

1 International Criminal Court
2 Trial Chamber VI - Courtroom 2
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 Chang-ho Chung
7 Trial Hearing
8 Thursday, 4 February 2016
9 (The hearing starts in open session at 9.32 a.m.)
10 THE COURT USHER: All rise.
11 The International Criminal Court is now in session.
12 PRESIDING JUDGE FREMR: Good morning, everybody.
13 Court officer, please call the case.
14 THE COURT OFFICER: Thank you, Mr President.
15 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
16 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
17 We are in open session.
18 PRESIDING JUDGE FREMR: Thank you.
19 Now appearances as usually, starting with Prosecution.
20 MS LUPING: Good morning, Mr President, your Honours. Appearing today on behalf
21 of the Prosecution are Ms Nicole Samson, senior trial lawyer; Selam Yirgou, case manager;
22 James Pace and Rens van der Werf, assistant trial lawyers; and myself, Dianne Luping,
23 trial lawyer.
24 PRESIDING JUDGE FREMR: Thank you, Ms Luping.
25 Defence.

Trial Hearing
WITNESS: DRC-OTP-P-0017

(Open Session)

ICC-01/04-02/06

- 1 MR BOURGON: (Interpretation) Good morning, your Honour. Representing
2 Bosco Ntaganda, who is present in the courtroom this morning, Mademoiselle Sandrine
3 De Sena, intern, Margaux Portier and Chloé Grandon and myself, Stéphane Bourgon.
4 Thank you, your Honour.
- 5 PRESIDING JUDGE FREMR: (Interpretation) Very much, Mr Bourgon.
6 (Speaks English) Now the Legal Representative of Victims.
- 7 MS PELLET: (Interpretation) Thank you very much, your Honour. The former child
8 soldiers are represented by Mohamed Abdou and myself, Sarah Pellet, counsel with
9 Office of the Public Counsel for Victims.
- 10 MS GRABOWSKI: Good morning, Mr President, your Honours. The victims of the
11 attacks are today represented by myself, Anne Grabowski, from the Office for Public
12 Counsel of Victims. Thank you.
- 13 PRESIDING JUDGE FREMR: Thank you, Ms Pellet. Thank you, Ms Grabowski.
14 Duty counsel is not here, he is excused, as we said yesterday. So we can continue with
15 testimony of our witness.
- 16 Mr Bourgon, just one clarification: We said that you have a whole session, but we can
17 even give you a bit more because we counted again and it should be maybe the decision
18 plus 10 or 15 minutes. So it's the time you have at your disposal.
- 19 My idea maybe then not to break, but to keep examination, if you want, use the whole
20 time, till quarter to -- sorry, quarter past 11, yes, and then break. It should be just time
21 allotted to you.
- 22 MR BOURGON: Thank you, Mr President. (Interpretation) May it please the Court.
- 23 WITNESS: DRC-OTP-P-0017 (On former oath)
24 (The witness speaks French)
- 25 QUESTIONED BY MR BOURGON: (Continuing)

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(Private Session)

ICC-01/04-02/06

1 Q. Good morning, Witness.

2 A. Good morning.

3 Q. It's the last day today you'll be pleased to hear and just a few questions are left. I'm
4 going to start by asking certain questions concerning Bosco Ntaganda.

5 The first question, if I've understood the material available to me, you met
6 Bosco Ntaganda during the attack of the UPDF when the UPC was driven from Bunia.
7 Do you remember that?

8 A. On what occasion.

9 Q. I'm going to be clear. Do you remember on 6 March 2003 the UPDF drove the
10 UPC --

11 PRESIDING JUDGE FREMR: Ms Luping, I guess what you will be -- what you will say, I
12 guess you ask for a reference?

13 MS LUPING: No, I'm not actually. I'm sorry to interrupt my learned friend. It's just
14 that I've had information -- I had -- I didn't see it by myself, but Ms Pellet indicated that
15 the image of the witness was just shown on the screen. With no -- with no face distortion.
16 If that could be please -- I don't know how we stop that being transmitted. I didn't see
17 that myself, Mr President, but I understand from Ms Pellet that his face without distortion
18 was seen.

19 PRESIDING JUDGE FREMR: Thank you both, you and Ms Pellet. We have to be very
20 cautious about that. So now we will wait for a moment. And in this connection we
21 will -- anyway will have to move into private session, I guess.

22 So, court officer, please check it with our technicians.

23 (Private session at 9.37 a.m.)

24 (Redacted)

25 (Redacted)

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(Open Session)

ICC-01/04-02/06

1 (Redacted)

2 (Open session at 11.17 a.m.)

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

4 PRESIDING JUDGE FREMR: Thank you.

5 Before we break, Ms Luping, you indicated some need for re-examination. Could you be
6 more specific?

7 MS LUPING: I think at this stage it's looking at -- I'm estimating approximately 30
8 minutes or 35 minutes.

9 PRESIDING JUDGE FREMR: Because as I said, we have to finish, or we would like to
10 finish this testimony during the next session so we can't give you more than 30 minutes,
11 so please 30 minutes.

12 And Mr Bourgon?

13 MR BOURGON: Is it possible to know from my colleague which area she intends to go
14 into so we avoid having any discussion in front of the witness later on if these issues are
15 not subject to re-examination.

16 PRESIDING JUDGE FREMR: Ms Luping, do you want to? I can't force you.

17 MS LUPING: Well, I can say that there are a number of issues I will be covering, and it is
18 really, you know, difficult for me to start going through topic by topic, Mr President.

19 PRESIDING JUDGE FREMR: Okay. It's up to you, but anyway please try to really to
20 choose the most relevant for you for your case because we will have to then interrupt you
21 after 30 minutes. So please be ready for that.

22 So now we will adjourn and we will reconvene at quarter to 12.

23 THE COURT OFFICER: All rise.

24 (Recess taken at 11.19 a.m.)

25 (Upon resuming in open session at 11.47 a.m.)

Trial Hearing
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(Private Session)

ICC-01/04-02/06

1 THE COURT USHER: All rise.

2 Please be seated.

3 PRESIDING JUDGE FREMR: So let's start with re-examination by Prosecution.

4 And, Ms Luping, as I said you have 25 minutes at your disposal.

5 MS LUPING: Sorry, Mr President, just to clarify you had indicated before the break 30
6 minutes. Has there been a change.

7 PRESIDING JUDGE FREMR: Really?

8 MS LUPING: Indeed, if I'm not mistaken.

9 PRESIDING JUDGE FREMR: Okay, 30 minutes. 30 minutes. Fine with us.

10 MS LUPING: Thank you, Mr President. And if I can finish earlier I will.

11 QUESTIONED BY MS LUPING:

12 Q. Good afternoon, Mr Witness. Now, Mr Witness, I'm going to refer to
13 transcript -- it's T-60, in the English, at page 76, lines 25 to page 77, line 2.

14 MS LUPING: If we could move into private session, Mr President.

15 PRESIDING JUDGE FREMR: It was just my thought.

16 Court officer, let's move into private session.

17 (Private session at 11.48 a.m.)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

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Trial Hearing
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(Private Session)

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Trial Hearing
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Trial Hearing
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Trial Hearing
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Trial Hearing
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(Private Session)

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11 (Open session at 12.56 p.m.)

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

13 PRESIDING JUDGE FREMR: Thank you.

14 So Mr Witness, at this moment we reached the end of your testimony. You spent with us
15 a long time, in fact a week. I can imagine it was very tiring, very demanding, but I would
16 like to thank you because I believe that your testimony will help us in our effort to find
17 the truth. So thank you very much. And now we wish you a safe journey home.

18 So please, court officer, you may escort the witness out of the courtroom.

19 (The witness is excused)

20 PRESIDING JUDGE FREMR: And before we adjourn, I was ready to ask whether is
21 there any request for the floor, I see Mr Bourgon. Mr Bourgon, please.

22 MR BOURGON: Thank you, Mr President. Very briefly.

23 There is an exhibit that I requested to be admitted in evidence and I'm informed that it
24 was not admitted formally. I'm talking about DRC-D18-0001-0491. It is a series of
25 10 photos, satellite, that were shown -- seven satellite photos that were shown to the

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1 witness.

2 PRESIDING JUDGE FREMR: I remember.

3 MR BOURGON: Just they weren't admitted formally, Mr President. My only comment.

4 PRESIDING JUDGE FREMR: Ms Luping, any objection to that?

5 MS LUPING: I had said no objection.

6 PRESIDING JUDGE FREMR: So this, those seven satellite photos are admitted into
7 evidence as a further Defence exhibit. The number has been mentioned by Mr Bourgon.
8 If there are no further requests for the floor, then I have just to remind you that we will
9 continue on Monday morning.

10 Mr Bourgon.

11 MR BOURGON: I apologise, Mr President. I didn't know you were going to close the
12 hearing.

13 The issue of when we resume proceedings is important to us. I'm not sure if the
14 Chamber considers its previous decision that the calendar set therein that we would begin
15 Monday is part of that decision, but we finish a day later with this witness and which
16 means that the preparation time I have for the next witness, which is P-290, who is a
17 significant witness to prepare, I would, with your leave, Mr President, request that we can
18 begin this witness on Tuesday rather than Monday to give me sufficient time to prepare.
19 Thank you, Mr President.

20 PRESIDING JUDGE FREMR: Mr Bourgon, what will you say because you are saying
21 that we deprived you about -- of the day, but I think we deprived you half of the day, so
22 my proposal would be to start Monday afternoon, 2 o'clock, which again will give you
23 two days. Would it be fine with the Defence to start and to have just one two-hour
24 session on Monday afternoon?

25 MR BOURGON: I believe it will make a big difference if I'm allowed to start Tuesday

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1 morning, but if the Chamber is minded to give us two sessions, some free time on
2 Monday, then I will take whatever the Chamber is -- wishes to grant the Defence. Thank
3 you, Mr President.

4 PRESIDING JUDGE FREMR: Prosecution.

5 MS LUPING: Mr President, the Prosecution would oppose any additional time being
6 given other than starting Monday afternoon. We would oppose any request to postpone
7 further to Tuesday morning, Mr President.

8 PRESIDING JUDGE FREMR: Give me a second. I have to deliberate, because it is not
9 only up to me, with my colleagues.

10 (Trial Chamber confers)

11 PRESIDING JUDGE FREMR: So the unified opinion of the Chamber is that we will start
12 Monday at 2 o'clock.

13 So now -- and be ready to sit for 2 hours from 2 to 4.

14 Now Court is adjourned.

15 THE COURT USHER: All rise.

16 (The hearing ends in open session at 1.01 p.m.)