

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 Tuesday, 19 April 2016
9 (The hearing starts in open session at 9.04 a.m.)
10 THE COURT OFFICER: All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 (The witness enters the courtroom)
14 PRESIDING JUDGE FREMR: Good morning, everybody.
15 Court officer, please call the case.
16 THE COURT OFFICER: Good morning. Yes, Mr President.
17 Situation in the Democratic Republic of the Congo, in the case of The Prosecutor versus
18 Bosco Ntaganda, case reference ICC-01/04-02/06.
19 And for the record, we are in open session.
20 PRESIDING JUDGE FREMR: Thank you, court officer.
21 Now appearances please starting with Prosecution.
22 MS SIM: Good morning, Mr President. Good morning, your Honours. Appearing for
23 the Prosecution today are Nicole Samson, senior trial lawyer; Dianne Luping, trial lawyer;
24 James Pace, assistant trial lawyer; Laura Morris, assistant trial lawyer; Selam Yirgou, case
25 manager; and myself, Kristy Sim, assistant trial lawyer.

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1 PRESIDING JUDGE FREMR: Thank you, Ms Sim.

2 Defence please.

3 MR BOUTIN: (Interpretation) Good morning, Mr President. Good morning,
4 your Honours. For the Defence this morning, Mr Ntaganda is present with us;
5 Ms Dignité Bwiza, intern; Maître Chloé Grandon, legal assistant; and myself, Luc Boutin,
6 co-counsel. Thank you.

7 PRESIDING JUDGE FREMR: Thank you very much, Mr Boutin.

8 Legal Representatives of Victims, please.

9 MR ABDOU: Good morning, Mr President, your Honours. The former child soldiers
10 are today represented by myself, Mohamed Abdou, associate legal officer at the Office of
11 Public Counsel for Victims.

12 MR SUPRUN: (Interpretation) Good morning, Mr President. Good morning,
13 your Honours. The victims of the attacks are represented by the OPCV, Anne Grabowski,
14 associate lawyer, and Dmytro Suprun, myself, counsel at OPCV. Thank you.

15 PRESIDING JUDGE FREMR: Thank you, Mr Abdou. Thank you, Mr Suprun.
16 Madam Witness, good morning.

17 WITNESS: DRC-OTP-P-0892 (On former oath)
18 (The witness speaks Swahili)

19 THE WITNESS: (Interpretation) Good morning.

20 PRESIDING JUDGE FREMR: Madam Witness, are you feeling okay this morning?

21 THE WITNESS: (Interpretation) Yes, I feel better.

22 PRESIDING JUDGE FREMR: Very good.

23 Madam Witness, two points, first one, it is my duty to remind you because we will
24 continue with your testimony today, so it's my duty to remind you that you are still under
25 oath, which means that you have to speak the truth and nothing but the truth. Is it clear

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1 to you?

2 THE WITNESS: (Interpretation) Yes.

3 PRESIDING JUDGE FREMR: Very good.

4 And the second point, I can image that even the rest of the testimony will be very
5 demanding for you, so if you would feel unwell, do not hesitate to let us know and we can
6 make a short break just to allow you to recover. Is it clear to you?

7 THE WITNESS: (Interpretation) Yes.

8 PRESIDING JUDGE FREMR: Fine.

9 Now, Ms Sim, you will continue with examination of this witness. According our
10 measuring, you should still have at your disposal 1 hour 30-something minutes, but in the
11 Chamber's view we would like to strongly encourage you to finish this witness,
12 examination of this witness by the first break, which means that you should make it
13 in 1 hour 20 minutes, something like that. In our view, we had here witnesses, much
14 more serious witnesses, much more important witnesses who had been examined
15 for 8 hours, so in our view this total time 3 and half hour approximately should be enough
16 for this witness. So please we would like you to finish this examination by 10.30.
17 Please proceed.

18 MS SIM: Thank you, Mr President. I note that there is no support person in the
19 courtroom right now, and we're going to be going into some fairly sensitive areas, and I
20 don't know if we want to maybe wait for a support person or if there's an update.

21 PRESIDING JUDGE FREMR: Unfortunately, according my information, she is on her
22 way, so she is expected to be in a few minutes. So please, I know that it will be a
23 problem maybe, but we will try and hopefully I think we will make it; if not we will then
24 break and wait for madam assistant. But please try to start. And I guess you would
25 like to start in private session, am I right?

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1 MS SIM: I actually have one question that I can ask in public session and then we can
2 move to private.

3 PRESIDING JUDGE FREMR: All right.

4 QUESTIONED BY MS SIM: (Continuing)

5 Q. Good morning, Madam Witness.

6 A. Good morning.

7 Q. As I just told Mr President, I am going to ask you one question in public session and
8 then we'll move into private session to continue with the examination. So what I want to
9 know is do you remember how much time passed between the first attack by the UPC on
10 Mongbwalu and the second attack by the UPC on Mongbwalu?

11 A. The first attack took place and then one month after there was the second attack.

12 Q. Thank you.

13 MS SIM: And, Mr President, if we could now move into private session.

14 PRESIDING JUDGE FREMR: Certainly. Court officer, let's move into private session
15 now.

16 (Private session at 9.11 a.m.)

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18 (Open session at 10.20 a.m.)

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

20 PRESIDING JUDGE FREMR: Thank you, court officer.

21 Ms Sim, please proceed.

22 MS SIM:

23 Q. Madam Witness, other than seeing these young soldiers that you estimated 8 to 10
24 years old climbing the guava trees to harvest the fruit, did you see them doing any other
25 activities in Mongbwalu?

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1 A. No, I did not witness any other activities on their part. I only saw them go up
2 guava trees and harvest some guavas and then leave. I didn't see them do anything else.

3 Q. You in the course of your testimony you've mentioned two times when the UPC
4 attacked Mongbwalu and you were forced to flee. Was there any other occasions when
5 the UPC attacked Mongbwalu?

6 A. UPC entered Mongbwalu a second time but was there only for 48 hours.

7 Q. Why were they only there for 48 hours?

8 MR BOUTIN: I object, your Honour.

9 PRESIDING JUDGE FREMR: Mr Boutin, on what ground?

10 MR BOUTIN: It calls for speculation. You cannot know why UPC would do operations
11 in one way or the other.

12 PRESIDING JUDGE FREMR: Ms Sim.

13 MS SIM: The witness was present then, so I'm simply attempting to solicit if she knew
14 the reason why they left. She might not have, but I don't think it's improper to ask if she
15 knew.

16 PRESIDING JUDGE FREMR: Okay. It's an attempt, but why not, yes.

17 MS SIM:

18 Q. Madam Witness, was there another group in Mongbwalu at the time that the UPC
19 were only there for 48 hours?

20 A. There was another group of Lendus.

21 Q. And did you leave Mongbwalu at this time?

22 A. Yes, there came a time when I left Mongbwalu, and it is when the town had come
23 under UPC control. Later on, I returned to Mongbwalu after the Ugandans drove out the
24 UPC. It is at that time that I returned to Mongbwalu. The Ugandans drove out the UPC
25 while I was in Bunia, then I returned to Mongbwalu, but I got there when the Ugandans

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1 were leaving the town.

2 PRESIDING JUDGE FREMR: Ms Sim, if I said that I'm strongly encouraging you to
3 finish by the break, it doesn't mean that you even couldn't finish earlier because it seems
4 to me that the two last questions are really very, very vague and almost irrelevant.

5 MS SIM: Once again, your Honour, it's for timing purposes that we're attempting to
6 establish what this -- what was involved with this attack.

7 PRESIDING JUDGE FREMR: All right.

8 MS SIM:

9 Q. Madam Witness, this attack that you mentioned when the UPC were only there for
10 48 hours, in Mongbwalu for 48 hours, was this before or after the Ugandans arrived?

11 A. It was after the arrival of the Ugandans. It is at that time that the UPC came in
12 for -- and was there for 48 hours. The Ugandans came, they occupied Mongbwalu and
13 left and then, later on, the UPC came in but remained there only for 48 hours.

14 MS SIM: And, Mr President, I have one more brief set of questions or one topic to ask,
15 but we're going to need to go into private session to do that.

16 PRESIDING JUDGE FREMR: All right, let's move into private session now.

17 (Private session at 10.27 a.m.)

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4 (Recess taken at 10.40 a.m.)

5 (Upon resuming in open session at 11.12 a.m.)

6 THE COURT USHER: All rise.

7 Please be seated.

8 THE COURT OFFICER: Mr President, we are in open session.

9 PRESIDING JUDGE FREMR: Thank you.

10 We will continue with the further part of examination of our witness, which will be

11 conducted by Legal Representative of Victims, Mr Suprun.

12 Mr Suprun, you have the floor.

13 MR SUPRUN: (Interpretation) I thank you, Mr President.

14 QUESTIONED BY MR SUPRUN:

15 Q. Good morning, Madam Witness.

16 A. Good morning.

17 Q. We already know each other, but I'm going to provide my name for the record. My
18 name is Dmytro Suprun, and I am legal representative for 1859 victims of the attacks who
19 were admitted to participate in the proceedings against Bosco Ntaganda. I'm going to be
20 putting a number of questions to you with a view to seeking clarification with regard to
21 your testimony and also ascertain your experience during the war and the experiences of
22 your family.

23 MR SUPRUN: (Interpretation) Mr President, could we please move into private
24 session.

25 PRESIDING JUDGE FREMR: For sure.

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- 1 Court officer, let's move into private session now.
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14 (Open session at 11.32 a.m.)

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

16 PRESIDING JUDGE FREMR: Thank you.

17 Mr Suprun, please proceed.

18 MR SUPRUN: (Interpretation)

19 Q. Madam Witness, after the events of 2002 and 2003 that you survived, did you and
20 the members of your family -- well, were you able to rebuild your life to the level that it
21 was at before the events?

22 A. We lived a life of suffering for a long time. And it was only later that the situation
23 improved and we went to work in the fields again and started some activities in order to
24 grow crops and go to the market. That's when things or life started to improve a little
25 bit.

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1 Q. Did you receive any assistance or help, that is in terms of equipment, psychological,
2 financial from the Congolese authorities, NGOs or anybody else?

3 A. No. We didn't receive anything. It was neighbours who helped us. And they
4 consoled us saying that these were the consequences of the war. But the government
5 didn't assist us in any way.

6 Q. And Madam Witness, as a victim of the war, what are you expecting subsequent to
7 this case against Mr Bosco Ntaganda? What are you expecting to receive from the
8 International Criminal Court?

9 A. What I would like to request is that we be provided with assistance in finding peace
10 once again. And if we have peace our situation will change. I would like children, our
11 children to be able to go to school. I would like us to have access to medical treatment.
12 If we fall ill and we do not have any medication, this is a serious matter. We need to
13 have access to a health system and to education for our children. This is my request.

14 Q. I thank you very much for your answers, Madam Witness.

15 MR SUPRUN: (Interpretation) I have no further questions for the witness,
16 Mr President.

17 PRESIDING JUDGE FREMR: Thank you, Mr Suprun, for relevant questions and concise
18 time of questioning.

19 Now, Defence, who will be conducting cross-examination? You, Mr Boutin?

20 MR BOUTIN: I will be, Mr President. Thank you. If you allow me to set up and I'll be
21 ready to proceed.

22 (Pause in proceedings)

23 MR BOUTIN: Thank you.

24 PRESIDING JUDGE FREMR: Mr Boutin, before you start, just regular information about
25 timing.

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1 According my information, Prosecution exhausted 3 hours and 44 minutes for
2 examination-in-chief of this witness. So according our general principles you are entitled
3 to the same time. I know that it's a little bit early question, do you envisage that you will
4 need the same time or?

5 MR BOUTIN: I do not expect that I will need the full three hours, Mr President.
6 Obviously, it's always difficult to determine beforehand.

7 PRESIDING JUDGE FREMR: Just a rough estimation. For the sake of planning, it's
8 fine.

9 MR BOUTIN: But I expect to be quite shorter than -- than three hours. I only have a
10 few questions pertaining to timings.

11 PRESIDING JUDGE FREMR: All right. Please, the floor is yours.

12 MR BOUTIN: Thank you, Mr President.

13 QUESTIONED BY MR BOUTIN:

14 Q. Madam Witness, I'm Luc Boutin, I'm a lawyer defending Mr Bosco Ntaganda. I
15 know that you have met some people of my team last week. Unfortunately, I was not
16 able to make myself available to meet with you. I apologise for this, but I ask you to
17 answer the question as precisely as you can. And I'm ready to proceed.
18 Can you hear me well?

19 A. Yes, I can hear you.

20 Q. Madam Witness, you -- I would like to take you first to your stay in Bunia with your
21 first husband?

22 PRESIDING JUDGE FREMR: Mr Boutin, I guess we will have to move into private
23 session.

24 MR BOUTIN: Yeah, I apologise. Yes, your Honour.

25 PRESIDING JUDGE FREMR: No, there's still time. No problem.

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Trial Hearing
WITNESS: DRC-OTP-P-0892

(Private Session)

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Trial Hearing
WITNESS: DRC-OTP-P-0892

(Private Session)

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Trial Hearing
WITNESS: DRC-OTP-P-0892

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Trial Hearing
WITNESS: DRC-OTP-P-0892

(Private Session)

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Trial Hearing
WITNESS: DRC-OTP-P-0892

(Private Session)

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Trial Hearing
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(Private Session)

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Trial Hearing
WITNESS: DRC-OTP-P-0892

(Private Session)

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Trial Hearing
WITNESS: DRC-OTP-P-0892

(Private Session)

ICC-01/04-02/06

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- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (The hearing ends in private session at 12.36 p.m.)