

Trial Hearing
WITNESS: DRC-OTP-P-0976

(Open Session)

ICC-01/04-02/06

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 3
7 Tuesday, 8 November 2016
8 (The hearing starts in open session at 9.32 a.m.)
9 THE COURT USHER: [9:32:59] All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE FREMR: [9:33:29] Good morning, everybody.
13 Court officer, please call the case.
14 THE COURT OFFICER: [9:33:33] 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: [9:33:50] Now appearances please. Ms Solano.
19 MS SOLANO: [9:33:54] Good morning, your Honours. The Prosecution is
20 represented by Ms Nicole Samson, senior trial lawyer; Mr James Pace; and
21 Mr Rens van der Werf, assistant trial lawyer; Ms Claudine Umurungi, assistant legal
22 officer; and Ms Selam Yirgou, case manager; and I'm Julieta Solano, trial lawyer.
23 PRESIDING JUDGE FREMR: [9:34:14] Thank you, Ms Solano.
24 Defence please.
25 MR GOSNELL: [9:34:18] Good morning, Mr President, your Honours. The

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- 1 appearances are the same as yesterday for the Defence. Thank you.
- 2 PRESIDING JUDGE FREMR: [9:34:23] Thank you, Mr Gosnell.
- 3 Legal Representatives of Victims, please.
- 4 MS PELLET: [9:34:29] (Interpretation) Thank you, Mr President. Former child
5 soldiers are represented by Mohamed Abdou and myself, Sarah Pellet, counsel at the
6 OPCV.
- 7 MS GRABOWSKI: [9:34:44] Good morning, Mr President, your Honours.
- 8 Anne Grabowski for the victims of the attacks and I'm today joined by Marine Corhay,
9 who is our legal intern. Thank you.
- 10 PRESIDING JUDGE FREMR: [9:34:54] Thank you, Ms Pellet. Thank you,
11 Ms Grabowski.
- 12 So we will continue in cross-examination of our witness.
- 13 Mr Witness, good morning. Are you feeling -- sorry, are you feeling okay today?
- 14 WITNESS: DRC-OTP-P-0976 (On former oath)
- 15 (The witness speaks French)
- 16 THE WITNESS: [9:35:11] (Interpretation) Good morning, Mr President. I am feeling
17 very well.
- 18 PRESIDING JUDGE FREMR: [9:35:15] Fine. So it's my legal duty to remind you that
19 you are still under oath, which means that you have to speak truth and nothing but the
20 truth. Do you understand?
- 21 THE WITNESS: [9:35:34] (Interpretation) Yes, indeed.
- 22 PRESIDING JUDGE FREMR: [9:35:36] Very well. So now I can hand over the floor to
23 Mr Gosnell. Mr Gosnell, you may proceed. And habitual question, do you want to
24 proceed in open or in private session?
- 25 MR GOSNELL: [9:35:47] Private session, Mr President.

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1 PRESIDING JUDGE FREMR: [9:35:50] Understandable. So court officer, let's move
2 into private session.
3 (Private session at 9.35 a.m.)
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21 (Open session at 10.38 a.m.)

22 THE COURT OFFICER: [10:38:16] We are in open session, Mr President.

23 PRESIDING JUDGE FREMR: [10:38:33] Thank you.

24 So, Mr Witness, it concludes your testimony. I would like on behalf of this Chamber to

25 thank you very much that you made such a long journey, that you testify, that you

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1 patiently responded to all questions put to you. Thank you. And I believe that your
2 testimony will assist us in our effort to find the truth in this case. And now we wish you
3 safe journey home.

4 Please, court usher, assist Mr Witness to leave the courtroom.

5 (The witness is excused)

6 PRESIDING JUDGE FREMR: [10:39:27] Now we will break, but since we shortened
7 this session we will a bit -- Mr Gosnell.

8 MR GOSNELL: [10:39:37] Thank you, Mr President. I was communicating with
9 Mr Bourgon this morning, who informed me that there are certain matters that he would
10 like to consult with me about prior to coming to court and possibly addressing
11 your Honours, and so he requested that the Court resume at 11.30. And I do realise
12 that's a 20-minute delay, but that was his request and I'm communicating that to
13 your Honours now.

14 PRESIDING JUDGE FREMR: [10:40:12] So at the moment he is on his way to the court?

15 MR GOSNELL: [10:40:18] No, Mr President, he's here and ready to proceed at any time.
16 He requested merely that the Court resume at the regular hour, that is 11.30, rather than
17 commencing a little bit earlier, so that he and I have the opportunity to consult.

18 PRESIDING JUDGE FREMR: [10:40:36] I believe that, you know, if you will be given
19 40 minutes to make some -- it should be fine. So we will break now and we will continue
20 at 11.20.

21 THE COURT USHER: [10:40:47] All rise.

22 (Recess taken at 10.40 a.m.)

23 (Upon resuming in open session at 11.25 a.m.)

24 THE COURT USHER: [11:25:34] All rise.

25 Please be seated.

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1 PRESIDING JUDGE FREMR: [11:26:07] Good morning again.

2 Since I see some changes in the composition of the teams, I would like to ask for update
3 on that, starting with Prosecution.

4 MR IVERSON: [11:26:21] Good morning, your Honours. Appearing today for the
5 Prosecution are Laura Morris; Selam Yirgou; Claudine Umurungi; Nicole Samson; Rens
6 van der Werf; Julieta Solano; and myself, Eric Iverson.

7 PRESIDING JUDGE FREMR: [11:26:38] Thank you, Mr Iverson.
8 Defence, please.

9 MR BOURGNON: [11:26:44] (Interpretation) Good morning, your Honour. For the
10 Defence, Han Catherine Morin, Margaux Portier; and myself, Stéphane Bourgon. Thank
11 you, your Honour.

12 PRESIDING JUDGE FREMR: [11:26:53] And for the record, I can note that as concerns
13 Legal Representatives, the composition of the teams, remains the same.
14 Now, good morning, Mr Witness. Can you hear me?

15 WITNESS: DRC-OTP-P-0898
16 (The witness speaks Swahili)

17 THE WITNESS: [11:27:07] (Interpretation) Yes.

18 PRESIDING JUDGE FREMR: [11:27:11] Mr Witness, I would like on behalf of this
19 Chamber to welcome you to the courtroom. You are called to testify in the case against
20 Mr Bosco Ntaganda. And you will be soon asked questions both by the Judges and
21 lawyers in the courtroom. In this connection I would like to guide you as follows.
22 Please listen carefully to those questions. If you do not understand, feel free to ask for
23 the question to be repeated. We want you to tell the truth and tell us what you saw,
24 heard or sensed yourself. If you didn't see or hear it yourself but found out some other
25 way, then you should explain how. Please testify just on that which you remember,

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1 don't guess, don't make things up. There is nothing wrong in saying, "I don't know" or "I
2 don't remember." Do you understand all this, Mr Witness?

3 THE WITNESS: [11:28:28] (Interpretation) Yes.

4 PRESIDING JUDGE FREMR: [11:28:34] Good. Mr Witness, protective measures are put
5 in place to ensure that your identity is not revealed to the public. It means, in practice,
6 that the public cannot see your face today and that your voice is being disguised so that
7 the public cannot recognize it. We will refer to you as "Mr Witness" only, and ensure
8 that your name and any other information that risks revealing who you are is not
9 broadcast to the public. Therefore, whenever you need to describe anything that might
10 reveal your identity, we will do so in private session so that no one outside the courtroom
11 can hear your answer. Do you understand, Mr Witness?

12 THE WITNESS: [11:29:30] (Interpretation) Yes, I have understood.

13 PRESIDING JUDGE FREMR: [11:29:38] Now, Mr Witness, you should find a piece of
14 paper in front of you with the text of solemn undertaking. Do you have it?

15 THE WITNESS: [11:29:47] (Interpretation) Yes.

16 PRESIDING JUDGE FREMR: [11:29:56] So please now make your solemn undertaking to
17 tell the truth by reading out the declaration on that piece of paper.

18 THE WITNESS: [11:30:14] (Interpretation) Very well. I solemnly declare that I shall
19 speak the truth, the whole truth and nothing but the truth.

20 PRESIDING JUDGE FREMR: [11:30:23] All right, Mr Witness. Thank you. It means
21 that now you are under oath, so you need to be aware that it is an offence within the
22 jurisdiction of this Court to give false testimony. Do you understand that?

23 THE WITNESS: [11:30:40] (Interpretation) Yes, I do understand.

24 PRESIDING JUDGE FREMR: [11:30:50] And finally, a few practical matters you should
25 have in mind when giving your testimony. It's important to speak into the microphone,

1 to speak clearly and to speak at a slow pace. What is even more important, when a
2 question is asked, please do not respond immediately because any question, any response
3 is translated. So before giving your answer, please count in your head to three and only
4 then give your answer, because this pause is essential for us to properly translate and
5 record what you are saying.

6 If you have any questions during your testimony do not hesitate to let us know, by raising
7 your hand, and we will then give you the opportunity to speak. Have you understood
8 all that, Mr Witness?

9 THE WITNESS: [11:31:56] (Interpretation) Yes, I have understood.

10 PRESIDING JUDGE FREMR: [11:32:08] All right. And before we start, in terms of
11 timing, the Chamber has already indicated that examination-in-chief for this witness is to
12 be completed within five hours.

13 The Chamber notes that in its e-mail of 6 November the Defence informed of the Chamber
14 that it would require 6 hours for its cross-examination corresponding to the Prosecution's
15 initial estimate for examination-in-chief. However, the Chamber recalls its direction
16 communicated via e-mail on 3 November provided that in accordance with the Chamber's
17 practice, the maximum time for cross-examination will, in principle, be equal to the time
18 used for the examination-in-chief and that the Defence should, therefore, also take the
19 above estimates into account in respect of Witness P-898.

20 The Chamber does not, at this stage, see a basis for granting additional time, but will
21 consider a request later should of the Defence maintain its view that additional time is
22 needed.

23 Further, the Chamber has taken note of the Defence notice of objections to the use or
24 admission of certain documents and it will address any such objections if and when they

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1 arise.

2 So now we can turn to the testimony.

3 Prosecution, who will be examining the witness? All right, so Mr Iverson, you have the
4 floor.

5 MR IVERSON: [11:33:55] Thank you, Mr President.

6 QUESTIONED BY MR IVERSON:

7 Q. [11:34:18] Sir, we met last week but I will introduce myself again, my name is Eric
8 Iverson and I will be asking you questions on behalf of the Office of the Prosecutor.

9 And for the initial part of the questioning, Mr President, I ask that we go into private
10 session, please.

11 PRESIDING JUDGE FREMR: [11:34:33] All right.

12 For the information of public, since this witness is a protected one, he was guaranteed that
13 his identity will not be revealed during his testimony, that is why when there are some
14 risk that questions could reveal, then we have to move into private session, which is the
15 case just now.

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

17 (Private session at 11.35 a.m.)

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21 (Redacted)

22 (Open session at 1.01 p.m.)

23 THE COURT OFFICER: [13:01:40] We are in open session, Mr President.

24 PRESIDING JUDGE FREMR: [13:01:42] Thank you, court officer.

25 So first information of timing, Mr Iverson so far you exhausted 1 hour 24 minutes.

1 We now have to break, to take our -- in order to take our lunch-break. We will continue
2 at half past 2.

3 And one important announcement, because of some further Judges' professional
4 commitments, we will have to finish a bit earlier, so the next session is going to last till
5 4.20. It's maybe for you, Mr Iverson.

6 Now we break.

7 THE COURT USHER: [13:02:27] All rise.

8 (Recess taken at 1.02 p.m.)

9 (Upon resuming in open session at 2.31 p.m.)

10 THE COURT USHER: [14:31:52] All rise.

11 Please be seated.

12 PRESIDING JUDGE FREMR: [14:32:18] Good afternoon. We will directly continue
13 with examination-in-chief of our witness. And my question goes to Mr Iverson.

14 Mr Iverson, do you want to proceed in open or in private session?

15 MR IVERSON: [14:32:40] Private session, please, Mr President.

16 PRESIDING JUDGE FREMR: [14:32:43] All right.

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

18 (Private session at 2.32 p.m.)

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11 (Open session at 4.21 p.m.)
12 THE COURT OFFICER: [16:21:06] We are in open session, Mr President.
13 PRESIDING JUDGE FREMR: [16:21:08] Thank you, court officer. First, information on
14 timing. Mr Iverson, so far according our measuring you have exhausted three hours two
15 minutes, so you still have one hour 58 minutes at your disposal.
16 And now, Mr Witness, I would like to thank you. We will break now. We will continue
17 tomorrow 9.30 and it's my duty to remind you that in the meantime you must not discuss
18 your testimony with anybody else. Do you understand?
19 THE WITNESS: [16:21:48] (Interpretation) Yes, I understand that.
20 PRESIDING JUDGE FREMR: [16:21:55] All right. So we have to break now and we will
21 resume tomorrow 9.30.
22 THE COURT USHER: [16:22:01] All rise.
23 (The hearing ends in open session at 4.22 p.m.)