

1 International Criminal Court
2 Trial Chamber VI - Courtroom 1
3 Situation: Democratic Republic of 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 Chang-ho Chung
7 Trial Hearing
8 Monday, 25 January 2016
9 (The hearing starts in open session at 4.18 p.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 afternoon, everybody.
14 Court officer, please call the case.
15 THE COURT OFFICER: Thank you, Mr President.
16 The situation in the Democratic Republic of the Congo in the case of the Prosecutor
17 versus Bosco Ntaganda, case reference ICC-01/04-02/06. We are in open session.
18 Thank you.
19 Now appearances, please, in the usual order.
20 MS SAMSON: Good afternoon, Mr President and your Honours. For the
21 Prosecution today are Ms Marion Rabanit, associate trial lawyer; * Ms Claudine
22 Umurungi, legal assistant; Mr Alexandre Gargam, trial support assistant; and myself,
23 Nicole Samson, senior trial lawyer.
24 PRESIDING JUDGE FREMR: Thank you, Ms Samson. Defence now.
25 MR BOURGON: (Interpretation) Good afternoon, Mr President. Good afternoon,

1 your Honours. Good afternoon to all those present in the courtroom.

2 For Bosco Ntaganda, who is present in the courtroom today, he is represented

3 by Margaux Portier, Berta Casas-Rochel, William St-Michel and myself,

4 Stéphane Bourgon. Thank you, Mr President.

5 PRESIDING JUDGE FREMR: And I'm noting that Mr Ntaganda is present as well.

6 Now, Legal Representatives of Victims, please.

7 MS PELLET: (Interpretation) Thank you, Mr President. Former child soldiers are

8 represented by Mohamed Abdou and myself, Sarah Pellet, counsel at the OPCV.

9 MR SUPRUN: (Interpretation) Good afternoon, Mr President. Good afternoon,
10 your Honours. Victims of the attacks are represented by the OPCV for victims and

11 Anne Grabowski and myself, Dmytro Suprun, counsel.

12 PRESIDING JUDGE FREMR: I thank both of you. At the beginning, I would like
13 just to inform you that we are aware of the request made by Defence. We have also

14 been submitted -- we've also been provided with the LRV and Prosecution responses,
15 but we are still waiting for a response from the Registry, which could be very

16 important for our decision. So according to my expectation, we will be provided with
17 this report from Registry with information during this session; and anyway, before the
18 end of the session we will decide on Defence request.

19 Now we will continue with the testimony of the witness.

20 Mr Witness, welcome again. And as usually, you know it, I have to remind

21 you that you are still under oath and then that you have to speak truth and

22 nothing but the truth.

23 Mr Bourgon, you have the floor.

24 MR BOURGON: Thank you, Mr President.

25 PRESIDING JUDGE FREMR: And Mr Bourgon, you have two hours sharp.

1 MR BOURGON: Thank you, Mr President.

2 WITNESS: DRC-OTP-P-0790 (On former oath)

3 (The witness speaks Swahili)

4 QUESTIONED BY MR BOURGON: (Continuing)

5 Q. Good afternoon, Mr Witness.

6 A. Good afternoon.

7 Q. I'd like to begin by returning shortly to an event you described during
8 questioning by the Prosecution concerning Commander Alpha. I'd like you to
9 confirm that Commander Alpha was a commander of the Ugandan forces, the UPDF.
10 Is that correct, sir?

11 A. Yes, that is correct.

12 Q. Now, the event you describe with Commander Alpha is that one day you went
13 to speak to him because there were problems in your area; is that correct, sir?

14 A. Yes.

15 Q. Now, what I'm particularly interested in is that on this one day that you met
16 Commander Alpha, Commander Alpha actually ordered you to be shot by his soldiers;
17 is that correct, sir?

18 PRESIDING JUDGE FREMR: Mr Witness, before you respond, I would rather move
19 into private session not to reveal your identity.

20 Court officer, let's move into private session

21 (Private session at 4.23 p.m.)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Open session at 5.31 p.m.)

9 THE COURT OFFICER: We are back in open session, Mr President.

10 PRESIDING JUDGE FREMR: Thank you.

11 Mr Bourgon, you may proceed.

12 MR BOURGON: Thank you, Mr President.

13 Q. Sir, I come back to my last question, I'm not sure if you did respond to the
14 question, which is that you saw the three rocket launchers, but I think you did -- yes,
15 you did answer the question. Sorry.

16 Now, according to the information we have from you, the man you say is
17 (Redacted) would have then said to Salumu "Take them and show them our
18 military equipment so they can go back and tell the entire population that we
19 have given them time for peace to bring back the gun."

20 This is at paragraph 112 of your statement. So is that what you heard (Redacted)
21 say?

22 A. Yes.

23 Q. I now refer to basically Salumu's reaction to these instructions, and that is found
24 in paragraphs 115 to 117 of your statement. Let's try and do this in a sequence. You
25 went with Salumu to la Marche and where there were four houses next to the market,

1 and that "Salumu opened the doors of these houses and showed us the weapons." Is
2 that your recollection, sir?

3 A. Yes.

4 Q. Again, according to your statement, you say, "I saw many heavy weapons and
5 some small firearms as well as bombs."

6 So you saw all of this in these four houses; is that correct, sir?

7 A. Yes. When we went to that location to see the weapons, there were heavy
8 weapons positioned in that area in the houses, rather. Then we took another road to
9 go to Zukpa II, and there was another armoury there, and it is then that my colleague
10 decided to stay back and that I went back to Kobu myself.

11 Q. Well, sir, what -- the issue I would like to confirm with you, you confirm already
12 that there were four houses, I believe, at la Marche. And can you also confirm that
13 you saw another house with weapons in Zukpa II? Was that correct, sir?

14 A. Yes. When we left the market square, we went to Zukpa II, which is close to the
15 market square. Yes, there was another armoury there, which we noted.

16 Q. And it is your testimony that Salumu opened the door to these five houses, and
17 you saw inside many heavy weapons, small firearms and bombs. That is your
18 testimony, sir, right?

19 A. Yes. There were some support weapons, which were mounted on tripods and
20 were pointing in different directions. Those weapons could be found in the various
21 houses to which we were taken.

22 We went to Zukpa II as well, and there, there was a weapon positioned outside,
23 not in the house. I did not stay at that location. I decided to go back;
24 whereas, my friend deemed it proper to remain at that location, and he told us
25 that having seen the weapons that had been shown to us, he had made up his

1 mind to stay back.

2 Q. Well, sir, the issue that is of interest to me is that the five houses you referred to
3 with weapons, heavy weapons, small firearms and bombs did not exist at the time,
4 and that your narrative, your story that you're telling this Court is an entire fabrication;
5 is that correct, sir?

6 A. No. My narration of events is based on facts which I saw with my own eyes.
7 No one told me about these things. I saw them with my own eyes.

8 Q. I'll move to a different topic also dealing with this event. And this has to do
9 with paragraph 120 of your statement and where you referred to Salumu's
10 bodyguards.

11 So first you say in this statement that -- I will quote from paragraph 120, and it
12 says here, "Amongst Salumu's bodyguards, I saw a child soldier with my own
13 eyes. He must have been less than 15 years old."

14 Do you recall saying this in your statement, sir?

15 A. Yes, I do remember.

16 Q. Now, you go on in the same paragraph by saying, "He was carrying a gun, and
17 the gun looked extremely heavy on him. He was in a military uniform, but he was
18 not wearing military boots, just normal shoes."

19 Does that correspond to what you recall, sir?

20 A. Yes.

21 Q. Now, sir, given your statement here where it says that you saw one child soldier
22 with your own eyes, how do you explain your testimony in response to a question
23 from the Prosecution where you say the following; this is transcript 53 on page 56 at
24 lines 13: "Salumu did have bodyguards who were accompanying him, and (Redacted)
25 and myself went to the location, and we were shown the weapons. Sorry, the

1 question was at line 18.

2 PRESIDING JUDGE FREMR: First of all, for the record, we will have to redact
3 number -- the name just now mentioned by Mr Bourgon. And please, for the further
4 examination, please just do it as Mr Witness, maybe call him colleague of Mr -- in this
5 situation, call him colleague of Mr Witness.

6 MR BOURGON: Will do, Mr President. I apologise.

7 Q. The question that was put to you, sir, at line 18 is "What was the age range of
8 those bodyguards?"

9 And then you say, "Some were adult, some were young, young people. And
10 it was possible to see that the young people amongst them found it difficult to
11 carry the weapons. So one could deduce, therefore, that they were younger
12 than 15. But I was not in a position to ask them how old they were. This is
13 just what I noted."

14 My question is the following: How did we move from one child soldier in
15 your statement to many child soldiers in your testimony?

16 A. Very well. It is true, as you have stated, that when we went with Commander
17 Salumu to see the armoury, there was a child soldier who was part of the group. I
18 saw him myself. He was carrying a weapon, but the weapon was bigger than him
19 and was actually -- could actually touch the ground. So there was only one child
20 soldier in Salumu's escort that is among his escorts.

21 Q. Thank you, sir. Now, of course, if I refer to, again, your statement, it says here
22 that the child soldier you saw -- I quote from paragraph 120. It says "He was in the
23 military uniform, but he was not wearing military boots, just normal shoes."
24 Now, that does not match what you said in your testimony when you said that
25 they were wearing a military uniform and they were wearing boots at lines 25

1 of page 56.

2 How do you explain this difference? Why in your statement there is no boots
3 and in your testimony the boots appear?

4 A. Well, the fact is that I did not see the child soldier wearing military boots or
5 rangers. The child soldier was wearing ordinary shoes, not military boots, just
6 ordinary shoes.

7 Q. But that's a detail you did not mention when you answered the question from
8 my colleague, when you said that they were wearing military boots.

9 A. Well, that was my statement. He was wearing a military uniform, but he did
10 not have military boots. He was wearing ordinary shoes. Now, as for the other
11 soldiers, they had their uniforms, the military uniforms, and they were wearing
12 military boots as well, plastic boots.

13 Q. Now, sir, I suggest to you that the answer you gave to my colleague when she
14 put that question to you is basically what you say you saw during the first attack in
15 paragraph 57 of your statement, because in this paragraph this is what you say: "I
16 could see they were children, as they did not look mature and were short. I did not
17 ask their ages, but I could see that they were between 13 and 15. Those that I saw
18 with my own eyes were part of the troops during the first attack on Kobu. I do not
19 know how many child soldiers there were, but there were many of them. They were
20 also wearing uniforms and carrying firearms, such as SMGs, and they were speaking
21 Swahili."

22 Sir, isn't that what you recall, that any child soldier you saw is actually what
23 you said concerning the first attack and not the fourth attack?

24 A. I was not referring to child soldiers. I was talking of the child soldier who was
25 accompanying Commander Salumu. I wasn't talking about others that I hadn't seen

1 in the fourth war. I saw a child soldier accompanying Commander Salumu.

2 MR BOURGON: We'll leave it at that, because I have many other questions to ask.

3 Mr President, if we can move into private session, please.

4 PRESIDING JUDGE FREMR: All right. Court officer, can you hear me? Maybe I
5 will wait for a second.

6 Please let's move into private session.

7 (Private session at 5.49 p.m.)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Open session at 6.49 p.m.)

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

10 PRESIDING JUDGE FREMR: Thank you.

11 Mr Witness, that concludes your testimony. I would like, on behalf of this

12 Chamber, thank you for your approach. You stayed with us for a long time.

13 You patiently answered all those questions, so we would like to thank you, and

14 we really believe that your testimony will assist us in our effort to find the

15 truth. So thank you very much.

16 And now we will move again into private session, but the witness still may

17 remain with us.

18 (Private session at 6.49 p.m.)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing

(Open Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Open session at 6.55 p.m.)

15 THE COURT OFFICER: We are in open session, Mr President.

16 PRESIDING JUDGE FREMR: (Microphone not activated)

17 First of all, we are concluding this very special hearing. As I already said, we

18 are aware that convening this session, we just made some inconvenience to all

19 of you; but we appreciate flexibility, both of the parties and participants, and

20 mainly of the interpreters, the court reporters and our guards, who today had

21 remained with us for such a long time 'til this late hour. But as I said before,

22 the extraordinary situation required extraordinary measures. I really

23 appreciate that we got such support from all of you. So thank you very much.

24 And we will adjourn today, and we will reconvene on Thursday morning 9.30

25 because, as you know, this courtroom is, until that time, occupied by Ongwen

1 Chamber. So thank you very much and court is adjourned.

2 MS SAMSON: Mr President, just one quick question.

3 PRESIDING JUDGE FREMR: Ms Samson.

4 MS SAMSON: Thank you. Should the Ongwen confirmation hearing end early,
5 such as tomorrow, would the Chamber be minded to sit on Wednesday, or will the
6 Chamber be continuing with the schedule on Thursday? Informal information I've
7 received is that there's a chance that the hearing may conclude tomorrow afternoon or
8 possibly Wednesday morning. So any guidance would be appreciated.

9 PRESIDING JUDGE FREMR: Yes. It's good point. But even if I got a slightly
10 different indication, maybe Judge Chung could inform us what is the current progress
11 in the Ongwen trial?

12 JUDGE CHUNG: Thank you. The progress in Ongwen? I see.

13 PRESIDING JUDGE FREMR: So we have to -- we have to move for that response to
14 closed session or to private session?

15 JUDGE CHUNG: I just mentioned the procedural matters, so --

16 PRESIDING JUDGE FREMR: Okay.

17 JUDGE CHUNG: -- still, right, we can see such -- we have some expectation that the
18 procedure will be concluded earlier than our original expectation, so maybe we can
19 finish everything by the morning session on Wednesday. So we are still looking at
20 such a possibility now.

21 PRESIDING JUDGE FREMR: So in case that will -- at least maybe we will have at our
22 disposal afternoon session. I'm not sure that the witness is ready. Do we have any
23 information whether the witness would be hypothetically ready for even -- either
24 Wednesday morning or at least witness afternoon session?

25 MS SAMSON: Yes, your Honour. I believe he would be ready for Wednesday

1 morning or Wednesday afternoon.

2 PRESIDING JUDGE FREMR: Now question to Defence. I guess Defence also would
3 be hypothetically ready to sit on Wednesday?

4 MR BOURGON: Mr President, when a Chamber finds the timing suitable, we will be
5 there. Thank you, Mr President.

6 PRESIDING JUDGE FREMR: At the moment I guess the only obstacle on the part of
7 the Chamber is that one of the members of the Chamber is sitting in a concerned case,
8 so I guess if -- and we will hope that if this case will be finished earlier, I think nothing
9 prevents us from sitting on Wednesday. So we all will have to be flexible, and we
10 will see how the progress will be made in the case concerned.

11 So now I think we can really conclude and court is adjourned.

12 THE COURT USHER: All rise.

13 (The hearing ends in open session at 6.59 p.m.)

14 CORRECTIONS REPORT

15 The Court Management Section has brought the following correction:

16 * Page 1 line 21:

17 "Claude Umurungi" is corrected by "Claudine Umurungi".