

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 Monday, 19 September 2016
9 (The hearing starts in open session at 9.42 a.m.)
10 THE COURT USHER: [9:42:08] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: [9:42:27] Good morning, everybody.
14 Court officer, please call the case.
15 THE COURT OFFICER: [9:42:33] The Court is sitting in the case of The Prosecutor
16 versus Bosco Ntaganda.
17 PRESIDING JUDGE FREMR: [9:42:39] Thank you, court officer.
18 Now appearances as usually.
19 MR IVERSON: [9:42:47] Good morning, your Honours. Appearing for the
20 Prosecution today are Claudine Umurungi, assistant legal officer; Selam Yirgou, case
21 manager; and myself, Eric Iverson, trial lawyer.
22 PRESIDING JUDGE FREMR: [9:43:00] Thank you, Mr Iverson.
23 Defence, please.
24 MR BOURGON: [9:43:06] (Interpretation) Good morning, your Honour, your Honours,
25 as well as everybody present in the courtroom. This morning for the Defence

1 Jules Guillaumé, Isabelle Martineau and myself, Stéphane Bourgon. Thank you,
2 your Honour.

3 PRESIDING JUDGE FREMR: [9:43:22] Thank you, Mr Bourgon.

4 And Legal Representatives of Victims, please.

5 MS PELLET: [9:43:29] (Interpretation) Thank you, your Honour. The former child
6 soldiers are represented by Mohamed Abdou and myself, Sarah Pellet, Office of Public
7 Counsel for Victims.

8 MR SUPRUN: [9:43:44] (Interpretation) Good morning, your Honour, your Honours.
9 The victims of the attacks are represented by the Office of Public Counsel for Victims,
10 Anne Grabowski, associate lawyer, and myself, Dmytro Suprun, counsel.

11 PRESIDING JUDGE FREMR: [9:43:59] Thank you, Ms Pellet. Thank you, Mr Suprun.
12 Before we continue we were informed that Mr Bourgon would like to address the
13 Chamber in the absence of our witness.

14 Before I will give the floor to you, Mr Bourgon, I would like just to note that as concerns
15 issue of visit of your client with his wife this issue I guess will not be subject of your
16 submission because it -- I think you have been informed that this issue is in fact in
17 progress? So what is the subject of your --

18 MR BOURGON: [9:44:45] It does not, Mr President. It's a disclosure matter.

19 PRESIDING JUDGE FREMR: [9:44:48] All right. So go ahead. But anyway please be
20 brief because you all know that this evidentiary block is really full of witnesses. We have
21 even some slight delay, so please be brief.

22 MR BOURGON: [9:45:02] Thank you, Mr President. Our request this morning
23 addresses a request for the lifting of redactions to one document. It is an investigator's
24 note which bears the number DRC-OTP-2089-0415.

25 Mr President, I will try to make it as short as possible.

1 We initially sent a request for the lifting of redactions to this document on 3 August. We
2 received a response on 7 September, after the beginning of the block.

3 On 16 September, this witness was scheduled to take the stand. Our evaluation, when
4 preparing for the witness shortly before the 16th, revealed that we disagree with the
5 position taken by the Chamber in this document. They refuse to lift the redactions
6 pursuant to Rule 81(1) which, as you well know, Mr President, is internal work product.

7 This document, Mr President, very quickly includes a section, which is entitled
8 "Credibility of the witness." This section comprises nine paragraphs. Based on
9 paragraph 1, which drew our attention to the fact that this section includes observations
10 made by the investigator on the demeanour and the deportment of the witness during the
11 investigation phase.

12 We immediately contacted the Prosecution on that -- before the beginning of the
13 testimony. Initially they said "we will stick to our decision." Then they revealed one
14 sentence and then we went on with your discussions and they revealed a little more in the
15 paragraph.

16 As I mentioned to the Trial Chamber last week, I kept the matter under consideration.
17 Immediately following the hearing, I met with my colleague and the senior trial lawyer
18 from the Prosecution basically giving them our argument that we would likely send them
19 a request over the weekend insisting on the lifting of these redactions. I did send this
20 request on Saturday and we received a response last night. And pursuant to this
21 response, the Prosecution lifted some redactions, but maintained others.

22 The redactions that are maintained can be found in paragraph 2 in its entirety. And
23 when I say paragraph 2, it's the second paragraph of the specific section entitled
24 "Credibility of the witness."

25 Paragraph 4 bears only a title with no further information. We don't believe that there is

1 a problem with paragraph 4, although we don't know because it appears to be an analysis
2 and then that could amount to internal work product in certain circumstances.

3 However, in paragraph 7 there is a mention that the investigator says that he has grounds
4 to believe that the witness, although he does not have a criminal record, participated in
5 the defence of his village. And then the rest of the paragraph is redacted.

6 There must be a basis for this statement on the behalf -- on behalf of the investigator as to
7 how he can conclude that the witness -- he has grounds to believe that the witness
8 participated in the defence of his village.

9 Then there are paragraphs 8 and 9, always in the same section, which are -- still remain
10 redacted at this point.

11 Our request, Mr President, and we have had quite cordial discussions with the
12 Prosecution, we believe that it's a matter for the Trial Chamber to look at these nine
13 paragraphs and to rule on what should be -- what redactions should be lifted in
14 accordance with the disclosure and redaction of information protocol.

15 Mr President, Rule 81(1) internal work product cannot be extended, but I won't make any
16 argument on this. I just raise the issue and I think that is enough at this time for the Trial
17 Chamber to rule on the matter. Thank you, Mr President.

18 PRESIDING JUDGE FREMR: [9:49:52] And as concerns timing, I understand that you
19 would like to get this information that are so far redacted before the beginning of
20 cross-examination?

21 MR BOURGON: [9:50:06] Indeed, Mr President.

22 PRESIDING JUDGE FREMR: [9:50:09] Mr Iverson, are you able to respond?

23 MR IVERSON: [9:50:15] Yes, Mr President.

24 Essentially, Prosecution agrees with what Defence counsel has stated, with the exception
25 of we disagree on the nature of the remaining redacted paragraphs. We believe that they

1 are validly redacted under Rule 81(1). It is a report or internal document prepared by the
2 Prosecution in connection with the investigation of this case.

3 This document is -- is relatively old, it's from April 2005, and we provided it to the
4 Defence because -- and it is in a bit of a strange format. This was before -- these are early
5 days of the OTP, but we provided the factual information to the Defence that was
6 necessary for it to prepare for this witness, but there are, mixed in with the factual
7 information, an OTP investigator wrote down recommendations, which would be internal
8 work product, in paragraphs 7, 8, 9 and 5.

9 And then in paragraph 2, it contains observations by the investigator. And so we
10 provided what we believe are the factual bases for those observations to the Defence but
11 not the observations of the investigator, which we consider to be internal work product
12 validly redacted under Rule 81(1). So that's the Prosecution's position.

13 I think essentially what we disagree with, with the Defence, and I'm sure Defence counsel
14 will correct me if I'm wrong, is the redactions apply to that paragraph 2 that he mentioned
15 and then the redactions applied to 7, 8, 9 and 5 at the end of the document.

16 Those are the Prosecution's submissions, pending any questions from your Honours.

17 PRESIDING JUDGE FREMR: [9:52:25] All right. In order to have a chance to
18 adjudicate those -- the character of those paragraphs, we will need immediately the text
19 and we will try to do our best to decide in a time which would make it clear before the
20 cross-examination.

21 Mr Bourgon, anything you want to say?

22 MR BOURGON: [9:52:47] Yes, Mr President, I wish to add very briefly that paragraph
23 5 last mentioned by my colleague bears the title "Conclusions and recommendations."
24 For us per se we would not be looking for this information. We are really looking for the
25 information that is in the section bearing the title "Credibility of the witness."

1 Now, Mr President, my colleague said something here that I -- requires a comment. He
2 said that the document is an internal work product. Mr President, it is our submission
3 that investigation reports are not per se internal work product, although in some cases
4 information contained therein might meet the requirements of Rule 81(1), but the
5 document itself, it is an investigation note, and investigation notes per se, for us, are
6 disclosable material. Thank you, Mr President.

7 PRESIDING JUDGE FREMR: [9:53:47] Point taken.

8 Now, before we -- Mr Iverson, but absolutely briefly.

9 MR IVERSON: [9:53:53] Just briefly, I agree with the submissions of Defence counsel.
10 I'm -- I didn't mean to state that the whole investigation note was covered by 81(1). If I
11 stated that, that was in error. Obviously, portions of it, large portions of it, have already
12 been provided to the Defence. And the Prosecution realises that disclosable information
13 can take any format. It doesn't -- you know, calling something an investigator's note
14 doesn't protect it from disclosure.

15 PRESIDING JUDGE FREMR: [9:54:20] As I said, as far we will be aware of the
16 character of those portions, then we can decide.

17 Now, before Mr Witness is brought into the courtroom, I would like, again, briefly, to
18 mention our position concerning the absence of Mr Ntaganda.

19 The Chamber was informed that this morning Mr Ntaganda was declared fit to be
20 transported to the courtroom. Video link facilities from the detention centre were also
21 again made available.

22 Mr Ntaganda has refused to attend and, therefore, our reasoning remains as it was.

23 Regardless of whether Mr Ntaganda's absence is the result of his self-induced condition or
24 deliberate refusal to attend, the Chamber considers it to be disruptive and to constitute a
25 voluntarily waiver of his right to be present. Mr Ntaganda is aware of the Chamber's

1 intention to continue proceedings.

2 The Chamber notes that there is no foreseeable time frame in which the situation may
3 change. Noting that legal advice remains available to Mr Ntaganda and that, pursuant to
4 the Chamber's order of last week, his rights continue to be represented in the courtroom,
5 the Chamber sees no reasonable alternative but to continue the proceedings.

6 The Chamber again directs Defence counsel to convey this ruling to Mr Ntaganda.

7 MR BOURGON: [9:55:53] Thank you, Mr President. I would just like to clarify, was
8 he declared fit to come to the courtroom, or just the video room?

9 PRESIDING JUDGE FREMR: [9:56:04] I can quote from the report we received this
10 morning. This morning, which is signed by Mr Paulus Falke, which is medical officer of
11 the detention facility, "...has been examined this morning by a medical officer. Due to the
12 ongoing voluntary protest fast and due to the psychological stress, he shows fatigue. No
13 alarming physical or mental symptoms," but his conclusion, "fit for transport and fit to
14 attend Court."

15 Now, court officer, please bring in Mr Witness.

16 MR BOURGON: [9:56:43] Mr President, I'd just like to add that to the best of my
17 knowledge, we have not received this report. On Friday Mr Ntaganda signed the forms
18 that I informed the Trial Chamber about. Those forms were submitted, and this morning
19 I wrote to the chief custody officer requesting that all medical information pursuant to
20 both authorisation forms signed by Mr Ntaganda be provided to the Chamber, but also to
21 us, including this early report, because I did not speak to Mr Ntaganda this morning.

22 Thank you, Mr President.

23 PRESIDING JUDGE FREMR: [9:57:16] Yes, noted. Thanks.

24 (The witness enters the courtroom)

25 PRESIDING JUDGE FREMR: [9:58:10] Good morning, Mr Witness. Welcome back. I

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WITNESS: DRC-OTP-P-0105

(Open Session)

ICC-01/04-02/06

1 would like just to verify that you are well enough to continue with your testimony.

2 Mr Witness, could you hear me?

3 I don't think so. So please assist Mr Witness.

4 WITNESS: DRC-OTP-P-0105 (On former oath)

5 (The witness speaks Swahili)

6 THE WITNESS: [9:59:07] (Interpretation) Now I can hear.

7 PRESIDING JUDGE FREMR: [9:59:09] Very well, Mr Witness. So I will just repeat,
8 my first question was whether you feel okay to testify with your testimony today.

9 THE WITNESS: [9:59:22] (Interpretation) I slept. I was a bit tired, but I continue -- I
10 can continue nevertheless.

11 PRESIDING JUDGE FREMR: [9:59:35] Very well. So, again, Mr Witness, it is my duty
12 to remind you that you are still under oath, which means that you have to speak the truth
13 and nothing but the truth. And also to remind you practical aspects of giving testimony,
14 that you respected very well on Friday, which means to speak slowly, to speak clearly,
15 and also to keep those pauses at least three seconds between the question is put to you
16 and before you start to respond. Is it clear to you?

17 THE WITNESS: [10:00:27] (Interpretation) I've understood well.

18 PRESIDING JUDGE FREMR: [10:00:29] Good.

19 Then I move the floor to Mr Iverson who will be continuing with your
20 examination-in-chief.

21 MR IVERSON: [10:00:42] Thank you, Mr President.

22 QUESTIONED BY MR IVERSON: (Continuing)

23 Q. [10:00:45] Welcome back, sir.

24 MR IVERSON: And could I request actually that we move right into private session,
25 Mr President.

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- 1 PRESIDING JUDGE FREMR: [10:00:56] Certainly.
- 2 Court officer, let's move into private session.
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- 25 (Open session at 11.06 a.m.)

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1 PRESIDING JUDGE FREMR: [11:06:44] Mr Iverson, as concerns timing, according to
2 my information, you still have roughly 1 hour 30 minutes. Do you think you will need
3 all that time?

4 MR IVERSON: [11:06:53] I'm sorry, I didn't make myself clear, I've actually completed
5 my questioning.

6 PRESIDING JUDGE FREMR: [11:06:59] Oh, okay.

7 MR IVERSON: [11:07:01] Yes, completely.

8 PRESIDING JUDGE FREMR: [11:07:02] All right, that's fine. So it means that we will,
9 after the break, continue with cross-examination. And since we still, there's some time
10 passed in the meantime, so we will then continue at 11.40.

11 Mr Bourgon.

12 MR BOURGON: [11:07:23] Mr President, two quick points: One, will the Chamber be
13 issuing a ruling on the request for the lifting of redactions? And number two is I would
14 like to ensure that although my colleague ended his examination-in-chief quicker than
15 expected, that I will have all the time allotted because I have many questions for this
16 witness. Thank you, Mr President.

17 PRESIDING JUDGE FREMR: [11:07:49] As to the ruling on redactions, as I said, we
18 will first see this material, so I originally hoped that they will be able to make it during the
19 break.

20 And you have been allotted four and a half hours, so did I understand well that you
21 would like to get more than four and a half?

22 MR BOURGON: [11:08:18] No, Mr President, just the four and a half I have been
23 allotted, but because my colleague was shorter, I just don't want to be -- that my time be
24 taken off because my colleague was shorter.

25 PRESIDING JUDGE FREMR: [11:08:30] Yeah, yeah, I see. Understood. It is all right.

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1 So now Mr Iverson.

2 MR IVERSON: [11:08:35] Yes, Mr President, I would just like to put on the record the
3 Prosecution's position in light of the fitness of the accused, stated this morning that he is
4 fit to attend, that we would ask the Chamber to enforce its 9 September 2016 order, and
5 that if he is fit to be present in the courtroom, and not, that he should be sanctioned for
6 every day that he fails to attend the proceedings. That's the Prosecution's position.

7 Also, we would ask, we're not aware of the -- the background of the medical personnel
8 looking into the matter. The request is simply that we ensure that someone with a
9 forensic background is used to ensure that the -- the issue of malingering is looked at
10 carefully, malingering being faking an injury or illness in order to avoid some kind of
11 duty, his duty to be present, and not just looking at the accused as a patient, but rather as
12 a subject and that there's a forensic examination into these matters. Thank you.

13 PRESIDING JUDGE FREMR: [11:09:50] Yeah, there are some steps in progress, so I
14 guess we will inform you on that in good course.

15 Now, we break and I believe we can continue at 11.40.

16 THE COURT USHER: [11:10:07] All rise.

17 (Recess taken at 11.10 a.m.)

18 (Upon resuming in open session at 11.57 a.m.)

19 THE COURT USHER: [11:57:16] All rise.

20 Please be seated.

21 PRESIDING JUDGE FREMR: [11:57:36] So I was ready to render our oral ruling
22 concerning request on further disclosures, but we were informed that Mr Bourgon would
23 like to address the Chamber again.

24 Mr Bourgon, any new issue that we should know?

25 MR BOURGON: [11:57:59] There's not -- not a new issue, Mr President, however, I'd

1 like to follow up on the Prosecution's request for sanctions to be imposed on Mr Ntaganda,
2 and the fact that the doctor, the chief medical officer from the detention centre, concluded
3 this morning that Mr Ntaganda was fit to travel to court.

4 The first issue, of course, is that we still do not have any detailed medical report.

5 The -- last week I informed the Chamber I did not have sufficient information. I was
6 contacted by the chief medical officer of the detention centre. I was informed that I had
7 received a medical report which was not the proper medical report because it contained
8 erroneous information because it had to be done over again, and even that the report was
9 prepared for a different patient, which was quite kind of confusing.

10 We did find a report that was addressed to me and we did -- we acted -- we did not act
11 upon this report. This report was compiled in the Dutch language.

12 I requested, of course, from the chief medical officer, this is Dr Falke who was referred to
13 this morning, for the medical report which we have not received. Mr President, we
14 believe that it is very important to get not only the medical report but an independent
15 medical assessment, especially in light of the conclusion that Mr Ntaganda is fit to be
16 brought to court, to travel to the court.

17 Last week, on Tuesday, we are talking about 13 September, Mr Ntaganda was found by
18 the same doctor not to be fit to travel to court. We are one week later. Mr Ntaganda has
19 not eaten since that time. I -- it is surprising, to say the least, that today we would be
20 found to be fit to travel to court. And we are also waiting for a copy of that medical
21 report.

22 So I think, Mr President, that it is important, one, to obtain the information and, two, to
23 have a real independent assessment, both psychological, but also even physical
24 examination.

25 Thank you, Mr President, that's all I wanted to put on the record before we started the

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1 cross-examination. Thank you.

2 PRESIDING JUDGE FREMR: [12:00:46] Well noted.

3 Mr Iverson, do you want to make any comments from the Prosecution part?

4 MR IVERSON: [12:00:56] No, thank you, Mr President.

5 PRESIDING JUDGE FREMR: [12:00:58] All right.

6 Then I now can deliver our oral ruling on Defence request for lesser redacted version of
7 investigation note DRC-OTP-2089-0415; and it is possible to deliver it in public session.

8 The Chamber will now deliver its oral ruling on the Defence request for a lesser redacted
9 version of investigation note DRC-OTP-2089-0415.

10 As a preliminary matter, the Chamber commends the parties for following the procedure
11 under the redaction protocol and first attempting to resolve the issue inter partes before
12 seizing the Chamber.

13 However, in the future, and as previously stated, the Chamber expects such disputes to be
14 resolved or brought to the Chamber's attention well in advance of the testimony of the
15 relevant witness.

16 The Chamber notes that the contested redactions are at paragraphs 1 to 9 in the section of
17 investigation note entitled "Credibility of the witness."

18 These portions have been redacted by the Prosecution on the basis of being Rule 81(1)
19 material; namely, so-called internal work product, and which the Prosecution submits
20 should not be subject to disclosure.

21 Having reviewed an unredacted version of the investigation note, the Chamber is of the
22 view that certain redactions to the investigation note do not appropriately fall under Rule
23 81(1) of the Rules. The Chamber, therefore, orders the following portions to be disclosed:
24 The second paragraph of section 2 in the "Credibility of the witness" section, with the
25 exception of the first seven words and the first sentence of paragraph 3 of that section.

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1 The remaining redactions are considered to fall appropriately under Rule 81(1).

2 This concludes the Chamber's ruling. In fact, not concludes because I would like to add
3 that, in our view, and it should also be guiding parties for further similar cases, that we
4 made a distinction between subjective conclusions made by investigator and those parts
5 of logs that really contain some information that were of objective nature. So we defer
6 also that the parties should find distinction in those kinds of information and proceed
7 accordingly with our, today's, decision.

8 Now -- so please, Prosecution, we would like to allow at least -- because it is just a very,
9 very short part of this log, to disclose it to Defence in order to allow them at least during
10 the break to become acquainted with that and use it, if they would find such a need to use
11 them for the rest of their cross-examination.

12 Now, court officer, please bring our witness into the courtroom. And we will give floor
13 to Defence of their cross-examination of this witness.

14 (The witness enters the courtroom)

15 PRESIDING JUDGE FREMR: [12:05:47] Welcome back, Mr Witness.

16 Before we start, because now it will be Defence who will cross-examine you, I would like
17 to emphasise two things.

18 First of all, the fact that even if you are called as a Prosecution witness, you have a duty to
19 respond to all questions put to you by the Defence in the same style how you did it with
20 questions put to you by Prosecution because both parties should be treated equally, in
21 accordance with a principle that is governing this court and it is the principle of fair trial.
22 And the second issue, I don't want to cut you when you are giving your responses, but
23 sometimes I have to make it because, and why? Because sometimes you are, after the
24 question is put to you, providing a lot of information, and some of them, even if they are
25 interesting, might not be relevant for the counsel. So please try to focus just on the

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1 question and limit your response to the fact closely relating to this question. Do you
2 understand?

3 THE WITNESS: [12:07:36] (Interpretation) Yes, I understand.

4 PRESIDING JUDGE FREMR: [12:07:41] Very well.

5 Mr Bourgon, you have the floor.

6 And, sorry, habitual question, do you want to proceed in open or in private session?

7 MR BOURGON: [12:08:00] I believe we need to begin in private session, Mr President.

8 PRESIDING JUDGE FREMR: [12:08:05] All right.

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

10 (Private session at 12.08 a.m.)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

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- 20 (Redacted)
- 21 (Upon resuming in open session at 2.42 p.m.)
- 22 THE COURT USHER: [14:42:31] All rise.
- 23 Please be seated.
- 24 PRESIDING JUDGE FREMR: [14:42:50] Good afternoon, everybody.
- 25 So we are going to continue with cross-examination of our witness. And this session will

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1 take until half past 4.

2 So now, Mr Bourgon, you have the floor.

3 MR BOURGON: [14:43:39] Thank you, Mr President. Just before I begin, I would like
4 to, with the Chamber's leave, to stop my cross-examination at five minutes before the end
5 just to address the situation of Mr Ntaganda.

6 PRESIDING JUDGE FREMR: [14:43:55] And are you sure that five minutes will be
7 enough for you?

8 MR BOURGON: [14:43:59] Well, I just have a question to ask as to where do we go
9 from here.

10 PRESIDING JUDGE FREMR: [14:44:04] All right.

11 MR BOURGON: [14:44:05] Thank you, Mr President.

12 Q. [14:44:09] Good afternoon, Mr Witness.

13 A. [14:44:16] Good afternoon.

14 Q. [14:44:22] (Redacted)

15 (Redacted)

16 PRESIDING JUDGE FREMR: [14:44:39] Sorry. Sorry, Mr Bourgon, I can see
17 Mr Iverson on his feet.

18 Mr Iverson.

19 MR IVERSON: [14:44:47] I would just that kindly that we go into private session,
20 please.

21 PRESIDING JUDGE FREMR: [14:44:51] Good point. I guess you are also in favour of
22 that.

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

24 (Private session at 2.45 p.m.)

25 (Redacted)

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- 19 (Open session at 4.22 p.m.)
- 20 PRESIDING JUDGE FREMR: So now --
- 21 THE COURT OFFICER: [16:22:17] We're in open session, your Honour. Sorry.
- 22 PRESIDING JUDGE FREMR: [16:22:24] No, no, it's my fault.
- 23 Thank you very much, court officer.
- 24 Now, Mr Bourgon, you have the floor.
- 25 MR BOURGON: [16:22:31] I will be very brief, Mr President. As of Friday we had

1 been working intensively to try and sort out the issues that would allow this trial to return
2 to normal and I must say that I thought that we had it made until I arrive at the detention
3 centre on Friday night. I was then informed of a change of position and from then on the
4 situation has become, if I can use these words, even more difficult.

5 We -- I was in contact with the Registrar himself. He well knows that I was supposed to
6 write to the -- to send information to the Chamber over the weekend. I copied this
7 information to him. And the Chamber informed us this morning that it did not intend to
8 conduct an ex parte hearing on this issue. However, I think that the issue must be
9 addressed in some way and I would like to know how the Chamber suggests we could at
10 least address that issue that is separating us now.

11 The situation with Mr Ntaganda is getting more and more difficult and we just are not
12 able to get his assistance in terms of helping us and getting instructions from him in terms
13 of the witnesses that are about to testify.

14 So that's all I wanted to say at this stage, hoping that we can find a way to sort out this
15 situation. I believe it is possible. We are trying to do our best and that's all I can say,
16 Mr President. Thank you.

17 PRESIDING JUDGE FREMR: [16:24:21] Again, just short comment from our part.

18 I can just assure you that the Chamber is very well aware of the seriousness of the
19 situation. It means that we in fact every day continuously discuss the situation about
20 your client. Even today I convened meeting which will be held just this afternoon. We
21 will, by the way, discuss all those issues.

22 But there is one main issue that -- there are some issues that we may be and we have to be
23 involved, but there are also some issues that are simply not for the Chamber to solve. It's,
24 I don't know how to call it, a negotiation between your client and you, I know that you
25 represent him as well as you can, and the Registry. Some issues are simply within the

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- 1 responsibility and in the hands of Registry.
- 2 If we can -- or if we will have to decide something, we will do it at the most urgent issue.
- 3 At the same time, I'm saying that we will not take into account that your client -- if there is
- 4 this idea, I don't know, if he wants to make some pressure on us, it will play no role in our
- 5 prospective decision.
- 6 But we also are highly interested in evaluation of his health conditions, so all those issues
- 7 will be dealt by us this afternoon.
- 8 And as you said, even us we are also interested in having a normal classical hearing with
- 9 the presence of the accused.
- 10 So now we will adjourn and we will reconvene tomorrow 9.30 in this courtroom.
- 11 THE COURT USHER: [16:26:27] All rise.
- 12 (The hearing ends in open session at 4.26 p.m.)