Now, Judge Ozaki please.

22 JUDGE OZAKI: I have one follow-up question to Prosecution. You submitted that
23 the need for an updated DCC is case specific and the need more or less depends on
24 whether there has been a tangible modification of the original charges, but at the same
25 time in your written filing in paragraph 10 you submit that the authoritative

1 document is the amended DCC reflecting charges as confirmed in the confirmation
2 decision. Isn't there any inconsistency with two positions? Because if you follow
3 your submission in paragraph 10 to the extreme, you, in any case, need updated DCC
4 as an authoritative document.

5 MS SAMSON: Your Honour, our position is certainly as it is described in paragraph
6 10 that the amended DCC is the authoritative document. What we have included in
7 the supplementary paragraph that your Honour referred to is a case whereby there
8 were no changes, for instance, in the confirmation hearing decision. So effectively
9 the decision confirmed all aspects of a -- of the initial charges or where the changes
10 were to merely background facts or a fact that could be not particularly relevant to an
11 amended document, but in our submission, that will be a very rare case and it is most
12 likely to be the case that an amended DCC will be required virtually every time.

13 PRESIDING JUDGE FREMR: Well, now I would like to underline that the providing
14 of updated DCC in previous cases, at least, had led to extensive litigation and
15 required multiple decisions from the Trial Chambers concerned. So regardless of the
16 approach adopted, our main concern is to avoid that circumstance of protracted
17 litigation.

18 So now I would like to ask first Prosecution what, according to your opinion, is the
19 best way how to avoid such a litigation?

20 MS SAMSON: Well, your Honours, the modifications that we intend to make are
21 those that are quite squarely detailed in the decision on the confirmation hearing, so
22 in our hope we wouldn't be involved in litigation in relation to that. The litigation
23 previously focused in large part on phrases such as, "including but not limited to" or
24 "on and about" which our Pre-Trial Chamber have -- has squarely dealt with in the
25 decision and these phrases will no longer be an issue of litigation amongst the parties

1 in our view.

2 I had suggested in a previous -- in the last status conference that we can discuss the
3 amendments prior to filing the submission to the Chamber to ensure that we are on
4 the same page. That is still a possibility that the Prosecution can propose.
5 Otherwise it's limiting ourselves strictly to not including what the Chamber has
6 expressly rejected.

7 PRESIDING JUDGE FREMR: Thank you.

8 Defence?

9 MR BOURGON: Thank you, Mr President. The suggestion made by my colleague
10 to allow the Defence to see the document in advance I think can -- can, of course,
11 make sure that there will not be any litigation arising from this document.
12 As long as the amended -- not the amended, sorry. I want to avoid using this word.
13 As long as the updated DCC does not go beyond the confirmation decision there
14 should not be any litigation and, if we have the chance to liaise before
15 submitting -- this document is submitted by the Prosecution to the Chamber, I believe
16 that we can ensure that there will be no litigation.

17 Thank you, Mr President.

18 PRESIDING JUDGE FREMR: So maybe I could close discussion on this issue by
19 saying that the Chamber really would appreciate and is appreciating this proposal
20 made by Prosecution and we really strongly believe that both parties will make their
21 best in order to avoid litigation I have mentioned.

22 So, thank you, and now I would like to move to the second issue on the agenda which
23 is the negotiations on the protocols. The Chamber understands that the Defence and
24 the Prosecution have met over the past few days to continue their negotiations, so
25 maybe you should just provide us with an update on those negotiations. Maybe

1 I would start with Prosecution?

2 MS SAMSON: Your Honour, the Prosecution and Defence met in relation to two
3 protocols: First the protocol on the handling of confidential information and the
4 contact with witnesses of the opposing party, followed by consultation on the
5 protocol on redactions.

6 For the first protocol we have canvassed, quite frankly, what the issues may be. We
7 have gotten them down to essentially three areas - three paragraphs - of the protocol
8 on handling of confidential information that we have to discuss further.

9 We've agreed that the Prosecution will provide an update of that draft following our
10 discussions on Wednesday, 22 October, and that we will meet again on Friday, 24
11 October, to discuss those modifications.

12 Similarly, with the discussion on the redaction protocol, we are going to resubmit a
13 document to the Defence on Wednesday, 22 October, meet again to discuss on 24
14 October, which is Friday of next week, and if it becomes necessary to raise these
15 matters with the Chamber we propose that the Prosecution file our submissions on
16 Friday, 31 October, and that the Defence responds on 14 November.

17 PRESIDING JUDGE FREMR: Thank you.

18 Mr Bourgon, do you want to add anything?

19 MR BOURGON: Thank you, Mr President.

20 The situation is as explained and as set out by my colleague from the Prosecution, so
21 in terms of a time frame I have nothing to add.

22 However, if the Chamber wants me to explain a bit of what went on in the substance
23 of our discussions at this time, I can do so. If not, I -- or I can wait until our
24 discussions proceed further. It's up to the Chamber to see if there is -- if there's a
25 need to do so at this time.

1 There is one issue, however, that I would like to point out which is that, based on our
2 discussions that went on this week, it is very likely in our respectful opinion that the
3 Chamber's intervention will be required at least for the protocol on redactions.

4 There is for this protocol at least a fundamental misunderstanding or difference of
5 view between the Prosecution and the Defence for part of this protocol, at least for the
6 rationale behind this protocol, and for this one we are -- we expect that we will be
7 able to iron out many details, but there are some for which at this point in time it is
8 doubtful that we will be able to reach a compromise.

9 That is what my colleague was referring to by saying that she would be filing the
10 Prosecution's request for the protocol on 31 October and that we would respond to
11 the same by 14 November, should the Chamber approve this -- this calendar that we
12 have been working on. So 31 October is very soon, 14 November is a shorter delay
13 than the normal 21 days to respond to a motion and I can even say at this stage,
14 should there be a need for a reply after, that our response would even indicate that
15 the Prosecution should be given an opportunity to reply so that the Chamber is in a
16 position to finalise this protocol, the one on redactions, no later than the end of
17 November. So this one I think we need to -- it needs to be said at this time that the
18 Chamber's intervention is likely to be necessary.

19 As for the first protocol, I think that we will be able to come up with an agreement
20 and something that is acceptable to all parties.

21 Thank you, Mr President.

22 PRESIDING JUDGE FREMR: And as to the timing of the second protocol?

23 MR BOURGON: In terms of timing, well, we have -- of course we will be receiving
24 the updated document from the Prosecution on Wednesday, the 22nd. We are
25 meeting again on the 24th and, if we agree on the 24th, then we should be able

1 to -- we should be able then to -- the Prosecution should file a request, or a joint request,
2 for this protocol to be adopted.

3 There are three issues and, if the Chamber wants, I can brief the Chamber on those
4 three specific issues that we are presently addressing regarding the protocol. This is
5 the protocol on contact with witnesses and witnesses of the other party, and there are
6 three issues remaining that I can brief the Chamber if the Chamber so wishes.

7 Thank you, Mr President.

8 PRESIDING JUDGE FREMR: What I think Chamber would prefer to have is
9 Ms Samson proposed to have either a proposal or draft of this protocol based either
10 on agreement, or at least proposal by Prosecution by the end of October.

11 Did I understand well it should contain -- I mean, that it concerned both protocols?

12 MS SAMSON: That's correct. The timeline is the same for both protocols.

13 PRESIDING JUDGE FREMR: Okay. So I think that we would decide that those
14 proposals should be filed by the end of October and the time for response for reply
15 for Prosecution would be 14 November as proposed, okay?

16 Maybe just --

17 MR BOURGON: Thank you, Mr President.

18 PRESIDING JUDGE FREMR: Mr Bourgon, if you want? Please.

19 Allow me -- maybe we are rather late, but still I would like to make some comment
20 because the Chamber is pleased that it seems that at least generally there is some
21 cooperation and it seemed that, even if there are some -- you know, some issues
22 which are still unresolved, at least there is some, you know, will from both parts to
23 find agreement.

24 We also have noted that the redaction protocol being negotiated is similar to one
25 adopted at trial in the Kenya cases. Am I right? Yes. But that the confidential

1 information protocol is based mainly on protocol as adopted similar to the one
2 adopted at trial level in the Kenya cases, but that the confidential information
3 protocol is based on a protocol as adopted during the pre-trial stage in the current
4 case.

5 Am I right?

6 MS SAMSON: That's correct, your Honour.

7 PRESIDING JUDGE FREMR: Okay, thank you.

8 So the Chamber is mindful of the possible different needs that are to be addressed in
9 protocols applicable to pre-trial and those applicable to trial proceedings.

10 In addition, the Chamber considers that where possible, understandably, achieving
11 some degree of uniformity with regard to protocols used at trial level would be
12 beneficial.

13 To the extent that these negotiations on protocols are not yet settled between the
14 parties, the Chamber wishes you to take the protocols as adopted in the Kenya cases
15 as an inspiration or as a starting point, or to bring in elements that are included in the
16 protocols used in the Kenya cases but not yet in the drafts used for negotiations.

17 Of course other best practice aspects may be included, but the Chamber feels that
18 these protocols provide, at least from our point of view, a good starting point for the
19 development of protocols in the present case.

20 Any comments on that, Prosecution?

21 MS SAMSON: No, thank you, your Honour. We're guided by your guidance.

22 PRESIDING JUDGE FREMR: Defence? No comment?

23 MR BOURGON: No comment, Mr President.

24 PRESIDING JUDGE FREMR: Okay.

25 Now, the next issue we'd like to touch on is issue of the detention of Mr Ntaganda.

1 The Chamber notes that the last decision on interim release was issued by Pre-Trial
2 Chamber II on 17 July 2014, meaning that the 120-day review period for detention
3 pursuant to Rule 118(2) of the Rules is imminent. The Chamber will therefore seek
4 observations from the Defence, the Prosecution and the legal representatives on this
5 issue.

6 In light of Rule 118(3) the Chamber also considers it appropriate to address this issue
7 during a hearing, so the Chamber is considering whether holding a hearing
8 before -- that is possible. It is dependent on the scheduling of other cases, because
9 also Judge Ozaki is busy with the other case. But we would like to enquire from the
10 parties whether they would be amenable to holding such a hearing coming
11 Tuesday -- Thursday, which means Thursday, 23 October. I need to stress that any
12 hearing can be because of some, you know, busy schedule confirmed on Monday, but
13 it seems at the moment that it should be feasible.

14 So this question first to Prosecution?

15 MS SAMSON: Certainly, your Honour. The Prosecution is available on 23 October
16 for a hearing on interim release.

17 PRESIDING JUDGE FREMR: Mr Bourgon?

18 MR BOURGON: Likewise, Mr President, the Defence will be ready on the 23rd to
19 address the Chamber on that issue. Thank you.

20 PRESIDING JUDGE FREMR: And legal representatives?

21 MR SUPRUN: (Interpretation) As far as I'm concerned, I'm available to take part in
22 that hearing. Thank you.

23 MS PELLET: (Interpretation) Thank you, Mr President. I will have to have
24 myself represented by my colleague. Thank you.

25 PRESIDING JUDGE FREMR: Thank you. I think it's fine, Madam Pellet.

1 So at the moment it seems that it will be feasible for all of us, but in case I have just to
2 warn you that in case there would be some, you know, problems with scheduling and
3 with the availability of courtrooms or Judge Ozaki, because she's as I said busy with
4 the Bemba case, there is still possibility that we would decide in such a case without a
5 hearing and then, in case that Mr Ntaganda would be still in detention after this
6 decision, then we would hold a hearing during our next status conference on that.

7 Okay, now I'd like to move on to a different topic. The Chamber is mindful that the
8 security situation in the area of concern to the charges may have an impact on the
9 preparation and work of the parties, as well as participants. Therefore, the Chamber
10 would further like to request the Registry to prepare a report on the security situation.

11 The Registry is to provide such a report and make it available to the parties and
12 participants by the end of the first week of November; that is by 7 November 2014.

13 The Chamber hereby schedules the next status conference for 2 December 2014. Is
14 that date okay with the parties, 2 December?

15 MS SAMSON: For the Prosecution it is, thank you.

16 MR BOURGON: Agreeable to the Defence, Mr President.

17 MS PELLET: (Interpretation) Mr President, I would like to go back to something
18 that you mentioned; that is security issues on the field.

19 With regard to the victims, we sent an email to all the parties about the last report that
20 you requested from the Registry. We received the main submissions, but not the
21 annex which contains the report itself. The email was dated on the 3rd -- was dated
22 13 October, and we were requesting that you disclose to us at least the part relating to
23 the participating victims because we were not -- that report was not disclosed to us.

24 Thank you, Mr President.

25 PRESIDING JUDGE FREMR: Thank you for this reminder. The Chamber will take

1 this issue.

2 So I understood that parties are okay with the date of the next status conference,
3 which is to be 2 December 2014. Our idea is to continue the discussion about the
4 preparation for trial during this status conference, and in addition we would like to
5 discuss with you the possibility also of holding maybe part of the trial, for example,
6 the opening statements in situ, it means in the DRC itself or some nearby location.
7 The Chamber will first ask the Registry to prepare a report on this option and even
8 though -- or maybe the other options and related security implications, which are
9 very, very important, and just to inquire the possibility to hold part of the trial in the
10 DRC or nearby. A reasonable alternative maybe in such case could be, for example,
11 Arusha in Tanzania. So the Chamber instructs the Registry to prepare such a report
12 by 21 November 2014. Once the report is received, we would like to hear from the
13 parties and participants. To facilitate the discussion on this matter during the 2
14 December status conference, the Chamber instructs you file your observations by 28
15 November 2014.

16 So I think that's it from the part of the Chamber. Now I am asking parties if they
17 have any further issues, requests or questions. Prosecution?

18 MS SAMSON: No, your Honour. The Prosecution can simply update the Chamber
19 that it has finalised the review of its unsearchable documents and disclosure has been
20 effected as a result and we're progressing according to our schedule with the next
21 review of searches.

22 PRESIDING JUDGE FREMR: Thank you, Ms Samson.
23 Defence?

24 MR BOURGON: Thank you, Mr President.

25 Allow me to begin by saying that we welcome the Chamber's order to the Registry for

1 the production of a document regarding the security situation in the area as we are
2 about to undertake investigations. So we welcome the production of this document.
3 I would also like to take this opportunity, Mr President, to inform the Chamber of
4 recent personnel changes on the Defence side. Of course, this is related to an
5 observation I wanted to make with regards to the decision rendered by the Chamber
6 at the beginning of this hearing, which of course all members of the Defence team, for
7 which we are grateful.

8 I just wanted to inform the Chamber that we have now recruited a co-counsel, an
9 experienced military lawyer from Canada, Mr Luc Boutin, who will be joining us in
10 early November. We have also recruited a new legal assistant, Mr William St-Michel,
11 who will be -- who up until now was working in chambers at the ICTY, who will be
12 joining us next week. And we have also recruited a second legal assistant, although
13 no offer had been made pending a decision from the Trial Chamber. We are not in a
14 position to make an offer to this person, and she will be in a position to join us in
15 early November. All this to say, Mr President, that we have -- it is our intention and
16 we are in the process of having a full working team in place by mid-November, and
17 that this will allow us, of course, to meet the Trial Chamber's expectations with
18 respect to the beginning of trial at the beginning of June 2015.

19 Of course, considering that this is the team's limited knowledge of the facts of the case
20 and the fact that almost every member of the team is new, this in our view is really a
21 minimum. But it is our firm intention to work as efficiently as possible and to do
22 everything that we can to ensure that we are able to get the trial of Mr Ntaganda on
23 the way by the beginning of June. And of course this is subject to the Prosecution
24 meeting its obligations in terms of disclosures and other obligations.

25 Thank you, Mr President.

1 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon. The Chamber appreciates
2 your statement.

3 Legal representatives, any final word?

4 MR SUPRUN: (Interpretation) Thank you, Mr President. I would like to reiterate
5 the observations that we made jointly during the first status conference. Without
6 pressuring the Chamber, I would like to underscore that it is very important that the
7 issue of the participation of victims in this case should be examined and a decision
8 taken at the earliest opportunity. Thank you.

9 PRESIDING JUDGE FREMR: To your reminder, I can just confirm that we have
10 already discussed it and we will devote our attention to it in due course.

11 Okay. So I think it means that it is the end of our -- today's status conference. I
12 thank you all of you for your active input. Since it is a Friday, I wish you a good rest
13 of the day and nice weekend. Thank you very much.

14 THE COURT USHER: All rise.

15 (The status conference ends in open session at 10.27 a.m.)