

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 Friday, 25 November 2016
9 (The hearing starts in open session at 9.32 a.m.)
10 THE COURT USHER: [9:33:09] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: [9:33:35] 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 Ntaganda, case reference ICC-01/04-02/06.
18 We are in open session.
19 PRESIDING JUDGE FREMR: [9:33:55] Thank you, court officer.
20 Now appearances in the usual order, starting with Prosecution.
21 MR PACE: [9:34:01] Good morning, Mr President, your Honours. For the
22 Prosecution today are Ms Kristy Sim, assistant trial lawyer; Ms Selam Yirgou, case
23 manager; Mr Eric Iverson, trial lawyer; and I'm James Pace, assistant trial lawyer.
24 PRESIDING JUDGE FREMR: [9:34:16] Thank you, Mr Pace.
25 Defence, please.

- 1 MR BOURGON: [9:34:23] (Interpretation) Good morning, members of the Bench.
2 For the Defence this morning, Ms Vasconi, Ms Portier, and myself, Stéphane Bourgon.
3 Thank you.
- 4 PRESIDING JUDGE FREMR: [9:34:36] Thank you, Mr Bourgon.
5 Legal Representatives of Victims now, please.
- 6 MR ABDOU: [9:34:44] Good morning, Mr President. Good morning, your
7 Honours. Mohamed Abdou for the former child soldiers.
- 8 MS GRABOWSKI: [9:34:51] Good morning, Mr President. Good morning, your
9 Honours. Anne Grabowski for the victims of the attacks. Thank you.
- 10 PRESIDING JUDGE FREMR: [9:34:59] Thank you, Ms Grabowski.
11 Thank you, Mr Abdou.
- 12 We are starting without witness, and the reason is that we would like to give chance
13 to Prosecution to include information that they sent us by e-mail, but to include it on
14 the record.
- 15 So, Mr Pace, you have the floor.
- 16 MR PACE: [9:35:22] Thank you, Your Honour. I'll be referring to certain dates,
17 names and locations so we need to move into private session, with your leave.
- 18 PRESIDING JUDGE FREMR: [9:35:30] Understandable.
19 Court officer, let's move into private session.
- 20 (Private session at 9.35 a.m.)
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- 3 (Open session at 9.51 a.m.)
- 4 THE COURT OFFICER: [9:51:42] We are in open session, Mr President.
- 5 PRESIDING JUDGE FREMR: [9:51:44] Thank you, court officer.
- 6 (The witness enters the courtroom)
- 7 PRESIDING JUDGE FREMR: [9:52:24] Good morning, Mr Witness.
- 8 WITNESS: DRC-OTP-P-0012 (On former oath)
- 9 (The witness speaks French)
- 10 THE WITNESS: [9:52:30] (Interpretation) Good morning.
- 11 PRESIDING JUDGE FREMR: [9:52:32] Mr Witness, now the Defence will continue
- 12 with your cross-examination. And before they start, allow me to provide you with
- 13 two reminders: First one, that you are still under oath, which means that you have
- 14 to speak the truth and nothing but the truth; and second one is of a technical nature,
- 15 don't forget that you both are speaking in French, while the other people involved
- 16 need English translation, which also takes some time, and to make precise translation
- 17 it requires you not to respond to questions immediately but always wait some time
- 18 before giving your answer, at least three seconds. So please have it in mind.
- 19 Have you understood all that?
- 20 THE WITNESS: [9:53:38] (Interpretation) Yes.
- 21 PRESIDING JUDGE FREMR: [9:53:39] Very well. Now I am giving the floor to
- 22 Mr Bourgon.
- 23 Mr Bourgon, habitual question, do you want to proceed in the regime of open or
- 24 private session?
- 25 MR BOURGON: [9:53:52] Private session, Mr President, please.

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1 PRESIDING JUDGE FREMR: [9:53:53] In order to inform public, this witness is a
2 protected one and he was given a guarantee that his identity will not be revealed to
3 the public and if there is such a risk, subject to questions that will be put to him, we
4 have to move into the regime of private session, and it's most likely that the majority
5 of the examination will be conducted in this kind of regime.

6 Now, court officer, let's move into private session.

7 (Private session at 9.54 a.m.)

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- 19 (Open session at 11.01 a.m.)
- 20 THE COURT OFFICER: [11:01:22] We are now in open session, Mr President.
- 21 PRESIDING JUDGE FREMR: [11:01:27] All right. So we will take our regular break
- 22 now and we will resume at half past 11.
- 23 THE COURT USHER: [11:01:36] All rise.
- 24 (Recess taken at 11.01 a.m.)
- 25 (Upon resuming in open session at 11.32 a.m.)

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1 THE COURT USHER: [11:32:53] All rise.

2 Please be seated.

3 PRESIDING JUDGE FREMR: [11:33:06] We will now directly continue with the
4 further part of cross-examination conducted by Defence, mainly by Mr Bourgon.

5 Mr Pace.

6 MR PACE: [11:33:26] Just to note a change in appearance, your Honour.

7 Mr Eric Iverson has left and we are joined by Nicole Samson, senior trial lawyer.

8 PRESIDING JUDGE FREMR: [11:33:34] Thank you, Mr Pace.

9 And Mr Bourgon, I anticipate that we will have to move again into private session.

10 MR BOURGON: [11:33:44] Indeed, Mr President, please.

11 PRESIDING JUDGE FREMR: [11:33:48] So, court officer, let's move into private
12 session.

13 (Private session at 11.33 a.m.)

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6 (Open session at 1.06 p.m.)

7 THE COURT OFFICER: [13:06:50] We are in open session, Mr President.

8 PRESIDING JUDGE FREMR: [13:06:52] Thank you, court officer.

9 So Chamber will thoroughly consider the Defence request. We will deliberate
10 during the lunch break and we will issue our ruling orally at the beginning of the
11 afternoon session.

12 Now we adjourn and we will reconvene half past 2.

13 THE COURT USHER: [13:07:18] All rise.

14 (Recess taken at 1.07 p.m.)

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

16 THE COURT USHER: [14:31:49] All rise.

17 Please be seated.

18 PRESIDING JUDGE FREMR: [14:32:17] Good afternoon, everybody. We are -- we
19 start without witness because the Chamber is going to deliver its decision, or its oral
20 ruling on two issues. First, and we are in open session, yes, we can start in open
21 session.

22 So the first issue is our ruling on the Defence request for additional time for
23 cross-examination of Witness P-12, and then the other one will be for further
24 disclosure in relation to this witness.

25 The first one is possible to be delivered in open session.

1 The Defence requested a short extension of time in which to cross-examine the
2 present witness on the basis of a number of further topics that it seeks to address.
3 The Defence propose that it would aim to complete the cross-examination within two
4 hours. The Prosecution stated that it would not oppose the request if the additional
5 time requested was only as indicated, approximately 20 minutes.
6 In the present circumstances noting, one, the requested extension of time is relatively
7 short; second, that certain additional issues arose during the course of
8 cross-examination, including regarding the details of Prosecution contacts with the
9 witness, which the Defence considered necessary to explore further in the light of
10 existing disclosure; and three, the Defence identification of the further matters upon
11 which it wishes to question the witness, the Chamber will grant an additional
12 20 minutes as requested. This means that the Defence now has two hours in which
13 to complete its cross-examination.

14 Now let's turn into private session.

15 (Private session at 2.34 p.m.)

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19 (Open session at 2.39 p.m.)

20 THE COURT OFFICER: [14:39:54] We are in open session, Mr President.

21 PRESIDING JUDGE FREMR: [14:39:56] Thank you, court officer.

22 (The witness enters the courtroom)

23 PRESIDING JUDGE FREMR: [14:40:36] Good afternoon, Mr Witness. We will

24 continue your cross-examination. And we believe that your testimony, hopefully,

25 will be concluded during this afternoon.

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1 Now, Mr Bourgon, I will give you the floor. And I guess we will have to move into
2 private session; am I right?

3 MR BOURGON: [14:40:58] Yes, please, Mr President.

4 PRESIDING JUDGE FREMR: [14:41:00] Court officer, let's move into private session.

5 (Private session at 2.41 p.m.)

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18 (Open session at 4.50 p.m.)

19 THE COURT OFFICER: [16:50:06] We are in open session, Mr President.

20 PRESIDING JUDGE FREMR: [16:50:10] Mr Witness, it concludes your testimony. I
21 would really like to thank you very much because -- Mr Pace, said I anything wrong?

22 MR PACE: [16:50:19] Not at all, your Honour. Just to clarify, the transcript, the last
23 comment of the witness, the transcript said it was "Thank you very much." Just to
24 confirm whether that's what the witness said or was that Defence counsel?

25 PRESIDING JUDGE FREMR: [16:50:37] Mr Witness, what was your last response?

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1 And be careful, we are again in open session. So what was your last response?

2 THE WITNESS: [16:50:49] (Interpretation) I said "Thank you."

3 PRESIDING JUDGE FREMR: [16:50:50] All right, correct.

4 So I will continue.

5 Thank you very much, Mr Witness, because I can imagine that it was really
6 demanding and exhaustive experience to undergo such a long journey and then to
7 spend with us two full days and you really perfectly and patiently responded to so
8 many questions, so thank you for that. I believe that your testimony will help us,
9 you provided us with many interesting information, many relevant information, and I
10 really believe that your testimony will assist us in our effort to find the truth. So
11 thank you very much and we wish you safe journey home.

12 And now, court usher, please assist Mr Witness to leave the courtroom.

13 (The witness is excused)

14 PRESIDING JUDGE FREMR: [16:52:09] And before we adjourn I would also like to
15 thank you, to parties and participants for their flexibility because it would be really
16 unreasonable to adjourn this testimony just for next 10 or 20 minutes, so we
17 appreciate that. It was in the interest of the expeditiousness, and also I think we
18 spared some cost of this Court.

19 And obviously my special thanks also go to the interpreters, to the court reporters
20 and to the guards, and we appreciate it highly that you supported us in this very,
21 very long session. And I would like to emphasise that it was really exceptional
22 measure we had to take under current extraordinary circumstances. So thank you
23 very much and I wish all of you relaxed weekend.

24 We will resume again on Monday, 9.30 and we will conduct testimony of
25 Witness P-300.

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- 1 THE COURT OFFICER: [16:53:17] All rise.
- 2 (The hearing ends in open session at 4.53 p.m.)