

Trial Hearing
WITNESS: DRC-OTP-P-0911

(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
6 Judge Chang-ho Chung
7 Trial Hearing - Courtroom 3
8 Tuesday, 15 November 2016
9 (The hearing starts in open session at 9.51 a.m.)
10 THE COURT USHER: [9:51:55] All rise. The International Criminal Court is now
11 in session. Please be seated.
12 PRESIDING JUDGE FREMR: [9:52:21] Good morning, everybody. Court officer,
13 please call the case.
14 THE COURT OFFICER: [9:52:27] Thank you, Mr President. The situation in the
15 Democratic Republic of the Congo, in the case of The Prosecutor versus Bosco
16 Ntaganda, case reference ICC-01/04-02/06.
17 We are in open session.
18 PRESIDING JUDGE FREMR: [9:52:43] Thank you, court officer.
19 Now appearances, starting with Prosecution.
20 MR IVERSON: [9:52:48] Good morning, your Honours. Appearing today for
21 the Prosecution are Kristy Sim, Selam Yirgou and myself, Mr Iverson.
22 PRESIDING JUDGE FREMR: [9:53:00] Thank you, Mr Iverson.
23 Defence, please.
24 MR BOURGON: [9:53:04] Good morning, your Honour. For Defence this morning,
25 Margaux Portier and myself, Stéphane Bourgon. Thank you very much, your

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1 Honour.

2 PRESIDING JUDGE FREMR: [9:53:11] Thank you, Mr Bourgon. And now Legal
3 Representatives of Victims.

4 MR ABDOU: [9:53:16] Good morning, Mr President, and good morning, your
5 Honours. Mohamed Abdou for the former child soldiers.

6 PRESIDING JUDGE FREMR: [9:53:22] Thank you.

7 MR SUPRUN: [9:53:25] (Interpretation) Good morning, members of the bench. For
8 the victims, Anne Grabowski and myself, Dmytro Suprun, a member of the Public
9 Counsel for Victims office. Thank you.

10 PRESIDING JUDGE FREMR: [9:53:41] Thank you, Mr Suprun.
11 And legal counsel for Article 70.

12 MR RAIMONDO: [9:53:48] Good morning, Mr President, and your Honours.
13 Fabián Raimondo, legal adviser to the witness.
14 Thank you.

15 PRESIDING JUDGE FREMR: [9:53:55] Thank you, Mr Raimondo.

16 I would like to apologise for our delay because this Chamber really would like to be
17 very strict and to support punctuality but we had some urgent procedural issues that
18 we had to deliberate on.

19 Now, Mr Iverson, you can continue with examination-in-chief of the witness. Do
20 you want to proceed in open or in private session?

21 MR IVERSON: [9:54:28] In private session, please, Mr President.

22 PRESIDING JUDGE FREMR: [9:54:33] Understandable.
23 Court officer, let's move into private session.

24 (Private session at 9.54 a.m.)

25 (Redacted)

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- 25 (Open session at 10.35 a.m.)

1 THE COURT OFFICER: [10:35:19] We are in open session, Mr President.

2 PRESIDING JUDGE FREMR: [10:35:20] Thank you, court officer.

3 And also I would like also to update you on the time used by Mr Iverson. He used
4 two hours and 37 minutes. At the moment we will adjourn and we will resume in
5 the afternoon at 4 o'clock with our video witness and we will hopefully finish her
6 cross-examination by Defence.

7 Now Court is adjourned.

8 THE COURT OFFICER: [10:35:58] All rise.

9 (Recess taken at 10.35 a.m.)

10 (Upon resuming in open session at 4.03 p.m.)

11 THE COURT USHER: [16:03:08] All rise.

12 Please be seated.

13 PRESIDING JUDGE FREMR: [16:03:30] Good afternoon, everybody. We will
14 continue with the rest of cross-examination of our witness via video link. But at the
15 beginning I see there are some changes in appearances compared to our morning
16 session so I would like to ask for update.

17 First, Prosecution.

18 MS SOLANO: [16:04:16] Your Honour, good afternoon. The Prosecution is
19 represented by Ms Kristy Sim, Ms Selam Yirgou, and I am Julieta Solano.

20 PRESIDING JUDGE FREMR: [16:04:26] Thank you, Ms Solano.

21 Defence, please.

22 MR BOURGON: [16:04:29] (Interpretation) Good morning, Mr President. On
23 Defence, Han Catherine Morin has joined our bench. Thank you very much.

24 PRESIDING JUDGE FREMR: [16:04:44] And Legal Representatives for Victims.

25 MR ABDOU: [16:04:48] For child soldiers, there are no changes, Mr President.

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- 1 PRESIDING JUDGE FREMR: [16:04:54] Thank you, Mr Abdou.
- 2 MR SUPRUN: [16:04:56] (Interpretation) For victims of the attacks, no change.
- 3 Thank you.
- 4 PRESIDING JUDGE FREMR: [16:05:00] Thank you, Mr Suprun.
- 5 Madam Witness, can you hear me?
- 6 WITNESS: DRC-OTP-P-0918 (On former oath)
- 7 (The witness speaks Swahili)
- 8 (The witness gives evidence via video link)
- 9 THE WITNESS: [16:05:07] (Interpretation) Yes, I can hear you.
- 10 PRESIDING JUDGE FREMR: [16:05:10] Madam Witness, welcome back. You are
- 11 in fact experienced witness because you are testifying today for the fourth time so
- 12 I think it's no need to remind you of my previous guidance, but it's my legal duty
- 13 again to remind you that you are still under oath which means that you have to speak
- 14 truth and nothing but the truth.
- 15 Now I will hand over the floor to Mr Bourgon, representative of main counsel of
- 16 Defence, who will conclude his cross-examination.
- 17 And Mr Bourgon, just a reminder, according to our measuring, you still have 1 hour
- 18 7 minutes at your disposal.
- 19 MR BOURGON: [16:05:57] Thank you, Mr President.
- 20 QUESTIONED BY MR BOURGON: (Continuing)
- 21 Q. [16:06:10] Good afternoon, madam.
- 22 PRESIDING JUDGE FREMR: [16:06:12] And Mr Bourgon, we are in open session
- 23 so usual question, do you want to remain in --
- 24 MR BOURGON: [16:06:18] It is preferable to go in private session.
- 25 PRESIDING JUDGE FREMR: [16:06:23] I expected that.

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

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10 (Open session at 5.32 p.m.)

11 THE COURT OFFICER: [17:32:17] We're in open session, Mr President.

12 PRESIDING JUDGE FREMR: [17:32:27] Thank you, court officer.

13 Ms Solano, please.

14 MS SOLANO: [17:32:29] Thank you, your Honour. I just want to make a brief
15 note about the fact that it seems to us in the Prosecution that the Defence has been
16 providing updated versions of their list of evidence for use with witnesses during the
17 witness's cross-examination after the 24-hour period, your Honours, and we wouldn't
18 raise it if it were the first time or the second time. We all understand that these
19 things happen. They have happened to the Prosecution as well. But for witnesses
20 976, 898 and 918, the Defence has provided updates after the relevant time period, in
21 relation to 976, five times, one of them after cross-examination had started. For 898,
22 twice, one of them half an hour before cross started and another one after cross
23 started, and for this last witness, 918, they provided three updates after the expiration
24 of the timeline.

25 So, your Honours, it just, it makes it inevitable that ultimately your Honours will be
26 confronted with our request for an adjournment so the Prosecution can properly

1 investigate any issues that may arise from the materials the Defence seek to rely on.

2 So I seek your Honours' reminder that the 24-hour period really must be abided by.

3 Thank you.

4 PRESIDING JUDGE FREMR: [17:33:53] Mr Bourgon.

5 MR BOURGON: [17:33:55] Mr President, the Trial Chamber ruled on the matter,

6 gave us a very specific and clear ruling to provide our documents 24 hours in advance,

7 and we will abide with this ruling. When we do obtain documents within that

8 24 hours, we give it as soon as we obtain the document. That is the only thing I can

9 add, Mr President. Thank you.

10 PRESIDING JUDGE FREMR: [17:34:16] So it seems that the problem was mainly

11 caused by our unclear interpretation. Now it's clear, so I hope that those cases at

12 least will not repeat at the same amount.

13 My I rely on that, Mr Bourgon?

14 MR BOURGON: [17:34:31] Absolutely, we'll do everything to meet that 24-hour

15 deadline.

16 PRESIDING JUDGE FREMR: [17:34:36] Thank you.

17 And as I said, for tomorrow now we can -- we can't indicate anything because

18 everything will depend on what will be our decision. And, yes, I think that's it. But

19 as I said, anyway, one of the alternative is, and you should be ready for that, that we

20 will start tomorrow 9.30. It's all what I can say at this moment.

21 Now Court is adjourned.

22 THE COURT USHER: [17:35:11] All rise.

23 (The hearing ends in open session at 5.35 p.m.)