

1 International Criminal Court
2 Trial Chamber VI
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 - Courtroom 3
8 Tuesday, 28 June 2016
9 (The hearing starts in open session at 9.33 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, 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.
18 And for the record we are in open session.
19 PRESIDING JUDGE FREMR: Thank you.
20 Now appearances in habitual order.
21 MS LUPING: Good morning, Mr President. Good morning, your Honours.
22 Appearing on behalf of the Prosecution this morning are Ms Selam Yirgou, case manager;
23 Ms Laura Morris, assistant trial lawyer; Ms Marion Rabanit, associate trial lawyer; and
24 myself, Dianne Luping, trial lawyer.
25 PRESIDING JUDGE FREMR: Thank you, Ms Luping.

1 Defence now.

2 MR GOSNELL: Good morning, Mr President. Good morning, your Honours. The
3 appearances for Mr Ntaganda are the same as yesterday afternoon. Thank you,
4 Mr President.

5 PRESIDING JUDGE FREMR: Thank you.

6 And now legal representatives of victims, please.

7 MR ABDOU: Good morning, Mr President. Good morning, your Honours. The
8 former child soldiers are today represented by myself, Mohamed Abdou, associate legal
9 officer at the OPCV.

10 MR SUPRUN: (Interpretation) Good morning, your Honour. The victims of the
11 attacks are represented by myself, Dmytro Suprun, counsel with the Office of Public
12 Counsel for Victims.

13 PRESIDING JUDGE FREMR: Thank you, Mr Abdou. Thank you, Mr Suprun.

14 And before we start, just I can repeat that so far the Prosecution exhausted 2 hours and
15 22 minutes of its 4 hours granted for examination of this witness, which means, in
16 practice, that Ms Luping you still have 1 hour and 38 minutes.

17 And just gentle caveat at this moment: Please be careful, because don't rely on our
18 indulgence, in order to promote this working approach requiring all counsel to be
19 streamlined and to be focused. So we will really stop you after four hours, so don't rely
20 on our generosity. And if you, as you said, you have some documents in order to tender,
21 don't leave it at the last minute because, as I said, it could lead to the fact that you would
22 not be able to tender all documents you are intending to tender. So be careful about that.
23 Now, please court officer, bring Madam Witness into the courtroom.

24 (The witness enters the courtroom)

25 PRESIDING JUDGE FREMR: Good morning, Madam Witness. Can you hear me well?

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(Open Session)

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1 WITNESS: DRC-OTP-P-0018 (On former oath)

2 (The witness speaks Lingala)

3 THE WITNESS: (Interpretation) Good morning, your Honour. Yes, I can hear you.

4 PRESIDING JUDGE FREMR: Just to assure myself, Madam Witness, are you feeling
5 okay today?

6 THE WITNESS: (Interpretation) Yes, I'm fine today.

7 PRESIDING JUDGE FREMR: Very good.

8 So now Prosecution will continue with your examination. And I can just refer to my
9 yesterday guidance; you were doing very well, so please observe pauses between
10 question and your response, speak clearly, speak to the microphone, but I am just
11 repeating that even if you made it perfectly yesterday. So please just continue like you
12 did it yesterday.

13 Now, Ms Luping, you have the floor. And usual question, do you want to start your
14 examination in private or in open session?

15 MS LUPING: I believe we can start in open session, Mr President, for my first series of
16 questions.

17 PRESIDING JUDGE FREMR: All right then.

18 MS LUPING: Thank you.

19 QUESTIONED BY MS LUPING: (Continuing)

20 Q. Good morning, Madam Witness. I just have a few questions. First from some of
21 the information that you provided yesterday. And I refer to transcript 110, the English
22 transcript, page 100, from lines 2 to 7. And I'm going to first read this passage to you and
23 then I'll ask my questions.

24 "When we arrived in Sangi, the first thing we saw was weapons. There were heavy
25 weapons there. There were also soldiers. I also saw commanders who were

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1 communicating via Motorola."

2 Now, my first question is this, Madam Witness: How did you know that they were
3 commanders, these people you saw communicating with, by Motorola?

4 A. I knew that they were the commanders because they were communicating using
5 Motorolas. And there were chairs there. And they were sitting on those chairs, so I
6 knew they were the commanders.

7 Q. And how did you know they were Motorolas that they were using? Had you seen
8 Motorolas before?

9 A. Yes, yes, I had seen Motorolas before. I saw that they were holding them in their
10 hands and were using them to communicate. They're like telephones, but are larger.
11 There's a difference between mobile phones and Motorolas, but I knew those were
12 Motorolas.

13 Q. And where had you seen Motorolas before?

14 A. I'd seen them before when government soldiers were where we were before the war,
15 they used Motorolas, their commanders also had Motorolas. That's where I saw
16 Motorolas.

17 Q. And these commanders that you saw using Motorolas, where in Sangi did you see
18 them?

19 A. They were in Sangi on the road that goes to Kobu. That's where they had set up.

20 Q. Now, you said yesterday also that -- I'm going to refer to pages 101 to 102, lines 20
21 to 8, that's transcript 110, the English transcript. You had described how at first you
22 were put into a building and then the women were taken and put under a tree and the
23 men remained in the building. These commanders that you saw, how far away were
24 they from -- from you, from where you were, can you recall?

25 A. They were at a short distance from where we were. We were under trees and they

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1 were just next door. The building where the other people were and where we were were
2 also close, one to another.

3 Q. Could you hear what they were saying? Could you hear them speak, the
4 commanders?

5 A. I think that they were calling the people who were in Kobu because there were other
6 soldiers in Kobu, whereas they were in Sangi. So I noticed that they were using the
7 Motorolas to communicate, but I wasn't interested in most of their conversations because I
8 wasn't feeling good and that's why I wasn't following much of what they were saying.

9 Q. Now, you've also stated that there were heavy weapons there. What do you mean
10 by "heavy weapons"?

11 A. They had heavy weapons. I could say there were heavy weapons at that place.

12 Q. And do you know the names of any weapons that you saw there?

13 A. They had weapons like mags, SMGs, mortars. That's what they had in terms of
14 weapons.

15 Q. And Madam Witness, how do you know the names of these weapons? Had you
16 seen these types of weapons before?

17 A. Yes, I'd seen such weapons before because my father was a military man.

18 Q. And you say your father was a military man. Which army or group was he with?

19 Sorry, this is in --

20 PRESIDING JUDGE FREMR: Yes, yes.

21 MS LUPING: -- public session.

22 PRESIDING JUDGE FREMR: Yes, yes. It's just my --

23 MS LUPING: Apologies, Madam Witness.

24 PRESIDING JUDGE FREMR: Even --

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

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1 for (Overlapping speakers).

2 PRESIDING JUDGE FREMR: Yes, but general, the general response wouldn't probably
3 mind, but it would be for sure safer to move into private session.

4 Court officer, let's move into private session now.

5 (Private session at 9.46 a.m.)

6 (Redacted)

7 (Redacted)

8 (Redacted)

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11 (Redacted)

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1 (Redacted)

2 (Upon resuming in open session at 11.37 a.m.)

3 THE COURT USHER: All rise.

4 Please be seated.

5 PRESIDING JUDGE FREMR: So nothing prevents us from finishing direct examination
6 of this witness. Prosecution still have at its disposal 22 minutes.

7 Ms Luping, do you want to proceed in open, or to change to private session?

8 MS LUPING: Could we please proceed to private session, with your leave,
9 Mr President?

10 PRESIDING JUDGE FREMR: All right then.

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

12 (Private session at 11.38 a.m.)

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9 (Open session at 1.00 p.m.)

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

11 PRESIDING JUDGE FREMR: Thank you, court officer.

12 So now we take lunch break for 90 minutes and we will reconvene at half past 2.

13 THE COURT USHER: All rise.

14 (Recess taken at 1.01 p.m.)

15 (Upon resuming in open session at 2.34 p.m.)

16 THE COURT USHER: All rise.

17 Please be seated.

18 PRESIDING JUDGE FREMR: Good afternoon, everybody.

19 Good afternoon, Madam Witness. We will continue with your cross-examination

20 conducted by the Defence, which is at the moment represented by Mr Gosnell.

21 Mr Gosnell, do you intend to continue in private or in open session?

22 MR GOSNELL: I'm afraid that since I will be discussing some places and some

23 itineraries and people that it would be difficult not to stay in private session.

24 PRESIDING JUDGE FREMR: Yes, it is fully understandable. No need to apologise.

25 But just for the information of public, this witness is a protected witness, which means

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1 that she was given guarantee that her identity will not be identified. And because the
2 upcoming questions could put her at such a risk, we simply have to conduct this part of
3 examination in private session.

4 So court officer, now please move into private session.

5 (Private session at 2.36 p.m.)

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- 18 (Open session at 4.37 p.m.)
- 19 THE COURT OFFICER: We are in open session, Mr President.
- 20 PRESIDING JUDGE FREMR: Thank you, court officer.
- 21 So we are going to continue tomorrow 9.30 with the rest of testimony of this witness, and
- 22 then hopefully we will continue with the next witness on the list, which is Witness P-0850.
- 23 So now Court is adjourned.
- 24 THE COURT USHER: All rise.
- 25 (The hearing ends in open session at 4.38 p.m.)