

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 Judge Chang-ho Chung
6 Trial Hearing - Courtroom 2
7 Tuesday, 12 July 2016
8 (The hearing starts in open session at 9.32 a.m.)
9 THE COURT USHER: All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
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 For the record, we are in open session.
18 PRESIDING JUDGE FREMR: Thank you, court officer.
19 Now appearances in habitual order starting with the Prosecution, please.
20 MS RABANIT: Good morning, Mr President, your Honours. Appearing today for
21 the Prosecution are Selam Yirgou, case manager; Kristy Sim, assistant trial lawyer;
22 Dianne Luping, trial lawyer; and I'm Marion Rabanit, associate trial lawyer.
23 PRESIDING JUDGE FREMR: Thank you, Ms Rabanit.
24 Defence, please.
25 MR GOSNELL: Good morning, your Honours. Appearances are the same as

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1 yesterday. Thank you.

2 PRESIDING JUDGE FREMR: Thank you, Mr Gosnell.

3 And Legal Representatives of Victims, please.

4 MS PELLET: (Interpretation) Thank you very much, your Honour. The former
5 child soldiers are represented by myself, Sarah Pellet, counsel with the Office of
6 Public Counsel for Victims.

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

10 PRESIDING JUDGE FREMR: Thank you, Ms Pellet. Thank you, Mr Suprun.

11 Madam Witness, good morning. Can you hear me?

12 WITNESS: DRC-OTP-P-0113 (On former oath)

13 (The witness speaks Swahili)

14 THE WITNESS: (Interpretation) Yes, I can hear you.

15 PRESIDING JUDGE FREMR: Madam Witness, I was informed that you suffered
16 some hopefully slight health problem, some headache, but I was informed that now it
17 was a bit better, so do you feel okay to testify? Because if everything goes well, we,
18 I believe, will finish your testimony today, so you will be free at the end of the day
19 and you could go home. So do you feel okay to testify today?

20 THE WITNESS: (Interpretation) I'm going to try. If I'm unable to do so, I will tell
21 you.

22 PRESIDING JUDGE FREMR: All right.

23 THE WITNESS: (Interpretation) If I'm not able.

24 PRESIDING JUDGE FREMR: All right. It's fine with us, Madam Witness.

25 Madam Witness, it's my duty to remind you that you are still under oath, which

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1 means that you have to speak truth and nothing but the truth, as I told you yesterday.

2 And one additional guidance, I would like to emphasise that this Court is governed

3 by principle of fair trial, which means that both parties should be treated equally,

4 which in practice in your case means that you should answer questions put to you by

5 Defence in the same way, how you perfectly did it yesterday when answering

6 questions put to you by Prosecution.

7 Do you understand all that, Madam Witness?

8 THE WITNESS: (Interpretation) Yes.

9 PRESIDING JUDGE FREMR: Very well. Then we can proceed with

10 cross-examination conducted by Defence.

11 Mr Gosnell, just a reminder you have, according our decision, 4 hours to conduct it.

12 So you have the floor.

13 MR GOSNELL: Thank you very much, Mr President.

14 QUESTIONED BY MR GOSNELL:

15 Q. Good morning, Madam Witness.

16 A. Good morning.

17 Q. My name is Christopher Gosnell, I will be asking you some questions today. If

18 my questions are not clear to you, then please do feel free to let me know and I'll try

19 to clarify as best I can.

20 MR GOSNELL: Mr President, may we move into private session, please?

21 PRESIDING JUDGE FREMR: And for the information of public, this witness is

22 protected witness which means that she was given guarantee that her identity will not

23 be revealed to public, so in case that the question that are going to be put to her could

24 or may reveal her identity, in such a case they have to be put in private session, which

25 is the case now.

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1 So, court officer, let's move into private session.

2 (Private session at 9.38 a.m.)

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6 (Open session at 11 a.m.)

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

8 PRESIDING JUDGE FREMR: So as to the timing, Mr Gosnell, you still have,

9 according our measuring, at your disposal 2 hours 43 minutes. And we will take our
10 regular break now and will reconvene half past 11.

11 THE COURT USHER: All rise.

12 (Recess taken at 11.01 a.m.)

13 (Upon resuming in open session at 11.31 a.m.)

14 THE COURT USHER: All rise.

15 Please be seated.

16 PRESIDING JUDGE FREMR: All right. Before we continue with cross-examination
17 of our witness by Defence, I see Ms Rabanit on her feet.

18 Ms Rabanit, you have the floor.

19 MS RABANIT: Mr President, I would like to address briefly the Chamber in closed
20 session, if possible, and without the witness being able to listen. I've discussed with
21 Defence counsel.

22 PRESIDING JUDGE FREMR: All right.

23 So, first of all, let's move into private session.

24 And, madam assistant, could you kindly take off headphones of Madam Witness.

25 Thank you very much, madam assistant.

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- 1 (Private session at 11.32 a.m.)
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1 (Open session at 11.36 a.m.)

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

3 PRESIDING JUDGE FREMR: So we have solved this procedural issue and now we
4 will continue in cross-examination of our witness conducted by Defence. And my
5 question is, Mr Gosnell, the character of your upcoming questions, does it allow us to
6 remain in open session or does it require to move into private session?

7 MR GOSNELL: I think it would be hazardous to be in public session, also because
8 the Prosecution has indicated that it does not wish a particular set of names to be used
9 in respect of organisations and individuals.

10 PRESIDING JUDGE FREMR: Understood.

11 So now, court officer, let's move into private session.

12 (Private session at 11.37 a.m.)

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- 8 (Redacted)
- 9 (Redacted)
- 10 (Open session at 1.00 p.m.)
- 11 THE COURT OFFICER: We're in open session, Mr President.
- 12 PRESIDING JUDGE FREMR: Thank you, court officer.
- 13 So now we will take our lunch break for 90 minutes.
- 14 And for your information, Mr Gosnell, you still have at your disposal 1 hour
- 15 22 minutes. So we will continue with cross-examination of our witness in the
- 16 afternoon.
- 17 And Madam Witness, if everything goes well, it will be the last session for you with
- 18 us, so hopefully we will finish as we planned.
- 19 Now we break and we will reconvene half past 2.
- 20 THE COURT USHER: All rise.
- 21 (Recess taken at 1.01 p.m.)
- 22 (Upon resuming in open session at 2.30 p.m.)
- 23 THE COURT USHER: All rise.
- 24 Please be seated.
- 25 PRESIDING JUDGE FREMR: Good afternoon everybody.

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1 We are going to finish cross-examination -- or, rather, Mr Gosnell is going to finish his
2 cross-examination of our witness. So let's continue.

3 Mr Gosnell, I guess you would like to -- or, you have to probably continue in private?

4 MR GOSNELL: Since I will be asking the witness about her own movements I think
5 it would be best to stay in private session.

6 PRESIDING JUDGE FREMR: Yes, I can confirm. So let's move into private session,
7 court officer, please.

8 (Private session at 2.32 p.m.)

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Trial Hearing
WITNESS: DRC-OTP-P-0113

(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
WITNESS: DRC-OTP-P-0113

(Private Session)

ICC-01/04-02/06

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9 (Open session at 3.28 p.m.)

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

11 PRESIDING JUDGE FREMR: Thank you, court officer.

12 So now both parties completed their examination of the witness, now it is the turn for
13 the Chamber. I will have two questions, so two areas to explore. The first one may
14 be conducted in open session.

15 Madam Witness, try to imagine that there are two persons in front of you, one is
16 typical Hema, one is typical Lendu, they are silent, so they are not speaking, would
17 you be able to recognize who is who, who is Lendu, who is Hema? If yes, on what
18 grounds?

19 THE WITNESS: (Interpretation) It's difficult to answer your question.

20 PRESIDING JUDGE FREMR: You can simply say not, I wouldn't be able. But my
21 question led to inquiry whether there are some differences, just for the first sight,
22 between Hema and Lendu. If not, for you at least, just say "I don't see any."

23 THE WITNESS: (Interpretation) I'm not able to answer your question.

24 PRESIDING JUDGE FREMR: It's all right, Madam Witness.

25 Now for my second area I would like to clarify we have to move into private session.

Trial Hearing
WITNESS: DRC-OTP-P-0113

(Private Session)

ICC-01/04-02/06

- 1 (Private session at 3.31 p.m.)
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Trial Hearing
WITNESS: DRC-OTP-P-0113

(Private Session)

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13 (Open session at 3.39 p.m.)

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

15 PRESIDING JUDGE FREMR: Thank you, court officer.

16 Madam Witness, it concludes your testimony, so on behalf of this Chamber I would

17 like to thank you that you patiently responded all questions put to you. I can

18 imagine that it was not an easy experience, but I really believe that your testimony

19 will assist us in our effort to find the truth in this case. So thank you very much and

20 we wish you safe journey home.

21 Now, court officer, please assist Madam Witness to leave the courtroom.

22 THE WITNESS: (Interpretation) Thank you.

23 (The witness is excused)

24 PRESIDING JUDGE FREMR: And as our further schedule, even if we still have

25 some time till the planned end of our session, I was informed that the upcoming

Trial Hearing
WITNESS: DRC-OTP-P-0113

(Open Session)

ICC-01/04-02/06

- 1 witness was not ready to start testimony today, so we will now adjourn unless there
- 2 are any requests for the floor? I don't see any.
- 3 So we will adjourn and we will continue tomorrow in this courtroom 9.30 with the
- 4 testimony of Witness P-769.
- 5 Now court is adjourned.
- 6 THE COURT OFFICER: All rise.
- 7 (The hearing ends in open session at 3.42 p.m.)